

ETHICS PROGRAM INSPECTION REPORT

Agency: Public Buildings Reform Board

Report No.: 23-121

Date: February 8, 2023

Period Covered by Review: January 1, 2022 through February 2, 2023

**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.	1	
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	
	ETHICS PROGRAM		
1.5	Title of Designated Agency Ethics Official (DAEO).	Senior Analyst	
1.6	Grade level of DAEO.	ZA-5	
	Title of Alternate DAEO (ADAEO).	N/A	
1.8	Grade level of ADAEO.	N/A	
1.9	Title of the primary, day-to-day ethics program administrator.	Senior Analyst	
1.10	Grade level of the primary, day-to-day ethics program administrator.	ZA-5	
1.11	Current number of full-time ethics officials.	0	
1.12	Current number of part-time ethics officials.	1	
1.13	Number of reporting levels between the DAEO and the agency head.	1	
	COMMENTS		
	<p>PBRB is governed by a Board of Directors (Board) consisting of five special government employees (SGE) who are appointed by the President and serve for less than 130 days per calendar year. Section 7 of the Federal Asset Sales and Transfer Act provides authorization for only one federal employee, an Executive Director who is selected by the Board as the agency's sole full-time federal employee, the executive Director also serves as the agency's DAEO. The current DAEO/Executive Director joined the Agency in mid-2022.</p> <p>OGE had no basis to assess the effectiveness of some ethics program functions because there were no employees subject to relevant requirements. OGE believes that it is important for the purposes of transparency and ensuring the continuity of the ethics program that the DAEO document when requirements generally applicable to ethics programs are not operable because the agency has only one full-time employee, who serves as DAEO. For instance, while there may be no need to have procedures for sending notices to new supervisors explaining their new ethics-related obligations, it is important to note that there is a general requirement and that it is not likely be applicable to PBRB's ethics program. This will allow anyone who holds the DAEO position in the future to understand their responsibilities.</p>		

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 5 C.F.R. § 2638.107(a).</i>	<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 5 C.F.R. § 2638.107(a).</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 5 U.S.C. app. IV, § 402(d)(1).</i>						
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 OGE/GOVT-1.</i>	<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 5 C.F.R. § 2634.603(g)(1).</i>	<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 5 C.F.R. § 2638.105(a)(1).</i>	<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 5 C.F.R. § 2638.105(a)(2).</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
DATA ANALYSIS				%		
3.9	Percentage of sampled non-PAS new entrant reports filed timely. <i>See 5 C.F.R. § 2634.201(b).</i>	100%				
3.10	Percentage of sampled non-PAS annual reports filed timely. <i>See 5 C.F.R. § 2634.201(a).</i>	N/A				
3.11	Percentage of sampled non-PAS termination reports filed timely. <i>See 5 C.F.R. § 2634.201(e).</i>	N/A				
3.12	Percentage of sampled non-PAS public financial disclosure reports reviewed within 60 days of receipt. <i>See 5 C.F.R. § 2634.605(a).</i>	100%				
3.13	Percentage of sampled non-PAS public financial disclosure reports certified within 60 days of receipt. <i>See 5 C.F.R. § 2634.605(a).</i>	100%				
3.14	Percentage of sampled PAS annual reports filed timely. <i>See 5 C.F.R. § 2634.201(a).</i>	N/A				
3.15	Percentage of sampled PAS termination reports filed timely. <i>See 5 C.F.R. § 2634.201(e).</i>	N/A				
3.16	Percentage of sampled PAS annual and termination reports reviewed within 60 days of receipt. <i>See 5 C.F.R. § 2634.605(a).</i>	N/A				
3.17	Percentage of sampled PAS annual and termination reports certified within 60 days of receipt. <i>See 5 C.F.R. § 2634.605(a).</i>	N/A				
COMMENTS						
3.4: No filer was subject to the late filing fee. 3.7-3.8: Due the nature of the agency, it is acceptable that the DAEO does not rely on a human resources office for this information.						

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"/>		

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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			
	4.1-4.10: PBRB had no positions whose incumbents are required to submit confidential financial disclosure reports during the period covered by the Office of Government Ethics (OGE) inspection. 4.6: Due the nature of the agency, it is acceptable that the DAEO does not rely on a human resources office for this information.			

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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" type="checkbox"/>
COMMENTS				
5.7: PBRB did not have written procedures prior to OGE's inspection, however; the DAEO created the procedures during the course of the inspection and provided a copy to OGE.				

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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 checked="" 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 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			
	PBRB had no new supervisors during the period covered by the inspection and is unlikely to have new supervisors before it sunsets.			

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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>
	DATA ANALYSIS	%		
7.5	Percentage of new employees who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.	N/A		
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).	N/A		
	COMMENTS			
	7.1-7.6: The DAEO was the only new employee during the period covered by the inspection. Because the DAEO is also the sole employee at PBRB, OGE accepts the DAEO’s attestation that the initial ethics training requirements were met.			

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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						
8.8: The DAEO was PBRB's only full-time employee during the period covered by the inspection and was only required to receive initial ethics orientation. 8.9: The agency's confidential financial disclosure report filers are all SGE Board Members covered in section 10.						

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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			
	None.			

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.			5		
	DATA ANALYSIS			%		
10.2	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 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. <i>See</i> 5 C.F.R. § 2634.605(a).			100%		
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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	DATA ANALYSIS			%		
10.7	Percentage of SGEs who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.			100%		
10.8	Percentage of SGEs who received initial ethics training timely. <i>See</i> 5 C.F.R. § 2638.304(b)(2).			100%		
10.9	Percentage of SGEs who received annual ethics training. <i>See</i> 5 C.F.R. § 2638.307(d)(2).			NA		
	COMMENTS					
	10.6: The DAEO did not provide a written copy of or written instructions for accessing a summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency during training. However, after being advised by OGE of the requirement to do so, the DAEO provided the required information to PBRB’s SGEs.					

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ISSUES IDENTIFIED AND RESOLVED DURING THE INSPECTION

Element	ISSUE
3.1-3.3, 4.1, 4.2, 5.6	<u>ISSUE:</u> PBRB did not have written procedures for confidential and public financial disclosure or notices to prospective employees prior to OGE's inspection, however; the DAEO created the procedures during the course of the inspection and provided a copy to OGE.

RECOMMENDATIONS

#	Element	RECOMMENDATION	Compliance Due
1	10.6	<u>RECOMMENDATION:</u> Ensure that either a written copy of or written instruction for accessing a summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency is included in training materials.	June 2023
2	6.0, 7.0, 8.0	<u>RECOMMENDATION:</u> Document that written procedures for sending notices to new supervisors, initial ethics training, and annual ethics training are not maintained because the ethics program does not anticipate activity in those areas.	June 2023