

ETHICS PROGRAM INSPECTION REPORT

Agency: Tennessee Valley Authority (TVA)

Report No.: 22-52I

Date: September 7, 2022

Period Covered by Review: January 1, 2021 through June 30, 2022

**UNITED STATES OFFICE OF
GOVERNMENT ETHICS**Preventing Conflicts of Interest
in the Executive Branch

1.0	AGENCY DATA		
	EMPLOYEES		
1.1	Number of full-time agency employees.	10,125	
1.2	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed.	0	
1.3	Number of non-PAS public financial disclosure reports required to be filed.	71	
1.4	Number of confidential financial disclosure reports required to be filed.	1,188	
	ETHICS PROGRAM		
1.5	Title of Designated Agency Ethics Official (DAEO).	Executive Vice President & General Counsel	
1.6	Grade level of DAEO.	TVA Officer/Executive Pay Grade	
1.7	Title of Alternate DAEO (ADAEO).	Director, Ethics & Compliance	
1.8	Grade level of ADAEO.	TVA Pay Grade 11	
1.9	Title of the primary, day-to-day ethics program administrator.	Director, Ethics & Compliance	
1.10	Grade level of the primary, day-to-day ethics program administrator.	TVA Pay Grade 11	
1.11	Current number of full-time ethics officials.	4	
1.12	Current number of part-time ethics officials.	11	
1.13	Number of reporting levels between the DAEO and the agency head.	1	
	COMMENTS		
	1.2: TVA has ten PAS positions. These include TVA's Inspector General and the nine members of TVA's Board of Directors. A non-PAS official was serving as the Acting Inspector General during the period covered by OGE's inspection. The nine members of TVA's Board of Directors are PAS employees; however, because they are expected to serve fewer than 130 days in a 365-day period, they are special government employees (SGE). SGE's file new entrant confidential financial disclosure reports each year they serve. The results of OGE's examination of the Board members' financial disclosure reports and their compliance with other ethics-related requirements are presented below.		

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. See 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. See 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: See 5 U.S.C. app. IV, § 402(d)(1).			
3.1	• Collection of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.2	• Review/evaluation of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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3.3	Public availability of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input 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. See 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. See 5 C.F.R. § 2634.603(g)(1).	<input checked="" type="checkbox"/>	<input 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. See 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. See 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-PASnew entrant reports filed timely. See 5 C.F.R. § 2634.201(b).	100%		
3.10	Percentage of sampled non-PASannual reports filed timely. See 5 C.F.R. § 2634.201(a).	96%		
3.11	Percentage of sampled non-PAStermination reports filed timely. See 5 C.F.R. § 2634.201(e).	100%		
3.12	Percentage of sampled non-PASpublic financial disclosure reports reviewed within 60 days of receipt. See 5 C.F.R. § 2634.605(a).	81%		
3.13	Percentage of sampled non-PASpublic financial disclosure reports certified within 60 days of receipt. See 5 C.F.R. § 2634.605(a).	78%		
3.14	Percentage of sampled PAS annual reports filed timely. See 5 C.F.R. § 2634.201(a).	N/A		
3.15	Percentage of sampled PAS termination reports filed timely. See 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. See 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. See 5 C.F.R. § 2634.605(a).	N/A		
COMMENTS				
3.4: During the period under review, no late filing fees were required to be collected and no waivers of the fees were required to be issued to public filers. 3.14-3.17: No PASpublic financial disclosure reports were required to be filed during the period covered by the review. TVA’s Board Members are PAS employees; however, they file confidential financial disclosure reports and are classified as SGEs.				

4.0 CONFIDENTIAL FINANCIAL DISCLOSURE

COMPLIANCE REQUIREMENTS		Yes	No	N/A
The agency has written policies and procedures in place governing: <i>See 5 U.S.C. app. IV, § 402(d)(1).</i>				
4.1	• Collection of confidential financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.2	• Review/evaluation of confidential financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.3	Confidential financial disclosure reports are securely maintained. <i>See OGE/GOVT-2.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4	Confidential financial disclosure reports are retained in accordance with the retention requirements. <i>See 5 C.F.R. § 2634.604.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.5	The agency's OGE-approved alternative confidential financial disclosure system complies with plans approved by OGE. <i>See 5 C.F.R. § 2634.905(a).</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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).	20%		
4.8	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	84%		
4.9	Percentage of sampled reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	91%		
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).	91%		
	COMMENTS			
	4.5: TVA does not have an OGE-approved alternative confidential financial disclosure system.			

