

**ETHICS PROGRAM INSPECTION REPORT**

Agency: James Madison Memorial Fellowship Foundation

Report No.: 23-221

Date: March 31, 2023

Period Covered by Review: January 1, 2022 through December 31, 2022

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

<b>1.0</b>	<b>AGENCY DATA</b>		
	<b>EMPLOYEES</b>		
1.1	Number of full-time agency employees.	6	
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.	1	
1.4	Number of confidential financial disclosure reports required to be filed.	0	
	<b>ETHICS PROGRAM</b>		
1.5	Title of Designated Agency Ethics Official (DAEO).	President	
1.6	Grade level of DAEO.	GS-15	
1.7	Title of Alternate DAEO (ADAEO).	Financial Officer	
1.8	Grade level of ADAEO.	GS-6	
1.9	Title of the primary, day-to-day ethics program administrator.	Financial Officer	
1.10	Grade level of the primary, day-to-day ethics program administrator.	GS-6	
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.	0	
	<b>COMMENTS</b>		
	(1.2) The James Madison Memorial Fellowship Foundation (Foundation) has six PAS positions. The public law creating the Foundation established a Board of Trustees consisting of thirteen members to govern the Foundation. This includes six Trustees appointed by the President with the advice and consent of the Senate. <i>See</i> Pub. L. No. 99-500 § 803(b)(1)		

<b>2.0</b>	<b>LEADERSHIP</b>			
	<b>COMPLIANCE REQUIREMENTS</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
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"/>
	<b>COMMENTS</b>			
	None.			

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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 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"/>	
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 checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<b>DATA ANALYSIS</b>			<b>%</b>		
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).	0%			
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).	100%			
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			
<b>COMMENTS</b>					
<p>The President/DAEO is appointed by the Board of Trustees and is the Foundation's only public financial disclosure report filer. The DAEO's report is initially reviewed by the agency's ADAEO and is then forwarded to OGE for a final review and certification.</p> <p>(3.4) The President filed his report more than 30 days after it was due. When a public financial disclosure report is filed more than 30 days after the date it was due, the filer must either be assessed a \$200 filing fee or be granted a waiver of the fee. At the time of OGE's review, no fee had been paid and no waiver had been granted.</p> <p>(3.6) OGE found a report, filed using the <i>Integrity</i> electronic filing system, that exceeds the six-year retention period.</p> <p>(3.10) The DAEO's public report was the only report required to be filed in 2022 at the Foundation. It was filed over 30 days late, and its filer became subject to the filing fee. The filer did not pay the fee nor did they receive a waiver.</p>					

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(3.7, 3.8) The DAEO is the only public filer at the Foundation and does not require notification of their own appointment or termination.

(3.9, 3.11) During the period covered by the review, the Foundation did not have any employees entering into or terminating from positions whose incumbents are required to file public financial disclosure reports. Under 5 U.S.C. § 13103(h), the requirement to file a public financial disclosure report as a nominee does not apply to an individual who is not reasonably expected to perform the duties of the position for more than sixty calendar days. 5 U.S.C. § 13105(c) requires copies of reports required to be filed under the EIGA by nominees to be transmitted to the Director of OGE. Because they serve less than 60 days and are not required to file under EIGA, they are not required to transmit a copy of a report to OGE under EIGA.

(3.10) The Foundation President's public report was filed 96 days late.

**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. ☒ ☐ ☐4.2 • Review/evaluation of confidential financial disclosure reports. ☒ ☐ ☐4.3 Confidential financial disclosure reports are securely maintained. *See* OGE/GOVT-2. ☐ ☐ ☒4.4 Confidential financial disclosure reports are retained in accordance with the retention requirements. *See* 5 C.F.R. § 2634.604. ☐ ☐ ☒4.5 The agency's OGE-approved alternative confidential financial disclosure system complies with plans approved by OGE. *See* 5 C.F.R. § 2634.905(a). ☐ ☐ ☒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. *See* 5 C.F.R. § 2638.105(a)(1). ☐ ☐ ☒**DATA ANALYSIS****%**4.7 Percentage of sampled confidential new entrant reports filed timely. *See* 5 C.F.R. § 2634.903(b). N/A4.8 Percentage of sampled confidential annual reports filed timely. *See* 5 C.F.R. § 2634.903(a). N/A4.9 Percentage of sampled reports reviewed within 60 days of receipt. *See* 5 C.F.R. § 2634.605(a). N/A4.10 Percentage of sampled confidential financial disclosure reports certified within 60 days of receipt. *See* 5 C.F.R. §§ 2634.605(a) and 2634.909(a). N/A**COMMENTS**

The Foundation has historically had no positions whose incumbents are required to file confidential financial disclosure reports and had no confidential filers during the period covered by OGE's review.

