

## ETHICS PROGRAM INSPECTION REPORT

Agency: Gulf Coast Ecosystem Restoration Council (Council)

Report No.: 24-28I.

Date: March 6, 2024

Period Covered by Review: January 1, 2023 through December 31, 2023

## UNITED STATES OFFICE OF GOVERNMENT ETHICS

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1.0	AGENCY DATA	
	EMPLOYEES	
1.1	Number of full-time agency employees.	24
1.2	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed.	See comment below
1.3	Number of non-PAS public financial disclosure reports required to be filed.	3
1.4	Number of confidential financial disclosure reports required to be filed.	See comment below
	ETHICS PROGRAM	
1.5	Title of Designated Agency Ethics Official (DAEO).	General Counsel
1.6	Grade level of DAEO.	GS-15
1.7	Title of Alternate DAEO (ADAEO).	Deputy Executive Director
1.8	Grade level of ADAEO.	SES
1.9	Title of the primary, day-to-day ethics program administrator.	General Counsel
1.10	Grade level of the primary, day-to-day ethics program administrator.	GS-15
1.11	Current number of full-time ethics officials.	0
1.12	Current number of part-time ethics officials.	2
1.13	Number of reporting levels between the DAEO and the agency head.	1
	COMMENTS	
	<p>(1.2) The Council does not have any PAS officials required to file public financial disclosure reports for their service on the Council. The Council's enabling statute (Subtitle F of Public Law 112-141) provides for a 11-member Council. These members include five Governors from the Gulf Coast States of Alabama, Florida, Louisiana, Mississippi, and Texas (States), and the Secretaries from the U.S. Departments of Agriculture, the Army, Commerce, Homeland Security, Interior, and the Administrator of the U.S. Environmental Protection Agency (EPA). From among the Federal agency members of the Council, the representatives of States on the Council select, and the President appoints, one Federal member to serve as Chairperson of the Council. At the time of OGE inspection, the Administrator of EPA was serving as the Council's Chairperson. All Council members are appointed by the President. A Governor appointed to the Council by the President may designate an alternative to represent the Governor on the Council and perform the functions of a Council member. A Federal member may also designate an alternative at the level of the Assistant Secretary or the equivalent to represent the Department or agency on the Council and perform the functions of a Council member.</p> <p>(1.3) The Executive Director, the Deputy Executive Director (who also serves as the agency's ADAEO) and the General Counsel (who also serves as the agency's DAEO) are the only individuals required to file public financial disclosure reports for their service on the Council. At the time of inspection, all three public reports were reviewed and certified by ethics officials at the Department of Commerce. (See, PUBLIC FINANCIAL DISCLOSURE section below)</p> <p>(1.4) The Council has historically not had positions whose incumbents are required to file confidential financial disclosure reports. The DAEO confirmed that the Council had no positions subject to confidential filing during the period covered by this inspection.</p> <p>(1.11) The Council does not have any full-time ethics officials.</p>	

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2.0	LEADERSHIP			
	COMPLIANCE REQUIREMENTS	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. § 2638.107(a).	<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. § 2638.107(a).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	COMMENTS			
	None			

3.0	PUBLIC FINANCIAL DISCLOSURE (OGE Form 278e, OGE Form 278-T)			
	COMPLIANCE REQUIREMENTS	Yes	No	N/A
	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).			
3.1	• Collection of public financial disclosure reports.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.2	• Review/evaluation of public financial disclosure reports.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.3	• Public availability of public financial disclosure reports.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.4	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"/>
3.5	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.6	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"/>
3.7	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after appointment) notifies the DAEO of all appointments to positions that require incumbents to file public financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.8	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after termination) notified the DAEO of terminations of employees in positions that require incumbents to file public financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	DATA ANALYSIS	%		
3.9	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	N/A		
3.10	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	100%		
3.11	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A		
3.12	Percentage of sampled non-PAS public financial disclosure reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%		
3.13	Percentage of sampled non-PAS public financial disclosure reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	See comment below		
3.14	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	N/A		
3.15	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A		
3.16	Percentage of sampled PAS annual and termination reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	N/A		
3.17	Percentage of sampled PAS annual and termination reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	N/A		

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### COMMENTS

#### Issue Identified And Resolved

(3.0) At the start of OGE's inspection, the Council was outsourcing its public financial disclosure program to the Office of the General Counsel (OGC) within the Department of Commerce pursuant to an established memorandum of understanding with the Council. The Ethics Law and Programs Office (ELPO) of the OGC was responsible for reviewing and certifying the public reports submitted by the Council's three public filers, including the report filed by the DAEO.

