

**ETHICS PROGRAM INSPECTION REPORT**

Agency: Commission of Fine Arts (CFA)

Report No.: 23-451

Date: August 18, 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**1.0 AGENCY DATA****EMPLOYEES**

1.1	Number of full-time agency employees.	12
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.	7

**ETHICS PROGRAM**

1.5	Title of Designated Agency Ethics Official (DAEO).	Secretary
1.6	Grade level of DAEO.	SES
1.7	Title of Alternate DAEO (ADAEO).	Senior Administration/Policy Advisor
1.8	Grade level of ADAEO.	GS-15
1.9	Title of the primary, day-to-day ethics program administrator.	Senior Administration/Policy Advisor
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.	0

**COMMENTS**

1.2: CFA does not have any PAS positions.

1.3: The Secretary of CFA serves as the agency's DAEO and is CFA'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 final review and certification.

1.7: CFA's ADAEO, a retired annuitant, joined the agency in January 2022 and was designated by the Secretary as ADAEO in February 2022, following the retirement of the agency's Assistant Secretary, who had previously served as ADAEO since 2015.

1.13: The agency head is also the DAEO.

**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.

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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 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 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. <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"/>
<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).				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).				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>3.4: None of the reports filed during the period covered by the inspection were subject to the late filing fee.</p> <p>3.7 - 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. Since the DAEO is the agency's only public filer, OGE is confident the ADAEO would be aware of pending appointments and terminations to the DAEO position.</p> <p>3.9 and 3.11: CFA did not have any non-PAS new entrant or termination public financial disclosure filers during the period covered by the inspection.</p> <p>3.14 - 3.17: As noted above, CFA does not have any PAS positions.</p>							

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4.0 CONFIDENTIAL FINANCIAL DISCLOSURE					
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).					
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</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).	N/A			
4.8	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	N/A			
4.9	Percentage of sampled reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	N/A			
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).	N/A			
COMMENTS					
4.5: CFA does not have an OGE-approved alternative confidential financial disclosure system. 4.1-4.10: CFA had no regular, full-time employees who were required to submit confidential financial disclosure reports during the period covered by the inspection.					

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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5.4	• Where applicable, notice of the time frame for completing initial ethics training.	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>	

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### COMMENTS

CFA outsources hiring actions to the Department of Interior's (Interior) Bureau of Safety and Environmental Enforcement (BSEE). This includes sending the required information with the written offers to prospective CFA employees. OGE examined the template issued by BSEE to a new prospective CFA employee and found that the notice omitted the following:

5.3: contact information for the DAEO or an explanation of how to obtain additional information on applicable ethics requirements, and

5.4: the timeframe for completing initial ethics training.

5.5: A statement regarding the financial disclosure requirements was not necessary since the prospective employee was not required to file a financial disclosure report. OGE reminds CFA to ensure the financial disclosure requirements are included in offer letters to any prospective employee being hired into a financial disclosure filing position.

### 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: *See* 5 C.F.R. § 2638.306.

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

#### COMMENTS

As noted above, CFA outsources hiring actions to Interior's BSEE. This includes sending the required information with the written offers to new CFA Supervisors. OGE examined the template issued by BSEE to a new CFA supervisor and found that the notice omitted the following:

6.1: contact information for the agency's ethics office, and

6.2: the text of 5 C.F.R. § 2638.103.

6.3: A copy of, a hyperlink to, or the address of a Web site containing the Principles of Ethical Conduct.

#### Reference to the Department of Interior's Supplemental Standards of Ethical Conduct Regulation

OGE also noticed that the CFA's prospective notice included a reference to Interior's Supplemental Standards of Ethical Conduct regulation. OGE notes that because the CFA is an independent federal agency, CFA employees are not subject to Interior's supplemental regulation and therefore any reference to Interior's supplemental regulation must be removed.

6.7: CFA did not appoint any new supervisors during the period covered by the inspection; therefore, no notices were required to be provided.

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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 5 C.F.R. § 2638.304.</i>			
7.1	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. <i>See 5 C.F.R. § 2638.304(e)(1).</i>	<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 5 C.F.R. § 2638.304(e)(2).</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.3	The agency has established written procedures for initial ethics training. <i>See 5 C.F.R. § 2638.304(f).</i>	<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 5 C.F.R. § 2638.304(f).</i>	<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 5 C.F.R. § 2638.304.</i>	100%		
7.6	Percentage of new employees who received initial ethics training within three months of appointment. <i>See 5 C.F.R. § 2638.304(b).</i>	100%		
	COMMENTS			
	7.3: CFA’s written procedures for initial ethics training were updated for 2023. 7.5-7.6: The one new CFA employee appointed during the inspection period received initial ethics training within five days of appointment.			

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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"/>
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	N/A	
	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							
8.1-8.13: The Secretary/DAEO is CFA's only covered employee who is not a special government employee. The DAEO is actively engaged in ethics matters throughout the year and thus OGE considers the training requirements to be met through the execution of the DAEO's duties.							

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None.

**10.0 SPECIAL GOVERNMENT EMPLOYEES (SGE)****Confidential Financial Disclosure**

10.1 Number of SGEs

7

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

100%

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).

100%

10.4 Percentage of sampled reports certified within 60 days of receipt. *See* 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. *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.

100%

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

100%

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

0%

**COMMENTS**

10:9: Annual ethics training was not provided to the SGEs during the inspection period.

**ISSUES IDENTIFIED AND RESOLVED DURING THE INSPECTION**

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Element	ISSUE
7.4	<p><u>ISSUE:</u> CFA could not locate the written procedures for administering the agency's initial ethics training. OGE gave the ethics official the 2019 procedures and the ethics official updated the procedures for the current inspection.</p> <p><u>AGENCY RESPONSE:</u> CFA will continue to monitor and update its written procedures as needed. CFA will develop and implement its own initial ethics training for all new employees.</p>

RECOMMENDATIONS			
#	Element	RECOMMENDATION	Compliance Due
1	(5.3-5.4, 5.8)	<p><u>RECOMMENDATION:</u> Ensure notices to prospective employees include the information required by 5 C.F.R. § 2638.303.</p> <p><u>AGENCY RESPONSE:</u> CFA will ensure it provides the required information to prospective employees.</p>	February 2024
2	(6.1-6.3)	<p><u>RECOMMENDATION:</u> Ensure notices to new supervisors include the information required by 5 C.F.R. § 2638.306.</p> <p><u>AGENCY RESPONSE:</u> CFA will ensure it provides the required information to new supervisors.</p>	February 2024
3	(10.5-10.6, 10.9)	<p><u>RECOMMENDATION:</u> Ensure SGEs are provided annual ethics training.</p> <p><u>AGENCY RESPONSE:</u> CFA will develop and issue the required training to the SGE's before the end of 2023 and each year going forward.</p>	February 2024