

ETHICS PROGRAM INSPECTION REPORT

Agency: National Aeronautics and Space Administration Headquarters

Report No.: 18-051

Date: October 16, 2017

Period Covered by Review: January 1-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	17,361
1.2	Number of agency special Government employees	191
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	691
1.5	Number of confidential financial disclosure reports required to be filed	10,141
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)	Agency Counsel for Ethics
1.9	Grade level of ADAEO	SL
1.10	Title of the primary, day-to-day ethics program administrator	Agency Counsel for Ethics
1.11	Grade level of the primary, day-to-day ethics program administrator	SL
1.12	Current number of full-time ethics officials	3
1.13	Current number of part-time ethics officials	13
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%.)	41%
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	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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
(3.1-3.3) During the period under review, the National Aeronautics and Space Administration (NASA) 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).	60%		
4.6	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	88%		
4.7	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	81%		
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.	88%		
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).	75%		
COMMENTS				
<p>(4.1.1) At the beginning of the inspection, NASA's written procedures did not address the use of <i>Integrity</i>, the executive branch electronic financial disclosure system used to collect PAS public financial disclosure reports (OGE Form 278) or periodic transaction reports (OGE Form 278-T). During the course of the inspection, NASA updated its procedures to fully address the use of <i>Integrity</i> in the collection of OGE Forms 278 and 278-T. Therefore, OGE is not issuing a recommendation for improvement.</p> <p>(4.4) During its onsite fieldwork, OGE noted that NASA retained public reports beyond the six-year retention period. Subsequent to OGE's onsite visit, NASA destroyed all reports that had been retained for more than six years. Therefore, OGE is not issuing a recommendation for improvement.</p> <p>(4.5) Ten of the 25 new entrant reports examined by OGE were filed late. Seven of the late reports were filed within 30 days of their respective due dates and therefore were not subject to a late filing fee. Filers of the three remaining reports paid the late filing fee.</p> <p>(4.6) Three of the 25 annual reports examined by OGE were filed late. Two of the reports were filed within 30 days of the due date and therefore were not subject to a late filing fee. The filer of the remaining report paid the late filing fee.</p> <p>(4.7)(a) Three of the 16 termination reports examined by OGE were filed late. One termination report was filed within 30 days of the</p>				

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applicable due date and therefore was not subject to a late filing fee. One termination report was filed late because the filer was not notified timely due to administrative error; therefore, NASA waived the late filing fee. The filer of the remaining report paid the late filing fee. (4.7)(b) During the inspection, OGE noted that the termination OGE Forms 278 produced by The Ethics Program Tracking System (EPTS), NASA's electronic financial disclosure filing system for non-PAS filers, did not display the filer's termination date. Instead, the appointment date was displayed on the cover of the termination reports. In response, NASA changed the system coding for the termination report to display the termination date on the cover of the report.

(4.11) During the period covered by the inspection, only four PAS annual reports were required to be filed. One report was certified late, but only by one day. Another report had received an intermediate review, but had been certified more than 60 days after it had been filed. However, the technical standard for timely review and certification was met because ethics officials were seeking additional information from the filer. That report was certified after the additional information was provided. OGE notes that the filer was not asked for additional information until four days before the initial 60 day deadline for certification. While the request for additional information extended the deadline for certification, OGE believes ethics officials should have started asking follow-up questions earlier to allow for more timely certification of the report.

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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).				72%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).				73%		
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>(5.3) OGE approved NASA's Conflicts-of-Interest and Confidentiality Self-Certification Form for NASA Peer Reviewers Who are Federal Government Employees (Certification Form) as an alternative confidential financial disclosure system in 2008. The Certification Form was paper-based at the time of approval. During the inspection, the review team learned that NASA had converted the OGE-approved Certification Form into an electronic form and integrated it into the NASA Resolution and Proposal Integrated Review and Evaluation System (NSPIRES). The original paper Certification Form is displayed as a link labeled "View Conflict of Interest Policy" on the first screen on NSPIRES. To access a review assignment, peer reviewers must first complete four steps to certify that they do not have any conflicts. The first two steps require the peer reviewer to review a list of proposers to the specific review and then certify that there are no conflicts originating from affiliations with a proposing institution or relationships with proposal participants or other persons whose financial interests may create a conflict of interest for the peer reviewer based on a personal relationship. In steps three and four, peer reviewers must then certify that they have no conflicts of interest based on the "Federal Ethics Standards" with any of the institutions or proposal team members of the review. During the inspection, OGE determined that NASA's modified use of the Certification Form is consistent with the original objective of focusing on potential conflicts of interest for each specific peer review. The NSPIRES version covers the same main areas included in the approved paper Certification Form. Additionally, the electronic submission is also consistent with the self-certification process previously approved by OGE. Therefore, OGE extends its approval of the use of the Certification Form to include its electronic submission process. No further action is required regarding this matter. However, OGE reminds NASA that agencies must consult with OGE and seek approval for substantive changes to an OGE-approved alternative confidential financial disclosure system and any related forms.</p>							

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(5.4) During its onsite fieldwork, OGE noted that NASA retained confidential reports beyond the six-year retention period. Subsequent to OGE's onsite visit, NASA destroyed the reports that had been retained for more than six years. Therefore, OGE is not issuing a recommendation for improvement.

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 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	<ul style="list-style-type: none"> Current contact information of relevant ethics official(s) 				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.2	<ul style="list-style-type: none"> Review of the criminal conflict of interest statutes 				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.3	<ul style="list-style-type: none"> Review of the Standards of Ethical Conduct 				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.4	<ul style="list-style-type: none"> Review of the 14 Principles 				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.5	<ul style="list-style-type: none"> Review of any agency supplemental standards 				<input checked="" type="checkbox"/>	<input 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).				100%		
COMMENTS							
None							

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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	<p><u>RECOMMENDATION:</u> Ensure that non-PAS new entrant public financial disclosure reports are filed timely.</p> <p><u>AGENCY RESPONSE:</u> NASA agrees with OGE's recommendation for element 4.5, and is already working to implement a responsive process improvement that will apprise new entrants of their due date with greater specificity.</p>	June 2018
2	5.5 & 5.6	<p><u>RECOMMENDATION:</u> Ensure that confidential financial disclosure reports are filed timely.</p> <p><u>AGENCY RESPONSE:</u> NASA agrees with OGE's recommendation for elements 5.5 & 5.6, and is already working to implement a process improvement responsive to element 5.5 that will apprise new entrants of their due date with greater specificity. NASA will also take appropriate action responsive to element 5.6.</p>	June 2018