All three public filers submitted their reports directly to ELPO, which meant the Council's DAEO was not responsible for reviewing the reports filed by the other two public filers before they were submitted to ELPO for initial review and final certification via OGE's electronic filing system, *Integrity*. Similarly, the Council's ADAEO was not responsible for reviewing the DAEO's report before sending it to ELPO. (ELPO was responsible for forwarding the DAEO's report to OGE for final review and certification after their review). During the inspection, OGE expressed concerns to the DAEO with this arrangement since Council ethics officials were not involved in examining the agency's public reports for completeness or identifying potential conflicts of interest associated with the filer's official duties. While it's worth noting that an agency may outsource certain functions related to its ethics program, OGE does not believe this function should be outsourced to another agency, especially when the agency has on its staff both a DAEO and ADAEO who have been designated to carry out the duties of the agency's ethics program.

In addition to the concern above, despite several attempts made by the DAEO, ELPO did not timely respond to the DAEO's request to provide OGE access through *Integrity* to examine the two public reports filed by the Executive Director and Deputy Executive Director/ADAEO that are kept with ELPO. (OGE examined the report filed by the DAEO since it is required to be sent to OGE for final review and certification. OGE determined that the DAEO's report was filed and reviewed in a timely manner). This was concerning not only because ethics documents should always be readily available during OGE inspections but also because agencies must make public reports and documents available to the public when requested within 30 days after receiving them until they are destroyed, and Council ethics officials did not have access to their public reports.

OGE is pleased that prior to the conclusion of OGE's inspection, the DAEO, in consultation with the Council's Executive Director, decided that it is in the Council's best interest to no longer outsource the administration of the agency's public financial disclosure system. This means that starting in 2024, the DAEO will begin to review, certify, and, when applicable, make publicly available public reports filed by the Executive Director and Deputy Executive Director/ADAEO. The ADAEO will also now review and certify the DAEO's report before it's sent to OGE for review and certification. OGE stands ready to assist Council ethics officials, through OGE's assigned desk officer to the Council, with any questions they may have during the upcoming public financial disclosure filing cycle.

(3.1 – 3.3) Because Council ethics officials outsourced the administration of its public financial disclosure program, ethics officials had not developed written procedures that addressed filing, review, and, when applicable, the public availability of public financial disclosure reports. Instead, the Council had relied on the written procedures established by ELPO for administering Commerce's public financial disclosure system to ensure that the Council's public system is administered in compliance with applicable ethics regulations. OGE notes that the requirement for written procedures is predicated mainly on ensuring continuity when experienced ethics officials are unavailable to administer the agency's ethics program. Therefore, the Council must establish written procedures documenting the agency's public system process. Procedures should also include the process for requesting and granting filing extensions, the process for collecting the \$200 late filing fee or how to request a waiver of the \$200 late filing fee, and the process for making reports publicly available. OGE also suggests these procedures indicate that the ADAEO position is responsible for reviewing and certifying the DAEO's report before it is forwarded to OGE for final review and certification.

(3.4) None of the reports OGE examined were subject to a late filing fee during the period covered by the inspection.

(3.6) During the inspection, the DAEO gained access to their public reports filed in *Integrity* with the help of OGE's *Integrity* Helpdesk. This allowed the DAEO to provide OGE access to the Council's instance of *Integrity*. OGE identified public reports dating back to 2016 that had not yet been destroyed. OGE informed the DAEO to destroy all public reports found to exceed the six-year retention period in accordance with 5 C.F.R. § 2634.603(g)(1).

(3.7 and 3.8): The requirement for human resources officials to notify the DAEO of appointments to or terminations from positions that require incumbents to file public financial disclosure reports is intended to ensure the DAEO can timely advise employees of relevant filing requirements. At the time of inspection, the Council had only three positions whose incumbents were required to file a public financial disclosure report and there were no appointments to, or terminations from, these positions during the period covered by the inspection. The DAEO (who is one of the agency's three public filers) would be aware of pending appointments and terminations. Therefore, formal notification from human resources officials is not necessary to ensure public filers receive timely notification of filing requirements.

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(3.9 and 3.11) The Council did not have any non-PAS new entrant or termination public filers during the period of inspection.

