

ETHICS PROGRAM INSPECTION REPORT

Agency: U.S. International Development Finance Corporation (*formerly Overseas Private Investment Corporation*)

Report No.: 20-29I

Date: June 3, 2020

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

UNITED STATES OFFICE OF
GOVERNMENT ETHICS

Preventing Conflicts of Interest
in the Executive Branch

1.0 AGENCY DATA		
EMPLOYEES		
1.1	Number of full-time agency employees.	253
1.2	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed.	2
1.3	Number of non-PAS public financial disclosure reports required to be filed.	23
1.4	Number of confidential financial disclosure reports required to be filed.	127
ETHICS PROGRAM		
1.5	Title of Designated Agency Ethics Official (DAEO).	Deputy General Counsel
1.6	Grade level of DAEO.	SL
1.7	Title of Alternate DAEO (ADAEO).	Administrative Counsel
1.8	Grade level of ADAEO.	GS-14
1.9	Title of the primary, day-to-day ethics program administrator.	Administrative Counsel
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.	2
COMMENTS		
<p>(1.0) On October 5, 2018, President Trump signed into law the <i>Better Utilization of Investments Leading to Development Act of 2018</i>. (“the BUILD Act”). The BUILD Act consolidated, modernized, and reformed the U.S. Government’s development finance capabilities and vested those capabilities in a new federal agency to help address development challenges and foreign policy priorities of the United States. The BUILD Act merged the Overseas Private Investment Corporation and the Development Credit Authority of the U.S. Agency for International Development into a new agency - the United States International Development Finance Corporation (DFC).</p> <p>DFC officially launched in January 2020 to usher in a new era of U.S. development finance and foreign policy. All of OPIC’s functions, personnel, assets, and liabilities were transferred to DFC pursuant to 22 U.S.C. § 9683. As America’s development bank, this new agency will help businesses expand into emerging markets, foster growth, and improve lives in the developing world, while reinforcing U.S. foreign policy and national security interests</p> <p>OGE conducted its current inspection of the agency’s ethics program, before the OPIC to DFC merger was completed.</p>		

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2.0 LEADERSHIP					
COMPLIANCE REQUIREMENTS			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. § 2638.107(a).	<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. § 2638.107(a).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
COMMENTS					
None					

3.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278e, OGE Form 278-T)					
COMPLIANCE REQUIREMENTS			Yes	No	N/A
The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).					
3.1	<ul style="list-style-type: none"> Collection of public financial disclosure reports. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3.2	<ul style="list-style-type: none"> Review/evaluation of public financial disclosure reports. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3.3	<ul style="list-style-type: none"> 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 checked="" type="checkbox"/>	<input 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"/>	
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 checked="" type="checkbox"/>	<input 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"/>	
DATA ANALYSIS			%		
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).				94%
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).				89%
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).				50%
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%

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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%
COMMENTS		
<p><u>Concerns</u></p> <p>(3.4) OGE examined 18 annual non-PAS public reports filed during the period under review. One public filer did not file despite repeated requests from the Ethics Office to do so. According to ethics officials, this public filer departed the agency and had a combination annual/termination public report due in March 2020. Prior to the conclusion of our review, the filer filed the required report which was certified by ethics officials. OGE reminds ethics officials that as required by section 104(b) of the Ethics in Government Act, individuals must be referred to the Attorney General whenever there is reasonable cause to believe they are willfully failing to file.</p> <p>(3.15) Two termination PAS public reports were required to be filed during the period under review. Of the two termination reports examined, one report was filed late despite receiving a 45-day filing extension.</p>		

4.0 CONFIDENTIAL FINANCIAL DISCLOSURE						
COMPLIANCE REQUIREMENTS				Yes	No	N/A
The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C app. IV, § 402(d)(1).						
4.1	• Collection of confidential financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
4.2	• Review/evaluation of confidential financial disclosure reports.	<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 checked="" type="checkbox"/>	<input 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"/>		
DATA ANALYSIS				%		
4.7	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	92%				
4.8	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	98%				
4.9	Percentage of sampled reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	98%				
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).	98%				
COMMENTS						
(4.5) OPIC/DFC does not have an OGE-approved alternative confidential financial disclosure system.						

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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	• A statement regarding the agency's commitment to government ethics.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
5.2	• Notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes as an employee.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
5.3	• Contact information for an appropriate agency ethics office or an explanation of how to obtain additional information on applicable ethics requirements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
5.4	• Where applicable, notice of the timeframe for completing initial ethics training.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
5.5	• Where applicable, a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment.	<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 type="checkbox"/>	<input checked="" 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"/>			
COMMENTS							
(5.7) According to the agency's FY2020 Ethics Program Inspection Questionnaire, "The DAEO does not review the procedure every year since they do not change." OGE believes it is particularly important for an agency to evaluate its procedures at least annually to determine if they are effective and if they can be improved. While the DAEO's review does not have to be exhaustive, due consideration should be given to whether they are working as intended.							

6.0 Notices to New Supervisors							
COMPLIANCE REQUIREMENTS				Yes	No	N/A	
	The agency provides each employee upon initial appointment to a supervisory position with: <i>See</i> 5 C.F.R. § 2638.306.						
6.1	• Contact information for the agency's ethics office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
6.2	• The text of 5 C.F.R. § 2638.103.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
6.3	• A copy of, a hyperlink to, or the address of a Web site containing the Principles of Ethical Conduct	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
6.4	• Other information the DAEO deems necessary.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
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"/>			
COMMENTS							
(6.6) According to the agency's FY2020 Ethics Program Inspection Questionnaire, "The DAEO does not review the procedures every year since they do not change." As previously mentioned, an annual review of these procedures by the DAEO is required.							

