

**ETHICS PROGRAM INSPECTION REPORT**

Agency: Broadcasting Board of Governors

Report No.: 15-39I

Date: May 18, 2015

Period Covered by Review: January – December 2013

UNITED STATES OFFICE OF  
**GOVERNMENT ETHICS**

  
Preventing Conflicts of Interest  
in the Executive Branch

| 1.0 AGENCY DATA   |  |                           |
|---|--|---------------------------|
| <b>EMPLOYEES</b> (as reported in the most recent Annual Ethics Program Questionnaire) |  |                           |
| 1.1   | Number of full-time agency employees   | 1,581                     |
| 1.2   | Number of agency special Government employees  | 6                         |
| 1.3   | Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed  | 2                         |
| 1.4   | Number of non-PAS public financial disclosure reports required to be filed   | 20                        |
| 1.5   | Number of confidential financial disclosure reports required to be filed by employees  | 428                       |
| <b>ETHICS PROGRAM</b>   |  |                           |
| 1.6   | Title of Designated Agency Ethics Official (DAEO)  | General Counsel           |
| 1.7   | Grade level of DAEO  | SES                       |
| 1.8   | Title of Alternate DAEO (ADAEO)  | Associate General Counsel |
| 1.9   | Grade level of ADAEO   | GS-15                     |
| 1.10  | Title of the primary, day-to-day ethics program administrator  | Assistant General Counsel |
| 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   | 4                         |
| 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  | 2                         |
| <b>COMMENTS</b>   |  |                           |
| 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"/> |     |
| <b>COMMENTS</b>        |  |                                     |                          |                          |     |
| None                   |  |                                     |                          |                          |     |

| 3.0 ETHICS AGREEMENTS  |  |                                     |                          |                          |     |
|------------------------|--|-------------------------------------|--------------------------|--------------------------|-----|
| COMPLIANCE REQUIREMENT |  |                                     | Yes                      | No                       | N/A |
| 3.1                    | During the period under review, all PAS officials complied with their ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.                     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |     |
| 3.2                    | During the period under review, all PAS officials complied with their ethics agreements in a timely fashion. <i>See</i> 5 C.F.R. § 2634.804. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |     |
| 3.3                    | During the period under review, the agency notified OGE of ethics agreement compliance in a timely fashion. <i>See</i> DO-09-015.            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.5             | For all officials currently in PAS positions, ethics agreements are maintained with their financial disclosure reports. <i>See</i> 5 C.F.R. § 2634.805.             | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>COMMENTS</b> |   |                                     |                          |                          |
| None            |   |                                     |                          |                          |

| 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  | • Collection of public financial disclosure reports   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| 4.1.2  | • Review/evaluation of public financial disclosure reports  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 4.1.3  | • 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 checked="" type="checkbox"/> | <input 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 checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| <b>DATA ANALYSIS</b>   |   | <b>%</b>                            |                                     |                          |
| 4.6  | Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).  | 100%                                |                                     |                          |
| 4.7  | Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).   | 87%                                 |                                     |                          |
| 4.8  | Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).  | 100%                                |                                     |                          |
| 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.                     | 100%                                |                                     |                          |
| 4.10   | Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).   | 100%                                |                                     |                          |
| 4.11   | Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).  | 67%                                 |                                     |                          |
| 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).                | 100%                                |                                     |                          |
| <b>COMMENTS</b>  |   |                                     |                                     |                          |
| <p><u>Concerns:</u><br/>                     (4.1.2 – 4.1.3) The Broadcasting Board of Governors' (BBG) written procedures for public financial disclosure did not address the review and evaluation of OGE Forms 278 and 278-T and did not address the public availability of the OGE Form 278-T.<br/>                     (4.11) 33% of BBG's PAS termination reports were not filed timely in 2013.</p> |   |                                     |                                     |                          |

| 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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|---|---|-------------------------------------|-------------------------------------|-------------------------------------|
| 5.1.2   | <ul style="list-style-type: none"> <li>Review/evaluation of confidential financial disclosure reports</li> </ul>  | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 5.2   | Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-2.   | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input 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 checked="" type="checkbox"/> | <input type="checkbox"/>            |
| <b>DATA ANALYSIS</b>  |   | <b>%</b>                            |                                     |                                     |
| 5.5   | Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).   | 20%                                 |                                     |                                     |
| 5.6   | Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).  | 80%                                 |                                     |                                     |
| 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). | 80%                                 |                                     |                                     |
| <b>COMMENTS</b>   |   |                                     |                                     |                                     |
| <p><u>Comment:</u><br/>(5.3) BBG does not have an alternative confidential financial disclosure system.</p> <p><u>Concerns:</u><br/>(5.4) An inadvertent calculation error in BBG's confidential financial disclosure retention tracking process resulted in 13 confidential financial disclosure reports being retained one year beyond their destruction date.<br/>(5.5) 80% of new entrant confidential financial disclosure reports sampled were not filed timely in 2013. BBG explained that the ethics office does not receive consistent notification from Human Resources or supervisors when employees enter confidential filing positions.<br/>(5.6) 20% of annual confidential financial disclosure reports sampled were not filed timely in 2013.<br/>(5.7) 20% of confidential financial disclosure reports sampled were not certified timely by ethics officials in 2013.</p> |   |                                     |                                     |                                     |