(3.13) OGE identified the DAEO's report as having been certified 1 day after the 60<sup>th</sup> day of receipt. OGE is not making a formal recommendation in this area.

(3.14 through 3.17) The Council does not have any PAS officials required to file public financial disclosure reports for their service on the Council.

**4.0 CONFIDENTIAL FINANCIAL DISCLOSURE****COMPLIANCE REQUIREMENTS**

Yes

No

N/A

The agency has written policies and procedures in place governing: *See* 5 U.S.C app. IV, § 402(d)(1).

4.1	• Collection of confidential financial disclosure reports.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.2	• Review/evaluation of confidential financial disclosure reports.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.3	Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-2.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.4	Confidential financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.604.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.5	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"/>
4.6	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after appointment) notifies the DAEO of all appointments to positions that require incumbents to file confidential financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(1).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**DATA ANALYSIS**

%

4.7	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	See comment below
4.8	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	See comment below
4.9	Percentage of sampled reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	See comment below
4.10	Percentage of sampled confidential financial disclosure reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. §§ 2634.605(a) and 2634.909(a).	See comment below

**COMMENTS**

(4.1 - 4.10) The DAEO confirmed that the Council did not have any covered confidential filing positions during the period covered by this inspection. As a result, the Council has not established written procedures for the collection and review of confidential reports. OGE notes that should the Council designate a position(s) as covered for purposes of confidential financial disclosure in the future, the DAEO is responsible for establishing such procedures.

As a good management practice, OGE suggests that the DAEO carefully examine the roles and responsibilities of each Council position before the start of the confidential financial disclosure filing season each year. This ensures that if a Council position is at risk of encountering ethics conflicts, it is identified and designated as confidential filers in a timely manner.

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COMPLIANCE REQUIREMENTS		Yes	No	N/A
Written offers of employment for positions covered by the Standards of Conduct provide: <i>See</i> 5 C.F.R. § 2638.303.				
5.1	<ul style="list-style-type: none"> <li>A statement regarding the agency's commitment to government ethics.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.2	<ul style="list-style-type: none"> <li>Notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes as an employee.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.3	<ul style="list-style-type: none"> <li>Contact information for an appropriate agency ethics office or an explanation of how to obtain additional information on applicable ethics requirements.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.4	<ul style="list-style-type: none"> <li>Where applicable, notice of the time frame for completing initial ethics training.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.5	<ul style="list-style-type: none"> <li>Where applicable, a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.6	The agency has established written procedures for issuing the notice to prospective employees. <i>See</i> 5 C.F.R. § 2638.303(c).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.7	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.303(c).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.8	The agency can demonstrate that there is an effective process for ensuring all covered employees receive the required information with their written offer of employment. <i>See</i> 5 C.F.R. § 2638.303.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>				
<p>(5.6) While OGE found the agency's written procedures to include a reference to issuing notices to prospective employees, OGE offers suggestions to help strengthen the document since written procedures are largely predicated on the need to ensure continuity if an agency's experienced ethics official cannot administer the ethics program. Suggestions include documenting the ethics-related functions outsourced to BFS, providing instructions for contacting the appropriate staff within BFS and explaining how to access the contract/agreement between the Council and BFS.</p> <p>(5.8) The Council outsources its human resource services to the Department of Treasury's Bureau of Fiscal Services (BFS), which includes issuing written offers to potential Council employees. During the inspection period, the Council hired one new employee. OGE asked to examine the written offer to ensure it contained the required ethics content. Ethics officials contacted their BFS point of contact requesting a copy of the written offer of employment. However, BFS couldn't produce the written offer at the time of request. Thus, it was unclear whether notices to prospective employees were provided as required by 5 C.F.R. § 2638.303. Instead, BFS provided the DAEO with a signed post-employment acknowledgment that BFS had the new Council employee sign. OGE advised the DAEO that post employment acknowledgments are usually not signed as part of an employee's on-boarding process but instead during the employee's exit from Federal service. This is concerning since the Council relies on BFS as its lead human resource official for ethics purposes to help the DAEO fulfill the agency's ethics-related responsibilities.</p> <p>Before the conclusion of this inspection, the DAEO provided OGE with a copy of the written offer that OGE requested as a result of obtaining the notice directly from the new hire since BFS had yet to contact the DAEO. OGE examined the ethics content on the written offer and concluded that it met content requirements. However, the written offer included language that the employee would be subject to the agency's supplemental ethics regulation. OGE discussed this with the DAEO since the agency does not have an OGE-approved supplemental ethics regulation. The DAEO agreed to remove this sentence from all future written offers provided to prospective Council employees.</p>				

