

ETHICS PROGRAM INSPECTION REPORT

Agency: Defense Logistics Agency

Report No.: 15-38I

Date: May 12, 2015

Period Covered by Review: January – December 2014

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	23,936
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	0
1.4	Number of non-PAS public financial disclosure reports required to be filed	38
1.5	Number of confidential financial disclosure reports required to be filed by employees	5,779
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)	Deputy General Counsel
1.9	Grade level of ADAEO	SES
1.10	Title of the primary, day-to-day ethics program administrator	Associate 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	1
1.13	Current number of part-time ethics officials	36
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%.)	35%
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					
None					

3.0 ETHICS AGREEMENTS					
COMPLIANCE REQUIREMENT			Yes	No	N/A
3.1	All officials currently in PAS positions have 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	All officials currently in PAS positions 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	For all officials currently in PAS positions, 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.5	All PAS officials' ethics agreements are maintained with their financial disclosure reports. <i>See</i> 5 C.F.R. § 2634.805.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
COMMENTS				
<u>Comment:</u> (3.1 – 3.5) DLA has no PAS officials.				

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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
4.1.2	• Review/evaluation of public financial disclosure reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
4.1.3	• Public availability of public financial disclosure reports	<input type="checkbox"/>	<input checked="" 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"/>
4.5	Agency ethics officials respond promptly to requests by OGE for additional information regarding PAS annual and termination public financial disclosure reports. <i>See</i> 5 U.S.C. app. IV, § 402(d)(1). <i>See</i> 5 C.F.R. § 2638.203(b)(14).				<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DATA ANALYSIS				%			
4.6	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).				100%		
4.7	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				100%		
4.8	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				75%		
4.9	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.				89%		
4.10	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				N/A		
4.11	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				N/A		
4.12	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).				N/A		
COMMENTS							
<u>Comments:</u> (4.5) DLA has no PAS officials. (4.10 – 4.12) DLA has no PAS officials.							
<u>Concerns:</u> (4.1.1 – 4.1.3) At the time of the inspection, although DLA's written procedures addressed the collection, review/evaluation, and public availability of public financial disclosure reports (OGE Form 278), DLA's procedures had not yet been updated to address the collection, review/evaluation, and public-availability of periodic transaction reports (OGE Form 278-T). During the course of the inspection, DLA updated its procedures to fully address the collection, review/evaluation, and public availability of the OGE Form 278-T. Therefore, OGE is not issuing a recommendation for corrective action. (4.8) One of the four non-PAS termination public financial disclosure reports was not filed by the established deadline.							

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Model Practice:

(4.1) DLA's written procedures for public financial disclosure include additional reference material such as links to 5 C.F.R. part 2634, the Department of Defense Joint Ethics Regulation, and websites for researching financial interests; sample emails to filers and supervisors; and model cautionary and disqualification memoranda.

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	<ul style="list-style-type: none"> Collection of confidential financial disclosure reports 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.1.2	<ul style="list-style-type: none"> 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).	75%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	98%		
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).	90%		
COMMENTS				
<p><u>Comment:</u> (5.3) DLA does not have an alternative confidential financial disclosure system.</p> <p><u>Concern:</u> (5.5) 11 of the 44 new entrant confidential reports sampled by OGE were not filed by the established deadline.</p> <p><u>Model Practice:</u> (5.1) DLA's written procedures for confidential financial disclosure include additional reference material such as links to websites for researching financial interests, guidance on the technical and conflict of interest review of confidential reports, sample correspondence to filers, a summary chart showing the required content and reporting periods by report section, and model cautionary and disqualification memoranda.</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	<ul style="list-style-type: none"> Current contact information of relevant ethics official(s) 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.1.2	<ul style="list-style-type: none"> 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 type="checkbox"/>	<input checked="" 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		%		

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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		
<p><u>Comment:</u> (6.3) DLA-wide initial ethics orientation material is provided to all employees one week prior to entry on duty as part of the DLA welcome package, resulting in 100% of DLA employees receiving material. Supplemental initial ethics orientation material is also provided by different units within DLA.</p> <p><u>Concern:</u> (6.1.2) Expanded compliance requirements adopted by OGE following its previous review of DLA and variations in the initial ethics orientation material provided DLA-wide and by different DLA units necessitated DLA take additional action to remain compliant with initial ethics orientation content requirements. During the course of the inspection, DLA updated its initial ethics orientation material to meet OGE's compliance requirements. Therefore, OGE is not issuing a recommendation for corrective action.</p> <p><u>Model Practice:</u> (6.2) In addition to its primary initial ethics orientation package, DLA provides a variety of secondary initial ethics orientation courses tailored by ethics officials at its various units.</p>		

