

**ETHICS PROGRAM INSPECTION REPORT**

Agency: National Transportation Safety Board

Report No.: 18-04I

Date: October 13, 2017

Period Covered by Review: January 1, 2016 – September 17, 2017

**UNITED STATES OFFICE OF  
GOVERNMENT ETHICS**

  
Preventing Conflicts of Interest  
in the Executive Branch

<b>1.0 AGENCY DATA</b>		
<b>EMPLOYEES</b> (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	423
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	4
1.4	Number of non-PAS public financial disclosure reports required to be filed	36
1.5	Number of confidential financial disclosure reports required to be filed	65
<b>ETHICS PROGRAM</b>		
1.6	Title of Designated Agency Ethics Official (DAEO)	Acting General Counsel
1.7	Grade level of DAEO	SL/ST
1.8	Title of Alternate DAEO (ADAEO)	Deputy General Counsel
1.9	Grade level of ADAEO	GS-15
1.10	Title of the primary, day-to-day ethics program administrator	Deputy Ethics Official
1.11	Grade level of the primary, day-to-day ethics program administrator	GS-14
1.12	Current number of full-time ethics officials	0
1.13	Current number of part-time ethics officials	5
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%.)	37%
1.15	Number of reporting levels between the DAEO and the agency head	1
<b>COMMENTS</b>		
None		

<b>2.0 LEADERSHIP</b>					
<b>COMPLIANCE REQUIREMENT</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. § 2638.202(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"/>	
<b>COMMENTS</b>					
None					

<b>3.0 ETHICS AGREEMENTS</b>					
<b>COMPLIANCE REQUIREMENT</b>			<b>Yes</b>	<b>No</b>	<b>N/A</b>
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"/>	

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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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>				
<p>(3.1-3.3) During the period under review, the National Transportation Safety Board (NTSB) did not have any PAS officials who were required to take reportable actions to comply with their ethics agreement or any PAS officials who were required to notify OGE of their ethics agreement compliance.</p> <p>(3.5) At the time of OGE's review, NTSB maintained ethics agreements separately from financial disclosure reports. However, NTSB has since updated its financial disclosure folders to include copies of ethics agreements and all related correspondence. As a result, OGE is not issuing a recommendation for improvement.</p>				

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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>		<b>%</b>		
4.5	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	N/A		
4.6	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	93%		
4.7	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A		
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.	7%		
4.9	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	75%		
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).	25%		
<b>COMMENTS</b>				
<p>(4.2) NTSB did not have any filers subject to the late filing fee during the period under review.</p> <p>(4.4) During its review, OGE found reports that had been retained beyond the six-year retention period without justification. NTSB subsequently confirmed to OGE that all reports that had been retained beyond the six-year retention period had been destroyed. As a result, OGE is not issuing a recommendation for improvement.</p> <p>(4.5) One non-PAS filer submitted a new entrant report in 2017. However, the filer should have submitted the new entrant report in 2014, when he was promoted to a Senior Level position. According to NTSB, the General Counsel's office was not notified by the agency's Human Resources (HR) department when the filer was promoted to a Senior Level position, which required him to begin filing public financial disclosure reports. When the General Counsel's office became aware of the change in the filer's status in 2017, NTSB informed the filer of the requirement to file a new entrant public report. OGE recommends NTSB take appropriate action to help ensure that the General</p>				

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Counsel's office is made aware of personnel actions that result in someone entering a covered public filing position. NTSB should also evaluate the matters the filer has worked on since his promotion to determine whether his personal financial interests were likely to create a conflict of interest with his official responsibilities and take appropriate action if any potential conflict is identified.

NTSB should also document its decision to waive the late filing fees for the reports the filer should have filed in 2014, 2015 and 2016.

(4.7, 4.10) NTSB did not have any PAS or non-PAS termination public financial disclosure filers during the period under review.

(4.8) Only 2 of the 27 reports OGE examined were certified timely. By way of explanation NTSB stated that the agency's previous General Counsel and DAEO retired on May 13, 2017. The individual who assumed the duties of Acting General Counsel and Acting DAEO on May 15 was not familiar with the certification process. NTSB added that the agency's Deputy General Counsel and ADAEO departed for a long-term detail on June 25, 2017. The departure of the previous DAEO and detail of the ADAEO resulted in the loss of significant institutional knowledge about the agency's ethics program in a short period of time. While OGE recognizes the inherent challenges of staffing and resource shortages, OGE encourages NTSB to develop a broader base of knowledge regarding its ethics program so that the inevitable turnover or absence of ethics staff does not result in such an extensive impediment to the program.

(4.9) Three of the four reports in OGE's sample were filed timely. The one late report was filed 108 days after it was due. According to NTSB, the filer had previously filed a nominee report and believed the report obviated the need for also filing the annual report. When this misunderstanding was corrected by OGE, the official filed the annual report. OGE considers the issue resolved and is not issuing a recommendation for improvement.