**6.0 NOTICES TO NEW SUPERVISORS**

COMPLIANCE REQUIREMENTS		Yes	No	N/A
The agency must provide each employee upon initial appointment to a supervisory position with: <i>See</i> 5 C.F.R. § 2638.306.				
6.1	<ul style="list-style-type: none"> <li>Contact information for the agency's ethics office.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6.2	<ul style="list-style-type: none"> <li>The text of 5 C.F.R. § 2638.103.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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6.3	• A copy of, a hyperlink to, or the address of a Web site containing the Principles of Ethical Conduct.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6.4	• Other information the DAEO deems necessary.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6.5	The agency has established written procedures for supervisory ethics notices. <i>See</i> 5 C.F.R. § 2638.306(d).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.6	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.306(d).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.7	The agency can demonstrate that there is an effective process for ensuring that new supervisors receive the required information within one year of appointment. <i>See</i> 5 C.F.R. § 2638.306(b).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>COMMENTS</b>				
(6.1 – 6.4 and 6.7) According to the DAEO, no appointments to supervisory positions were made during the period covered by the inspection. As a result, OGE could not fully evaluate this area of the Council's ethics program.				

7.0	INITIAL ETHICS TRAINING			
	COMPLIANCE REQUIREMENTS	Yes	No	N/A
	Each new employee of the agency subject to the Standards of Conduct must complete initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.			
7.1	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. § 2638.304(e)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.2	The agency provided new employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See</i> 5 C.F.R. § 2638.304(e)(2).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.3	The agency has established written procedures for initial ethics training. <i>See</i> 5 C.F.R. § 2638.304(f).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.4	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.304(f).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	DATA ANALYSIS	%		
7.5	Percentage of new employees who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.	100%		
7.6	Percentage of new employees who received initial ethics training within three months of appointment. <i>See</i> 5 C.F.R. § 2638.304(b).	100%		
	COMMENTS			
	<p>(7.1) OGE found the initial ethics training (which is the same training provided during annual ethics training) provided during the period under inspection to address all training concepts except for impartiality in official duties; however, OGE found the training to address impartiality implicitly. While OGE is not making a formal recommendation for the omission of the concept related to impartiality, OGE suggests that in future training, ethics officials make certain to highlight each of the four topics through discussion questions or summary statements by the instructor to ensure that each concept is addressed.</p> <p>(7.2) To further strengthen the initial training material already provided to Council employees, OGE recommends that the DAEO provide a direct website link to the Standards of Conduct (as well as the criminal conflict of interest statutes) for new Council employees to access. This will ensure that the Council fully complies with the training requirements at 5 C.F.R. § 2638.304(e)(2).</p> <p>(7.3) At the time of OGE's inspection, the Council had not established written procedures for initial ethics training. Therefore, OGE recommends that the DAEO establish these procedures as required by 5 C.F.R. § 2638.304(f).</p>			