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 type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input 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).				77%		
COMMENTS							
<p><u>Concerns:</u> (7.1.2, 7.1.3, 7.1.5) Because DLA provides annual ethics training tailored by its various units, not all of the required annual ethics training content was included in every training package throughout DLA. During the course of the inspection, DLA provided updated annual ethics training material that included a review of all content required by 5 C.F.R. § 2638.704(b). Therefore, OGE is not issuing a recommendation for corrective action.</p> <p>(7.4) 20 of the 85 confidential filers sampled did not complete annual ethics training by the end of 2014. DLA noted that technical problems with the agency's Learning Management System (LMS) resulted in the training becoming available late in the calendar year. DLA expects the 2015 training to be available in LMS by June, thus providing sufficient time for all confidential filers to complete the training by the end of the year.</p> <p><u>Model Practice:</u> (7.2) Each DLA unit provides annual ethics training which is tailored to that particular unit. By including additional, standardized content in every training package, DLA will ensure all required training content is reviewed.</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						
<p><u>Model Practice:</u> (8.1) DLA manages agency ethics advice in an electronic case management system. The Automated Workflow and Reporting System (AWARS) tracks ethics official activity and workload, stores and categorizes ethics entries based on subject area, and has the capacity to store electronic files attached to each entry. Through AWARS, ethics officials have ready access to ethics counseling from throughout DLA, searchable by subject matter.</p>						

9.0 RECOMMENDATION(S)			
#	Element	RECOMMENDATION	Compliance Due
1	4.8	<p><u>RECOMMENDATION:</u> Ensure non-PAS termination public financial disclosure reports are filed by the established deadline.</p> <p><u>AGENCY RESPONSE:</u> The one untimely filed OGE 278 Termination report was by a U.S. Navy Reserve Officer assigned to DLA in her Reserve capacity (part-time). Although the Ethics Program Manager had briefed this filer in October 2013 prior to her retirement, we did not properly follow-up with her to ensure timely filing. DLA identified the issue in January 2014 and instituted procedures at that time to prevent such a situation from reoccurring. Since then, DLA General Counsel has reorganized and has placed an additional level of scrutiny to ensure oversight and to prevent any inadvertent omissions of civilian, active duty military or reserve military personnel.</p> <p>DLA's updated policy requires all Senior Leader (SES/General Officer/Flag Officer) to receive an ethics briefing by a DLA ethics counselor prior to their resignation or retirement from federal service. During this ethics briefing, all Senior Leaders are reminded of the requirement to complete their OGE Termination Report within 60 days of termination from federal service. In addition, the DLA Ethics Program Manager centrally manages the reports of all OGE Public Financial Disclosure filers to ensure that all OGE 278 (Incumbent, Annual, and Termination) reports are filed timely. The DLA Ethics Program Manager is notified by DLA Human Resources prior to an employee departing the Agency in order to discuss the OGE 278 Termination report requirement. The DLA Ethics Program Manager works with the employee to ensure that the employee is aware of the requirement and follows up with the employee after the date of termination of federal employment to ensure timely filing and receipt of OGE 278 Termination reports. Accountability of all reports is reported to the Senior Associate General Counsel, Administrative and International Law (added layer).</p>	5/1/15
2	5.5	<p><u>RECOMMENDATION:</u> Ensure new entrant confidential financial disclosure reports are filed by the established deadline.</p> <p><u>AGENCY RESPONSE:</u> In order to ensure that all new entrant employees are timely identified and assigned an OGE 450 report, DLA instituted the following process during the course of our Program Inspection. The DLA Ethics Program Manager is provided a list of all new employees with their estimated onboarding date on a biweekly basis. This information is provided to each DLA Primary Level Field Activity to ensure that new DLA employees required to file an OGE 450 are identified and assigned an OGE 450 within 14 days of commencing employment with DLA. This allows for the assignment and completion of an OGE 450 within 30 days of commencement of employment with DLA. In addition, DLA ethics counselors will review all warrant packages and ensure that an OGE 450 is completed and certified</p>	10/1/15

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		before a warrant package is approved. Finally, for all other employees who are not new to DLA, but new entrants for OGE 450 filing purposes, DLA is working to educate employees and supervisors of the requirement to file within 30 days of assuming responsibilities which trigger the filing requirement.	
3	7.4	<p><u>RECOMMENDATION:</u> Ensure confidential financial disclosure filers complete annual ethics training in accordance with 5 C.F.R. § 2638.705.</p> <p><u>AGENCY RESPONSE:</u> DLA offers live annual ethics training to the maximum extent practicable. However, in order to ensure that DLA is able to obtain 100% training completion, DLA has created an online ethics course that is available to all covered employees in DLA's Learning Management System (LMS). Due to issues with uploading and assigning the course to covered employees in 2014, many employees did not receive notification to complete their training until the last quarter of 2014. Due to these difficulties, DLA allowed employees to complete the training by January 31, 2015 to fulfill the 2014 annual ethics training requirement. All employees were notified that they will need to complete the 2015 requirement by December 31, 2015. Of the employees sampled, 83 out of 85 completed the training by January 31, 2015. DLA had 5,581 out of 5,679 covered employees complete annual ethics training by January 31, 2015.</p> <p>In order to ensure that all covered employees complete annual ethics training no later December 31 of each calendar year, DLA will ensure that the current online option is available to all employees no later than June 30 of each calendar year with a due date of October 31 of each year. The October 31 due date will provide DLA with an additional 60 days to ensure that all covered employees who have not completed their ethics training are identified and trained prior to December 31. Live training will continue to be offered to the maximum extent practicable each calendar year.</p>	1/31/16