

ETHICS PROGRAM INSPECTION REPORT

Agency: Railroad Retirement Board

Report No.: 17-38I

Date: September 5, 2017

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

UNITED STATES OFFICE OF
GOVERNMENT ETHICS


Preventing Conflicts of Interest
in the Executive Branch

1.0 AGENCY DATA		
EMPLOYEES (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	904
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	3
1.4	Number of non-PAS public financial disclosure reports required to be filed	11
1.5	Number of confidential financial disclosure reports required to be filed	3
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	General Counsel
1.7	Grade level of DAEO	SES
1.8	Title of Alternate DAEO (ADAEO)	Assistant General Counsel
1.9	Grade level of ADAEO	GS-15
1.10	Title of the primary, day-to-day ethics program administrator	Assistant General Counsel
1.11	Grade level of the primary, day-to-day ethics program administrator	GS-15
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%.)	25%
1.15	Number of reporting levels between the DAEO and the agency head	1
COMMENTS		
None		

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					
(2.1) During the course of the inspection, OGE found the DAEO position was vacant. In June 2017, the Railroad Retirement Board (RRB) appointed a new General Counsel and OGE received an up-to-date designation from the agency head naming the new General Counsel as the DAEO.					

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"/>		

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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 covered by the inspection, RRB did not have any PAS officials required to comply with ethics agreements or any PAS officials 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 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 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).	N/A		
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).	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.	100%		
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				
<p>(4.1.1 – 4.1.3) At the time of the inspection, RRB’s written procedures did not fully address the collection, review/evaluation, and public availability of public financial disclosure reports. During the course of the inspection, RRB updated its procedures fully addressing these elements. Therefore, OGE is not issuing a recommendation.</p> <p>(4.2) RRB did not have any filers subject to the late filing fee during the period covered by the inspection.</p> <p>(4.5) RRB did not have any non-PAS new entrant public reports during the period covered by the inspection.</p> <p>(4.7) RRB did not have any non-PAS termination public reports during the period covered by the inspection.</p> <p>(4.10) RRB did not have any PAS termination reports during the period covered by the inspection.</p>				

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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).			N/A		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).			100%		
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).			100%		
COMMENTS						
<p>(5.1.1 – 5.1.2) At the time of the inspection, RRB's written procedures did not fully address the collection and review/evaluation of confidential financial disclosure reports. During the course of the inspection, RRB updated its procedures, fully addressing these elements. Therefore, OGE is not issuing a recommendation.</p> <p>(5.3) RRB does not have an alternative confidential financial disclosure system.</p> <p>(5.5) RRB did not have any new entrant confidential financial disclosure reports during the period covered by the inspection.</p>						

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 type="checkbox"/>	<input checked="" 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.			65%		
COMMENTS						
<p>(6.2) RRB ethics officials e-mail new employees initial ethics orientation materials and instructions to send a reply e-mail after reading the materials. According to RRB ethics officials, new employees that did not send a confirmation e-mail received a reminder. Although RRB ethics officials have a process to send materials to new employees, the process does not ensure all new employees receive the initial ethics orientation because the ethics office did not continue to follow-up with new employees that did not send a confirmation email.</p> <p>(6.3) Six out of 106 (6%) of new employees completed initial ethics orientation more than 90 days after beginning work. Moreover, 31 out of 106 (29%) of new employees did not send a confirmation e-mail to the ethics office; therefore, OGE determined these employees did not complete the orientation during the period covered by the inspection.</p>						

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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 type="checkbox"/>	<input checked="" 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						
(7.1.2) Annual ethics training provided to covered employees did not cover 18 U.S.C § 207. (7.1.5) RRB does not have any 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"/>
COMMENTS						
None						

9.0 RECOMMENDATIONS			
#	Element	RECOMMENDATION	Compliance Due
1	6.2; 6.3	<p>RECOMMENDATION: Develop an effective process to ensure that new employees receive initial ethics orientation within three months of beginning work.</p> <p>AGENCY RESPONSE: The Railroad Retirement Board concurs with OGE's recommendation to ensure new employees receive initial ethics orientation in a timely manner. As part of its implementation of new regulations regarding the content and format of new employee ethics training, the Board has created a new computer-based interactive training course for new employee ethics training, which fulfills the requirements of 5 CFR § 2638.304, as revised Nov. 2, 2016. The Board's Bureau of Human Resources automatically enrolls all new employees in this course on the employees' first day of employment, as part of a series of new employee orientation classes. At this time, the automated enrollment process does not capture reemployed annuitants. As a result, Human Resources will manually enroll reemployed annuitants in the course within one week of the annuitants' return to employment.</p> <p>The revised new employee ethics training course was implemented on April 10, 2017, and new employees are instructed to complete the course within 30 days of enrollment. This allows agency ethics officials an</p>	February 2018

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		<p>opportunity to follow up with employees who do not complete the course, to provide the required ethics training within the 90 days required by 5 CFR § 2638.304 as revised. From April 10, 2017 through August 28, 2017, 41 new employees were enrolled in the course; 40 employees completed the course within 45 days of enrollment. Two reemployed annuitants were not enrolled in the course at the time they were rehired. Ethics officials requested the two individuals be enrolled in the course manually, to be completed within 90 days of the employees' first day as a reemployed annuitant.</p> <p>Course completion tracking has been automated through the computer-based training tool, and ethics officials have access to the tracking report to identify any employees who do not complete the course. Based on this data, the Board believes its revised new employee ethics training procedure implements OGE's recommendation, as of April 10, 2017.</p>	
2	7.1.2	<p><u>RECOMMENDATION:</u> Provide annual ethics training fully meeting the content requirements to all covered employees.</p> <p><u>AGENCY RESPONSE:</u> The Railroad Retirement Board concurs with the recommendation to provide ethics training fully meeting the content requirements to all covered employees. The comments portion of Part 7 of the draft report notes that annual ethics training provided to covered employees did not cover 18 U.S.C. §207. Beginning immediately, we plan to incorporate an explanation of 18 U.S.C. §207 in ethics training for covered employees. Notes to supplement those notes prepared for use for calendar year 2017 ethics training for covered employees are attached to this response. The first class in which these supplemental notes will be used is scheduled for Thursday, August 31, 2017, the date on which we have scheduled annual ethics training for the Railroad Retirement Board Inspector General and the three Senior Executive Service Members of his staff. We will continue to make sure to include the additional explanation in all remaining required ethics training for calendar year 2017 and in future years.</p> <p><u>OGE COMMENT:</u> The Railroad Retirement Board updated its annual ethics training, fully addressing all of the criminal conflict of interest statutes, including 18 U.S.C. § 207. Therefore, OGE closed the recommendation prior to issuing this final report.</p>	Closed