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COMPLIANCE REQUIREMENTS		Yes	No	N/A
	Each calendar year, public filers, confidential filers, and certain other employees must complete ethics training which meets specified requirements. <i>See</i> 5 C.F.R. §§ 2638.307 and 2638.308.			
8.1	The training presentation(s) addressed concepts related to financial conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. §§ 2638.307(e)(1) and 2638.308(f)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.2	The agency provided employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See</i> 5 C.F.R. § 2638.308(f)(2).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.3	The agency's annual ethics training complies with the formatting requirements for public filers, confidential filers, and certain other employees. <i>See</i> 5 C.F.R. §§ 2638.307(d) and 2638.308(e).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.4	The agency's program for annual ethics training complies with the tracking requirements for public filers, confidential filers, and certain other employees. <i>See</i> 5 C.F.R. §§ 2638.307(f) and 2638.308(g).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.5	The agency can demonstrate it has an effective process for ensuring covered public filers, other than those whose pay is set at Level I or Level II of the Executive Schedule, complete live annual ethics training at least once every two years. <i>See</i> 5 C.F.R. § 2638.308(e)(2).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DATA ANALYSIS		Training Format		
		Live	Interactive	
	Percentage of public filers who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.308(a).			
8.6	• Executive Schedule Level I and Level II. <i>See</i> 5 C.F.R. § 2638.308(e)(1).	N/A	N/A	
8.7	• Other PAS and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(2).	N/A	N/A	
8.8	• SES and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(3).	N/A	See comment below	
	Percentage of confidential filers and certain other employees who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.307(a)(d).			
8.9	• Employees required to file an annual confidential financial disclosure report. <i>See</i> 5 C.F.R. § 2638.307(a)(1).	N/A	N/A	
8.10	• Employees appointed by the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	N/A	N/A	
8.11	• Employees of the Executive Office of the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	N/A	N/A	
8.12	• Contracting officers described in 41 U.S.C. § 2101. <i>See</i> 5 C.F.R. § 2638.307(a)(3).	N/A	N/A	
8.13	• Other employees designated by the head of the agency. <i>See</i> 5 C.F.R. § 2638.307(a)(4).	N/A	N/A	
COMMENTS				
<p>(8.1) OGE found the annual training provided during the period under inspection to address all training concepts except for impartiality in official duties; however, OGE found the training to address impartiality implicitly. While OGE is not making a formal recommendation for the omission of the concept related to impartiality, OGE suggests that in future training, ethics officials make certain to highlight each of the four topics through discussion questions or summary statements by the instructor to ensure that each concept is addressed.</p> <p>(8.2) To further strengthen the annual training material already provided to Council employees, OGE recommends that the DAEO provide a direct website link to the Standards of Conduct (as well as the criminal conflict of interest statutes) for Council employees to access. This will ensure that the Council fully complies with the training requirements at 5 C.F.R. § 2638.308(f)(2).</p> <p>(8.6) The Council does not have any Executive Schedule Level I or Level II employees.</p>				

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(8.8) OGE confirmed that the Deputy Executive Director/ADAE0 completed the required annual ethics training during the period of inspection using the annual training tracking spreadsheet that was provided as part of this inspection. However, OGE could not independently verify whether the Council's Executive Director completed the required training using the same tracking spreadsheet. However, OGE was assured that the Executive Director received the training.

(8.9 – 8.13) The Council had no employees in these categories.

Model Practice Identified

Providing annual ethics training to all employees, not just those required by the regulation is a model practice.

**9.0 ETHICS ADVICE AND COUNSELING****COMPLIANCE REQUIREMENT**

Yes

No

N/A

9.1 Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations. *See* 5 C.F.R. § 2638.104(c)(4).

☐☐☒**COMMENTS**

(9.1) Written ethics counseling was not provided to Council employees during the period covered by the inspection.

**10.0 SPECIAL GOVERNMENT EMPLOYEES (SGE) SERVING ON ADVISORY COMMITTEES AND BOARDS****Confidential Financial Disclosure**

10.1 Number of SGEs serving on Advisory Committees and Boards.

N/A

**DATA ANALYSIS**

%

10.2 Percentage of sampled confidential new entrant reports filed timely. *See* 5 C.F.R. § 2634.903(b).

N/A

10.3 Percentage of sampled reports reviewed within 60 days of receipt but not later than the SGE's first meeting. *See* 5 C.F.R. § 2634.605(a).

N/A

10.4 Percentage of sampled reports certified within 60 days of receipt. *See* 5 C.F.R. § 2634.605(a).

N/A

**Ethics Training****COMPLIANCE REQUIREMENTS**

Yes

No

N/A

Required ethics training must be provided to each SGE. *See* 5 C.F.R. §§ 2638.304 and 2638.307.

10.5 The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. *See* 5 C.F.R. § 2638.304(e)(1).

☐☐☒

10.6 The agency provided employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. *See* 5 C.F.R. § 2638.304(e)(2).

☐☐☒**DATA ANALYSIS**

%

10.7 Percentage of SGEs who received initial ethics training. *See* 5 C.F.R. § 2638.304.

N/A

10.8 Percentage of SGEs who received initial ethics training timely. *See* 5 C.F.R. § 2638.304(b)(2).

N/A

10.9 Percentage of SGEs who received annual ethics training. *See* 5 C.F.R. § 2638.307(d)(2).

N/A

**COMMENTS**

(10.1 - 10.9) During the period of inspection the Council did not have any SGEs serving on advisory committees or boards.



