

ETHICS PROGRAM INSPECTION REPORT

Agency: James Madison Memorial Fellowship Foundation

Report No.: 15-311

Date: April 22, 2015

Period Covered by Review: January-December 2013

UNITED STATES OFFICE OF
GOVERNMENT ETHICS


Preventing Conflicts of Interest
in the Executive Branch

31.0 AGENCY DATA		
EMPLOYEES (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	3
1.2	Number of agency special Government employees	0
1.3	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed	0
1.4	Number of non-PAS public financial disclosure reports required to be filed	1
1.5	Number of confidential financial disclosure reports required to be filed by employees	0
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	President
1.7	Grade level of DAEO	GS-15
1.8	Title of Alternate DAEO (ADAEO)	Management and Program Analysis Officer
1.9	Grade level of ADAEO	GS-13
1.10	Title of the primary, day-to-day ethics program administrator	President
1.11	Grade level of the primary, day-to-day ethics program administrator	GS-15
1.12	Current number of full-time ethics officials	0
1.13	Current number of part-time ethics officials	2
1.14	Average full-time equivalent (FTE) value of a part-time ethics official(s) (For example, if part-time ethics officials at the agency generally devote 10 hours per week to ethics work, the average FTE value is 25%.)	2%
1.15	Number of reporting levels between the DAEO and the agency head	0
COMMENTS		
None		

2.0 LEADERSHIP					
COMPLIANCE REQUIREMENT			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. § 2638.202(c).		<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. § 2638.202(c).		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS					
None					

3.0 ETHICS AGREEMENTS					
COMPLIANCE REQUIREMENT			Yes	No	N/A
3.1	All officials currently in PAS positions have complied with their ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.2	All officials currently in PAS positions complied with their ethics agreements in a timely fashion. <i>See</i> 5 C.F.R. § 2634.804.		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.3	For all officials currently in PAS positions, the agency notified OGE of ethics agreement compliance in a timely fashion. <i>See</i> DO-09-015.		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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3.4	For all officials currently in PAS positions, the agency maintains documentation of actions taken to comply with ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.5	All PAS officials' ethics agreements are maintained with their financial disclosure reports. <i>See</i> 5 C.F.R. § 2634.805.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
COMMENTS				
<u>Comments:</u> (3.1-3.5) The Foundation has no PAS officials.				

4.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278, OGE Form 278-T)				
	COMPLIANCE REQUIREMENT	Yes	No	N/A
4.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).			
4.1.1	<ul style="list-style-type: none"> • Collection of public financial disclosure reports 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.1.2	<ul style="list-style-type: none"> • Review/evaluation of public financial disclosure reports 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.1.3	<ul style="list-style-type: none"> • Public availability of public financial disclosure reports 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.2	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"/>
4.3	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4	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"/>
4.5	Agency ethics officials respond promptly to requests by OGE for additional information regarding PAS annual and termination public financial disclosure reports. <i>See</i> 5 U.S.C. app. IV, § 402(d)(1). <i>See</i> 5 C.F.R. § 2638.203(b)(14).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DATA ANALYSIS				%
4.6	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	N/A		
4.7	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	0%		
4.8	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A		
4.9	Percentage of sampled non-PAS public financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> PA-11-04.	0%		
4.10	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	N/A		
4.11	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A		
4.12	Percentage of sampled PAS annual and termination reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. § 2634.605(a).	N/A		
COMMENTS				
<u>Comments:</u> (4.1.1-4.1.3) The Foundation did not have written policies and procedures in place governing the administration of its public financial disclosure system. (4.2) Ethics officials were not aware of the requirement to collect a late filing fee or issue a waiver of the late filing fee. (See comment regarding 4.7 below.) (4.5) The Foundation does not have any PAS officials. (4.6) The Foundation had no non-PAS new entrant reports in 2013. (4.7) Only one non-PAS annual report (the DAEO's report) was required to be filed in 2013. The DAEO had not filed this report or any other report since filing a new entrant report in 2011. (4.8) The Foundation had no non-PAS termination reports in 2013. (4.10-4.12) The Foundation does not have any PAS officials.				

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Concerns:

(4.1-4.1.3) The Foundation did not have written policies and procedures in place governing the administration of its public financial disclosure system, as required by 5 U.S.C. app. IV, § 402(d)(1). OGE provided the Foundation with sample written procedures to use as a model in drafting the Foundation's written procedures. As of the date this report was published, OGE had not received written procedures for the administration of the Foundation's public financial disclosure system.

(4.2, 4.7, 4.9) Only one non-PAS annual report was required to be filed in 2013. The DAEO, who is also the Foundation's President, should have filed an annual report. In 2011, the Foundation's ADAEO consulted with OGE and the Department of the Interior (which provides some ethics-related services to the Foundation) to determine if the agency's President was required to file a report, based on his salary. The DAEO did submit a new entrant report in 2011. During the inspection, the DAEO explained to OGE that he did not file annual reports in 2012, 2013 and 2014 because the ADAEO indicated that he was not required to file them. The ADAEO explained to OGE that the guidance provided to the DAEO was a result of uncertainty regarding the filing requirements. While the Foundation was ultimately advised that the President was required to file a new entrant report because he also served as the Foundation's DAEO, the advice did not explicitly state that he had to file subsequent annual reports. OGE informed the ADAEO that the DAEO is required to file annual public financial disclosure reports for 2012, 2013 and 2014. As of the date this report was published, the DAEO had not yet filed his report. The Foundation must also collect or issue a waiver of the late filing fee for the DAEO's 2012, 2013 and 2014 annual reports.