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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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%			
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).				100%		
COMMENTS							
(7.4) According to the agency's FY2020 Ethics Program Inspection Questionnaire, the DAEO indicated that he focuses on whether the initial ethics training is being provided rather than reviewing the processes by which it is accomplished. As noted, an annual review of these procedures by the DAEO is required.							

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. § 2638.308(f)(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"/>
DATA ANALYSIS		Training Format		
		Live	Interactive	
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	<ul style="list-style-type: none"> Executive Schedule Level I and Level II. <i>See</i> 5 C.F.R. § 2638.308(e)(1). 	N/A	N/A	
8.7	<ul style="list-style-type: none"> Other PAS and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(2). 	100%	N/A	
8.8	<ul style="list-style-type: none"> SES and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(3). 	86%	14%	
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	<ul style="list-style-type: none"> Employees required to file an annual confidential financial disclosure report. <i>See</i> 5 C.F.R. § 2638.307(a)(1). 	97%	3%	
8.10	<ul style="list-style-type: none"> Employees appointed by the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2). 	N/A	N/A	
8.11	<ul style="list-style-type: none"> Employees of the Executive Office of the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2). 	N/A	N/A	
8.12	<ul style="list-style-type: none"> Contracting officers described in 41 U.S.C. § 2101. <i>See</i> 5 C.F.R. § 2638.307(a)(3). 	100%	N/A	
8.13	<ul style="list-style-type: none"> Other employees designated by the head of the agency. <i>See</i> 5 C.F.R. § 2638.307(a)(4). 	N/A	N/A	
COMMENTS				
(8.6) OPIC/DFC does not have any Executive Schedule Level I or Level II positions. (8.10, 8.11 and 8.13) OPIC/DFC did not have any employees in these categories during the period under review.				

9.0 ETHICS ADVICE AND COUNSELING

COMPLIANCE REQUIREMENT		Yes	No	N/A
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"/>
COMMENTS				
None				

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.	6
DATA ANALYSIS		%
10.2	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	67%
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).	83%

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Ethics Training

COMPLIANCE REQUIREMENTS		Yes	No	N/A
	Required ethics training must be provided to each SGE. <i>See 5 C.F.R. §§ 2638.304 and 2638.307.</i>			
10.5	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. <i>See 5 C.F.R. § 2638.304(e)(1).</i>	<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 5 C.F.R. § 2638.304(e)(2).</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
10.7	Percentage of SGEs who received initial ethics training. <i>See 5 C.F.R. § 2638.304.</i>	N/A		
10.8	Percentage of SGEs who received initial ethics training timely. <i>See 5 C.F.R. § 2638.304(b)(2).</i>	N/A		
10.9	Percentage of SGEs who received annual ethics training. <i>See 5 C.F.R. § 2638.307(d)(2).</i>	100%		
COMMENTS				
<p>(10.2) OPIC/DFC had six SGE members serving on its Board of Directors that were required to file confidential reports. Of these six SGE members, OGE identified one SGE member that did not file a confidential report during the period under review. According to ethics officials, this Board member assumed that she would be replaced on the Board since her term had expired and as a result; did not file. While OGE is not making a formal recommendation, since this Board member is no longer with the agency, OGE reminds ethics officials that although a filer's term on the Board may expire, a Board member is still required to file a financial disclosure report if they wish to continue to serve on the Board until their replacement is named. In such cases, an annual filing is not merely a procedural requirement. Rather, it will ensure that the agency has current information to consider when assessing whether there are any real or potential conflicts between the member's personal financial interests and matters before the Board.</p> <p>OGE also noticed that none of the Board members indicated their reporting status on the first page of the confidential report as "New Entrant" in accordance with 5 CFR § 2634.903(b). Beyond this being important for technical compliance, filing a new entrant report changes the information that has to be reported. Specifically a new entrant filer, unlike an annual filer, does not have to report gifts and travel reimbursements. OGE recommends that in future cycles ethics officials ensure that all SGE Board members indicate their reporting status on the first page of the confidential report as "New Entrant" in accordance with § 2634.903(b).</p> <p>(10.7 and 10.8) No initial ethics training for SGEs was required, since no new board members joined the OPIC/DFC board during the period under review.</p>				

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RECOMMENDATION(S)			
#	Element	RECOMMENDATION	Compliance Due
1	5.7, 6.6. & 7.4	<p><u>RECOMMENDATION:</u> Ensure that the DAEO annually reviews written procedures as required by 5 CFR § 2638.303(c), 304(f) and 306(d).</p> <p><u>AGENCY RESPONSE:</u> The DAEO will annually review written procedures.</p>	January 2021
2	10.2	<p><u>RECOMMENDATION:</u> Ensure that all SGE Board members indicate their reporting status on the first page of the confidential report as “New Entrant” in accordance with 5 CFR § 2634.903(b).</p> <p><u>AGENCY RESPONSE:</u> The agency will request that SGE members fill out “new entrant” reports annually, rather than “annual” reports as requested.</p>	January 2021