While the Foundation currently has no employees who file confidential reports, the DAEO should consider whether any of the Trustees should be required to file confidential reports.

**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: *See* 5 C.F.R. § 2638.303.5.1 • A statement regarding the agency's commitment to government ethics. ☐ ☒ ☐

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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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>				
(5.1 – 5.5, 5.8) The Foundation's human resource services are administered under a service-level agreement with the Interior Business Center (IBC) which is part of the Department of the Interior.				
(5.6) The Foundation stated that their DAEO has not been reviewing established procedures, but will do so in the future on an annual basis.				

6.0	<b>NOTICES TO NEW SUPERVISORS</b>			
	<b>COMPLIANCE REQUIREMENTS</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
	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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.2	<ul style="list-style-type: none"> <li>The text of 5 C.F.R. § 2638.103.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.3	<ul style="list-style-type: none"> <li>A copy of, a hyperlink to, or the address of a Web site containing the Principles of Ethical Conduct.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.4	<ul style="list-style-type: none"> <li>Other information the DAEO deems necessary.</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>				
(6.6) The Foundation stated that their DAEO had not been reviewing established procedures, but will do so in the future on an annual basis.				

7.0	<b>INITIAL ETHICS TRAINING</b>			
	<b>COMPLIANCE REQUIREMENTS</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
	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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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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"/>
	<b>DATA ANALYSIS</b>	<b>%</b>		
7.5	Percentage of new employees who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.	0%		
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).	0%		
	<b>COMMENTS</b>			
	(7.1, 7.5, 7.6) Documentation submitted by the Foundation stated that one employee was required to receive initial ethics training. The Foundation was unable to produce a copy of the training. (7.4) The Foundation stated that their DAEO has not been reviewing established procedures, but will do so in the future on an annual basis.			

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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>
<b>DATA ANALYSIS</b>		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).	0	0	
8.7	• Other PAS and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(2).	0	0	
8.8	• SES and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(3).	0	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).			

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8.9	• Employees required to file an annual confidential financial disclosure report. <i>See</i> 5 C.F.R. § 2638.307(a)(1).	0	0
8.10	• Employees appointed by the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	0	0
8.11	• Employees of the Executive Office of the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	0	0
8.12	• Contracting officers described in 41 U.S.C. § 2101. <i>See</i> 5 C.F.R. § 2638.307(a)(3).	0	0
8.13	• Other employees designated by the head of the agency. <i>See</i> 5 C.F.R. § 2638.307(a)(4).	0	0
<b>COMMENTS</b>			
(8.1-8.5) The agency failed to provide any evidence that employees received training or the required materials.  By agency determination, all employees at the Foundation are required to, “review and discuss relevant ethics topics.” OGE sought clarifications as to whether this was a requirement that all employees must receive ethics training and, if so, whether all employees received that training. The agency failed to respond to OGE’s request.			

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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	COMMENTS			
	(9.1) No written advice or counseling was given to any employee at the Foundation during the period covered by this inspection.			

<b>RECOMMENDATIONS</b>			
#	Element	RECOMMENDATION	Compliance Due
1	3.4	RECOMMENDATION: The DAEO must pay the \$200 filing fee or receive a waiver of the late filing fee from the Board of Trustees as required by 5 C.F.R. § 2634.704.	May 1, 2023
2	3.6	Purge all electronic and hardcopy public financial reports that exceed the six-year retention period.	July 1, 2023
3	3.10	Ensure that public financial disclosure reports are filed timely.	July 1, 2023
4	7.1	Provide OGE with a copy of initial ethics training that meets applicable requirements.	July 1, 2023
5	7.5, 7.6	Ensure that the employee required to receive initial ethics training in 2022 receives training that meets requirements set forth at 5 C.F.R. § 2638.304(e).	May 1, 2023