5.0 CONFIDENTIAL FINANCIAL DISCLOSURE

COMPLIANCE REQUIREMENT		Yes	No	N/A
5.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C app. IV, § 402(d)(1).			
5.1.1	• Collection of confidential financial disclosure reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.1.2	• Review/evaluation of confidential financial disclosure reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.2	Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-2.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.3	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"/>
5.4	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"/>
DATA ANALYSIS		%		
5.5	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	N/A		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	N/A		
5.7	Percentage of sampled confidential financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. §§ 2634.605(a), 2634.909(a).	N/A		
COMMENTS				
<p><u>Comments:</u> (5.1.1- 5.1.2) The Foundation did not have written policies and procedures in place governing the administration of its confidential financial disclosure system. (5.2) The Foundation has historically had no employees who were required to file confidential financial disclosure reports and had none in 2013. (5.3) The Foundation does not have an alternative confidential financial disclosure system. (5.4-5.7) The Foundation has historically had no employees who were required to file confidential financial disclosure reports and had none in 2013.</p>				

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Concerns:

(5.1-5.2) The Foundation did not have written policies and procedures in place governing the administration of the ethics program's confidential financial disclosure system, as required by 5 U.S.C. app. IV, § 402(d)(1). Historically, the Foundation has not had confidential filers; however, OGE recommends that the Foundation establish the required written procedures because they are required by statute and the Foundation should be prepared in the event an employee is required to file a confidential report in the future. OGE provided the Foundation with sample written procedures to use as a model in drafting the Foundation's written procedures. As of the date this report was published, OGE had not received written procedures for the administration of the Foundation's confidential financial disclosure system.

6.0 INITIAL ETHICS ORIENTATION

COMPLIANCE REQUIREMENT

Yes No N/A

6.1 All initial ethics orientation material contains: *See* 5 C.F.R. § 2638.703(a) and (b).

6.1.1 • Current contact information of relevant ethics official(s)

6.1.2 • Copy of the Standards of Ethical Conduct and any agency supplemental standards to keep or review; or
• Summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep

6.2 The agency can demonstrate that it has an effective process to ensure that new employees receive initial ethics orientations. *See* 5 C.F.R. § 2638.703(c).

DATA ANALYSIS

%

6.3 Percentage of new agency employees who received initial ethics orientation within 90 days. *See* 5 C.F.R. § 2638.703.

N/A

COMMENTS

Comments:

(6.1.1-6.2) Through an inter-agency agreement with the Department of the Interior (Interior), the Foundation relies on the Interior Business Center to provide new employee in-processing, including initial ethics orientation. The only material that was provided to document initial ethics orientation was one PowerPoint presentation slide which included the word "Ethics" as one of seven other topics.

(6.3) The Foundation had no new employees in 2013.

Concerns:

(6.1) The initial ethics orientation materials provided to new Foundation employees by the Interior Business Center do not meet the content requirements of 5 C.F.R. § 2638.703(a) and (b).

7.0 ANNUAL ETHICS TRAINING

COMPLIANCE REQUIREMENT

Yes No N/A

7.1 All annual ethics training material contains: *See* 5 C.F.R. § 2638.704(b).

7.1.1 • Current contact information of relevant ethics official(s)

7.1.2 • Review of the criminal conflict of interest statutes

7.1.3 • Review of the Standards of Ethical Conduct

7.1.4 • Review of the 14 Principles

7.1.5 • Review of any agency supplemental standards

7.2 The agency can demonstrate that it has an effective process to ensure that covered employees receive annual ethics training. *See* 5 C.F.R. § 2638.704(c) and 705(c).

DATA ANALYSIS

%

7.3 Public financial disclosure filers who completed annual ethics training. *See* 5 C.F.R. § 2638.704(a).

100%

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7.4	Confidential financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.705(a)(3).	N/A				
COMMENTS						
<p><u>Comments:</u> (7.1.5) The Foundation does not have supplemental standards. (7.4) The Foundation has historically had no employees who were required to file confidential financial disclosure reports and had none in 2013.</p>						
8.0 ETHICS ADVICE AND COUNSELING						
COMPLIANCE REQUIREMENT				Yes	No	N/A
8.1	Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		
COMMENTS						
<p><u>Comments:</u> (8.1) The Foundation ethics officials received no requests for advice or counseling 2013.</p>						

9.0 RECOMMENDATION(S)					
#	Element	RECOMMENDATION	Compliance Due		
1	4.1-4.4	<u>RECOMMENDATION:</u> <i>Develop written procedures for the administration of the public financial disclosure system which meet the requirements of 5 U.S.C. app. IV, § 402(d)(1).</i>	June 1, 2015		
2	4.2 4.7 4.9	<u>RECOMMENDATION:</u> <i>Collect the DAEO's 2012, 2013 and 2014 annual public financial disclosure reports, as required by 5 C.F.R. § 2634.202(g), and submit copies of the reviewed reports to OGE, as required by 5 C.F.R. § 2634.602(c). Either collect or issue a waiver of the late filing fee for the DAEO's 2012, 2013 and 2014 annual reports.</i>	May 15, 2015		
3	5.1-5.2	<u>RECOMMENDATION:</u> <i>Develop written procedures for the administration of the confidential financial disclosure system which meet the requirements of 5 U.S.C. app. IV, § 402(d)(1).</i>	June 1, 2015		
4	6.1 – 6.2	<u>RECOMMENDATION:</u> <i>Ensure that materials for providing initial ethics orientation meet the requirements of 5 C.F.R. § 2638.703.</i>	June 1, 2015		