(4.11) Only one of the four reports OGE examined was certified timely.

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 5 U.S.C app. IV, § 402(d)(1).</i>						
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 OGE/GOVT-2.</i>				<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 5 C.F.R. § 2634.905(a).</i>				<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 5 C.F.R. § 2634.604.</i>				<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>				<b>%</b>			
5.5	Percentage of sampled confidential new entrant reports filed timely. <i>See 5 C.F.R. § 2634.903(b).</i>				86%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See 5 C.F.R. § 2634.903(a).</i>				93%		
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 5 C.F.R. §§ 2634.605(a), 2634.909(a).</i>				69%		
<b>COMMENTS</b>							
<p>(5.3) NTSB does not have an alternative confidential financial disclosure system.</p> <p>(5.4) During its review, OGE found reports that had been retained beyond the six-year retention period without justification. NTSB subsequently confirmed to OGE that all reports that had been retained beyond the six-year retention period had been destroyed. As a result, OGE is not issuing a recommendation for improvement.</p> <p>(5.7) Only 34 of the 49 reports OGE examined were certified timely.</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	<ul style="list-style-type: none"> <li>Current contact information of relevant ethics official(s)</li> </ul>				<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.1.2	<ul style="list-style-type: none"> <li>Copy of the Standards of Ethical Conduct and any agency supplemental standards to keep or review; or</li> <li>Summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep</li> </ul>				<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"/>
<b>DATA ANALYSIS</b>				%			
6.3	Percentage of new agency employees who received initial ethics orientation within 90 days. <i>See</i> 5 C.F.R. § 2638.703.				83%		
<b>COMMENTS</b>							
(6.1.1) NTSB initial ethics orientation material includes names, positions and pictures of current ethics officials. However, it does not include ethics official contact information. NTSB's DAEO stated he will ensure contact information will be included in the orientation materials. OGE considers the issue resolved and is not issuing a recommendation for improvement.							

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	<ul style="list-style-type: none"> <li>Current contact information of relevant ethics official(s)</li> </ul>				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.2	<ul style="list-style-type: none"> <li>Review of the criminal conflict of interest statutes</li> </ul>				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.3	<ul style="list-style-type: none"> <li>Review of the Standards of Ethical Conduct</li> </ul>				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.4	<ul style="list-style-type: none"> <li>Review of the 14 Principles</li> </ul>				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.5	<ul style="list-style-type: none"> <li>Review of any agency supplemental standards</li> </ul>				<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"/>
<b>DATA ANALYSIS</b>				%			
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%		
<b>COMMENTS</b>							
(7.1.5) NTSB has no agency supplemental standards.							

8.0 ETHICS ADVICE AND COUNSELING							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
8.1	Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations.				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>							
None							

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9.0 RECOMMENDATION(S)			
#	Element	RECOMMENDATION	Compliance Due
1	4.5	<p><u>RECOMMENDATION:</u> Ensure proper procedures are in place to notify ethics officials of personnel actions that would change a filer's status.</p> <p><u>AGENCY RESPONSE:</u> Proper notification procedures are now in place to ensure agency ethics officials are made aware of personnel actions that would change a filer's status. Such procedures did not exist in 2014 when the non-PAS filer in question was promoted to a Senior Level position.</p> <p><u>OGE COMMENT:</u> OGE will examine these procedures and assess their effectiveness when it conducts its follow-up review in approximately July 2018.</p>	
2	4.5	<p><u>RECOMMENDATION:</u> Evaluate the matters the one late non-PAS public filer has worked on since his promotion to determine whether his personal financial interests were likely to create a conflict of interest with his official responsibilities and take appropriate action if any potential conflict is identified.</p> <p><u>AGENCY RESPONSE:</u> We will conduct an analysis of the matters worked on by the Senior Level non-PAS filer since his 2014 promotion, to determine whether his personal financial interests were likely to create a conflict of interest with his official responsibilities. If any potential conflict is identified, appropriate action will be taken.</p>	November 2017
3	4.8, 4.11	<p><u>RECOMMENDATION:</u> Ensure all public financial disclosure reports are certified timely.</p> <p><u>AGENCY RESPONSE:</u> We have begun implementing a system of internal notifications based upon OGE's Schedule of Important Ethics Dates, so as to ensure compliance with all key ethics deadlines, including the timely certification of all public financial disclosure reports.</p>	July 2018
4	5.7	<p><u>RECOMMENDATION:</u> Ensure all confidential financial disclosure reports are certified timely.</p> <p><u>AGENCY RESPONSE:</u> We have begun implementing a system of internal notifications based upon OGE's Schedule of Important Ethics Dates, so as to ensure compliance with all key ethics deadlines, including the timely certification of all confidential financial disclosure reports.</p>	July 2018