

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



February 2, 2017

Mr. Clifford Tatum
General Counsel and
Designated Agency Ethics Official
Election Assistance Commission
1335 East West Highway, Suite 4300
Silver Spring, MD 20910

Dear Mr. Tatum:

As a result of its review of the Election Assistance Commission (EAC) ethics program, the Office of Government Ethics (OGE) issued six recommendations in its October 2015 ethics program review report. OGE recently conducted a follow-up review to determine whether EAC has taken sufficient action to resolve the deficiencies underlying these recommendations. Based on the results of the follow-up review, OGE has determined that five of the six recommendations will remain open.

Although OGE's follow-up review focused on assessing the actions taken by EAC to address the specific recommendations issued in OGE's October 2015 report, OGE also identified additional deficiencies and is issuing new recommendations, as described later in this report. The results of the follow-up review are summarized below.

	Recommendation	Agency Action and OGE Findings	Status
1	Promptly appoint a Designated Agency Ethics Official (DAEO) and Alternate Designated Agency Ethics Official (ADAEO) to ensure the effective oversight and administration of EAC's ethics program.	The EAC Executive Director appointed a DAEO and ADAEO and provided OGE with the appointment letter, as required.	Closed
2	Review and certify all outstanding public financial disclosure reports filed in 2014 and timely review and certify all future public reports.	<p>OGE reviewed the outstanding public financial disclosure reports filed in 2014 and determined all the reports were certified in December 2016.</p> <p>OGE also reviewed the public reports filed in 2015 and 2016. OGE determined 75% of the public reports filed in 2015 and 50% of the public reports filed in 2016 were not certified timely.</p>	Open



3	Review and certify all outstanding confidential financial disclosure reports filed in 2014 and 2015 and timely review and certify all future confidential reports.	<p>OGE reviewed the outstanding confidential reports filed in 2014 and 2015 and determined that none of the reports filed in 2014 were certified. However, all the reports filed in 2015 were certified in January 2016.</p> <p>OGE also reviewed the confidential reports filed in 2016 and found only 9% of these reports were certified timely.</p>	Open
4	Provide ethics training to all covered employees annually.	OGE reviewed EAC's annual ethics training records and determined only 67% of covered employees received annual ethics training in 2015.	Open
5	Ensure that all SGE confidential reports are collected before any advice is rendered by the employee to the agency, or in no event, later than the first committee meeting in accordance with 5 C.F.R. § 2634.903(3)(b), and are reviewed and certified within 60 days.	<p>OGE reviewed the relevant records and determined that EAC did not ensure all SGE confidential financial disclosure reports were collected timely or reviewed and certified within 60 days of filing. Moreover, EAC did not maintain copies of these reports.</p> <p>OGE found the informal agreement between EAC and the Department of Commerce's National Institute of Standards and Technology (NIST) to provide ethics services for SGEs serving on the Technical Guidelines Development Committee (TGDC) did not ensure that confidential reports were collected, reviewed, or certified timely.</p>	Open
6	Ensure that all SGEs receive ethics training every year in accordance with 5 C.F.R. § 2638.705.	<p>OGE reviewed the records for SGEs serving on the TGDC and determined that training was provided to only one SGE in 2015.</p> <p>Furthermore, OGE concluded EAC did not provide ethics training in 2015 for SGEs serving on the EAC Board of Advisors.</p>	Open

Based on this follow-up review, OGE concluded that EAC has failed to implement actions adequate to resolve underlying deficiencies in its confidential financial disclosure and ethics training processes for SGEs. OGE also noticed that EAC ethics officials reported

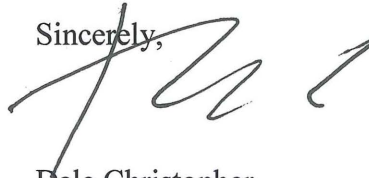
inconsistent data for the number of SGEs serving on two Federal advisory committees. OGE found evidence that SGEs served on the TGDC and Board of Advisors in 2015. However, EAC did not report any SGEs on the OGE Annual Agency Ethics Program Questionnaire covering calendar year 2015 or during this follow-up review. Despite evidence describing that SGEs served on EAC's Federal advisory committees, EAC continued to report that there were no SGEs serving on the Board of Advisors. Therefore, OGE is issuing the following recommendations pertaining to SGEs.

	Recommendations	Status
7	Develop a process for designating and tracking SGEs serving EAC's Federal advisory committees.	Open
8	Ensure that required ethics services, including the collection and review of confidential financial disclosure reports and the provision of ethics training, are provided to EAC Federal advisory committee SGEs.	Open
9	Properly maintain copies of all SGE confidential financial disclosure reports.	Open

The results of this ethics program follow-up review are concerning. OGE provided EAC with assistance and ample time to correct the deficiencies underlying the recommendations in OGE's October 2015 report. Nevertheless, EAC failed to take effective action to rectify the deficiencies and was delinquent in responding to OGE requests for information necessary to complete this follow-up review. OGE finds that these results raise concerns about EAC's commitment to its ethics program, which ultimately may compromise the integrity of the agency.

OGE will conduct a second follow-up in 2017 to determine whether the EAC has taken action sufficient to warrant closing the open recommendations. If you would like to discuss the report, please contact me at 202-482-9224.

Sincerely,



Dale Christopher
Deputy Director for Compliance