5.0	NOTICES TO PROSPECTIVE EMPLOYEES			
	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	• A statement regarding the agency's commitment to government ethics.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.2	• Notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes as an employee.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.3	• Contact information for an appropriate agency ethics office or an explanation of how to obtain additional information on applicable ethics requirements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.4	• Where applicable, notice of the time frame for completing initial ethics training.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.5	• Where applicable, a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment.	<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 checked="" type="checkbox"/>	<input 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 checked="" 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
None.				

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	• Contact information for the agency's ethics office.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6.2	• The text of 5 C.F.R. § 2638.103.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>
COMMENTS				
(6.1 – 6.7) Due to an exemption that originates at 5 U.S.C. § 4102(a)(1)(B), TVA is not required to provide supervisory ethics notices and does not do so. However, in recognition of the importance of supervisors in establishing a culture of compliance with ethics-related requirements throughout the agency, TVA provides training to newly appointed supervisors. Ethics officials stated their belief that the training met or exceeded the substantive requirements of 5 C.F.R. § 2638.306. OGE appreciates TVA's commitment to promoting a culture of high ethical standards.				

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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" 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.	96%		
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).	92%		
	COMMENTS			
	None.			

8.0	ANNUAL ETHICS TRAINING			
	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. § 2638.304(e)(2).	<input checked="" type="checkbox"/>	<input 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"/>

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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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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	<ul style="list-style-type: none">Executive Schedule Level I and Level II. <i>See</i> 5 C.F.R. § 2638.308(e)(1).	N/A	N/A	
8.7	<ul style="list-style-type: none">Other PAS and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(2).	N/A	N/A	
8.8	<ul style="list-style-type: none">SES and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(3).	100%	0%	
	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	<ul style="list-style-type: none">Employees required to file an annual confidential financial disclosure report. <i>See</i> 5 C.F.R. § 2638.307(a)(1).	0%	100%	
8.10	<ul style="list-style-type: none">Employees appointed by the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	N/A	N/A	
8.11	<ul style="list-style-type: none">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	<ul style="list-style-type: none">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	<ul style="list-style-type: none">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				
	8.6: TVA does not have any Executive Schedule Level I or Level II officials. 8.7: TVA's Board of Directors is comprised of 9 Presidentially appointed, Senate confirmed officials who are projected to serve fewer than 130 days in a 365 day period, therefore they are SGEs. However, during the time of inspection, two board positions were vacant. TVA's only other PAS position is the IG, which was vacant during the period covered by the inspection. 8.10-8.13: TVA does not have any employees in these categories who are not already accounted for at 8.9.			

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. <i>See</i> 5 C.F.R. § 2638.104(c)(4).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
None.				

SPECIAL GOVERNMENT EMPLOYEES (SGE)

TVA's Board of Directors is comprised of 9 Presidentially appointed, Senate confirmed officials who are projected to serve fewer than 130 days in a 365 day period, therefore they are SGEs. However, during the time of inspection, two board positions were vacant.

Confidential Financial Disclosure

10.1	Number of SGEs serving on Advisory Committees and Boards.	7
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	DATA ANALYSIS	%		
10.2	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	86%		
10.3	Percentage of sampled reports reviewed within 60 days of receipt but not later than the SGE’s first meeting. <i>See</i> 5 C.F.R. § 2634.605(a).	86%		
10.4	Percentage of sampled reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%		
Ethics Training				
	COMPLIANCE REQUIREMENTS	Yes	No	N/A
	Required ethics training must be provided to each SGE. <i>See</i> 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. <i>See</i> 5 C.F.R. § 2638.304(e)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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. <i>See</i> 5 C.F.R. § 2638.304(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	DATA ANALYSIS	%		
10.7	Percentage of SGEs who received ethics training timely. <i>See</i> 5 C.F.R. § 2638.307(d)(2).	71%		
	COMMENTS			
	10.2: All SGEs file new entrant confidential disclosure reports each year they serve. 10.7: TVA had 7 board members in 2021. Two board members left on 1/3/22, and did not receive ethics training in CY2021. OGE reminds TVA that ethics training is critical to ensuring employees can recognize and avoid real or potential conflicts of interest. It is particularly important that an agency’s senior leadership receive required training.			

RECOMMENDATIONS			
#	Element	RECOMMENDATION	Compliance Due
1	4.7	<u>RECOMMENDATION:</u> Ensure confidential new entrant reports are filed timely. <u>AGENCY RESPONSE:</u> TVA agrees with OGE's recommendation and will implement process enhancements to increase the percentage of new entrant reports filed timely.	March 1, 2023