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### ISSUES IDENTIFIED AND RESOLVED DURING THE INSPECTION

Element	ISSUE
3.0	<p><u>ISSUE:</u> At the start of OGE's inspection, the Council was outsourcing its public financial disclosure program to the Office of the General Counsel (OGC) within the Department of Commerce pursuant to an established memorandum of understanding with the Council. Under this agreement, the Ethics Law and Programs Office (ELPO) was responsible for reviewing and certifying the public reports submitted by the Council's three public filers, including the report filed by the DAEO. All three public filers submitted their reports directly to ELPO, which meant the Council's DAEO was not responsible for reviewing the reports filed by the other two public filers before they were submitted to ELPO for initial review and final certification via OGE's electronic filing system, Integrity.</p> <p><u>AGENCY RESPONSE:</u> The DAEO, in consultation with the Council's Executive Director, decided that it was in the agency's best interest to no longer outsource the administration of the agency's public financial disclosure system. This means that starting in 2024, the DAEO will begin to review, certify, and, when applicable, make publicly available public reports filed by the agency's two public filers. The DAEO will also now review and certify the DAEO's report before it's sent to OGE for review and certification.</p>
3.6	<p><u>ISSUE:</u> OGE noticed a few public financial disclosure reports older than six years old. OGE informed the DAEO of the requirement to destroy all public reports found to exceed the six-year retention period within <i>Integrity</i> in accordance with 5 C.F.R. § 2634.603(g)(1).</p> <p><u>AGENCY RESPONSE:</u> Reports older than six years will be destroyed.</p>
5.0	<p><u>ISSUE:</u> OGE noticed the written offer to prospective employees included language that the employee would be subject to the agency's supplemental ethics regulation. OGE discussed this with the DAEO since the agency does not have an OGE-approved supplemental ethics regulation.</p> <p><u>AGENCY RESPONSE:</u> The DAEO agreed to remove this sentence from all future written offers provided to prospective Council employees.</p>
7.2, 8.2	<p><u>ISSUE:</u> Provide a direct link to the Standards of Conduct (as well as the criminal conflict of interest statutes) to further strengthen the initial ethics and annual training material already provided to Council employees</p> <p><u>AGENCY RESPONSE:</u> A direct link to the Standards of Conduct as well as the criminal conflict of interest statutes will be provided during future initial ethics and annual training presentations.</p>
7.5-7.6	<p><u>ISSUE:</u> OGE could not determine if new Council employees received the required initial ethics training based on the training material provided as part of this inspection.</p> <p><u>AGENCY RESPONSE:</u> The DAEO presented evidence to OGE that initial ethics training had been provided during the period under OGE's inspection.</p>

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RECOMMENDATIONS			
#	Element	RECOMMENDATION	Compliance Due
1	3.1 – 3.3	<p><u>RECOMMENDATION:</u> Establish written procedures for public financial disclosure to address how the agency will now handle the collection, review, and public availability of periodic transaction reports (OGE Form 278-T) and public financial disclosure reports (OGE Form 278). OGE also recommends that these procedures properly reflect the agency's use of <i>Integrity</i>, OGE's secure public-facing web-based electronic financial disclosure reporting system, in administering the agency's public financial disclosure system. These procedures should also include the process for requesting and granting filing extensions, the process for collecting the \$200 late filing fee and how to request a waiver of the \$200 late filing fee.</p> <p><u>AGENCY RESPONSE</u> OGE has advised the agency that it will provide sample written procedures for public financial disclosure; the agency will adapt them to satisfy this recommendation.</p>	June 2024
2	5.6	<p><u>RECOMMENDATION:</u> Update the agency's written procedures for issuing notices to prospective employees.</p> <p><u>AGENCY RESPONSE:</u> The agency will adopt OGE's suggestions set forth in the comments to Section 5.6 of the report.</p>	June 2024
3	5.8	<p><u>RECOMMENDATION:</u> Ensure the agency can demonstrate that there is an effective process for ensuring all covered employees receive the required information with their written offer of employment from the Department of Treasury's Bureau of Fiscal Services (BFS).</p> <p><u>AGENCY RESPONSE:</u> The agency will work with BFS to be able to demonstrate the necessary process.</p>	June 2024
4	7.3	<p><u>RECOMMENDATION:</u> Establish written procedures for initial ethics training as required by 5 C.F.R. § 2638.304(f).</p> <p><u>AGENCY RESPONSE:</u> OGE has provided sample initial ethics training procedures that the agency will adapt to satisfy this recommendation.</p>	June 2024