|                      |  |                                     |                          |                          |
|----------------------|--|-------------------------------------|--------------------------|--------------------------|
| <b>6.0</b>           | <b>INITIAL ETHICS ORIENTATION</b>  |                                     |                          |                          |
|                      | <b>COMPLIANCE REQUIREMENT</b>  | <b>Yes</b>                          | <b>No</b>                | <b>N/A</b>               |
| 6.1                  | All initial ethics orientation material contains: <i>See</i> 5 C.F.R. § 2638.703(a) and (b).   |                                     |                          |                          |
| 6.1.1                | <ul style="list-style-type: none"> <li>Current contact information of relevant ethics official(s)</li> </ul>   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.1.2                | <ul style="list-style-type: none"> <li>Copy of the Standards of Ethical Conduct and any agency supplemental standards to keep or review; or</li> <li>Summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep</li> </ul> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.2                  | The agency can demonstrate that it has an effective process to ensure that new employees receive initial ethics orientations. <i>See</i> 5 C.F.R. § 2638.703(c).   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>DATA ANALYSIS</b> |  | <b>%</b>                            |                          |                          |
| 6.3                  | Percentage of new agency employees who received initial ethics orientation within 90 days. <i>See</i> 5 C.F.R. § 2638.703.   | 100%                                |                          |                          |
| <b>COMMENTS</b>      |  |                                     |                          |                          |
| None                 |  |                                     |                          |                          |

|            |  |                                     |                          |                          |
|------------|--|-------------------------------------|--------------------------|--------------------------|
| <b>7.0</b> | <b>ANNUAL ETHICS TRAINING</b>  |                                     |                          |                          |
|            | <b>COMPLIANCE REQUIREMENT</b>  | <b>Yes</b>                          | <b>No</b>                | <b>N/A</b>               |
| 7.1        | All annual ethics training material contains: <i>See</i> 5 C.F.R. § 2638.704(b).                             |                                     |                          |                          |
| 7.1.1      | <ul style="list-style-type: none"> <li>Current contact information of relevant ethics official(s)</li> </ul> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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| 7.1.2  | • Review of the criminal conflict of interest statutes   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 7.1.3  | • Review of the Standards of Ethical Conduct   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 7.1.4  | • Review of the 14 Principles  | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| 7.1.5  | • Review of any agency supplemental standards  | <input type="checkbox"/>            | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| 7.2  | The agency can demonstrate that it has an effective process to ensure that covered employees receive annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(c) and 705(c). | <input checked="" type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/>            |
| <b>DATA ANALYSIS</b>   |  | <b>%</b>                            |                                     |                                     |
| 7.3  | Public financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(a).  | 79%                                 |                                     |                                     |
| 7.4  | Confidential financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.705(a)(3).   | 99%                                 |                                     |                                     |
| <b>COMMENTS</b>  |  |                                     |                                     |                                     |
| <p><u>Comment:</u><br/>(7.1.5) BBG does not have supplemental standards of conduct.</p> <p><u>Concerns:</u><br/>(7.1.2 – 7.1.4) Due to the content variety found in the various annual ethics training packages used by BBG, not all covered BBG employees received training with complete reviews of the criminal conflict of interest statutes, Standards of Ethical Conduct, and 14 Principles.<br/>(7.3) 21% of public financial disclosure filers sampled did not receive annual ethics training in 2013.</p> |  |                                     |                                     |                                     |

|   |  |  |  |                                     |                          |                          |
|---|--|--|--|-------------------------------------|--------------------------|--------------------------|
| <b>8.0 ETHICS ADVICE AND COUNSELING</b> |  |  |  |                                     |                          |                          |
| <b>COMPLIANCE REQUIREMENT</b>           |  |  |  | <b>Yes</b>                          | <b>No</b>                | <b>N/A</b>               |
| 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 checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>COMMENTS</b>                         |  |  |  |                                     |                          |                          |
| None                                    |  |  |  |                                     |                          |                          |

| <b>9.0 RECOMMENDATION(S)</b> |               |  |                |
|------------------------------|---------------|--|----------------|
| #                            | Element       | RECOMMENDATION   | Compliance Due |
| 1                            | 4.1.2 – 4.1.3 | <p><u>RECOMMENDATION:</u> Ensure written procedures are in place governing the review and evaluation of OGE Forms 278 and 278-T and the public availability of the OGE Form 278-T.</p> <p><u>AGENCY RESPONSE:</u> The agency will update its existing written procedures to incorporate guidance consistent with OGE's recommendation.</p> | 1/1/16         |

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| 2 | 4.11 | <p><b>RECOMMENDATION:</b> Ensure PAS public financial disclosure reports are filed timely in accordance with 5 C.F.R. § 2634.201(a) and (e).</p> <p><b>AGENCY RESPONSE:</b> The agency strives to ensure that all public financial disclosure reports are filed in a timely manner, and agency ethics officials provide advance notice of filing deadlines to filers as well as ample reminders and assistance prior to those deadlines. However, agency ethics officials have no authority or ability to actually compel individuals to submit reports in a timely manner, and authority over PAS head-of-agency employees ultimately lies with the President of the United States. Moreover, since there are no regulatory penalties for reports filed 30 or fewer days beyond an established deadline, agency ethics officials have little leverage beyond moral suasion to encourage PAS employees to file public financial disclosure reports by established deadlines. The agency will continue to use the tools at its disposal to encourage its PAS employees to file their public financial disclosure reports in a timely manner, but given the lack of statutory or regulatory authorities to compel timely filing or punish untimely filing of 30 days or less the agency finds it challenging to fully comply with OGE’s recommendation as written. It should be noted that the Termination report untimely rate of 33% cited by OGE is based on a total number of three (3) such reports filed in 2013. Regarding the sole untimely report, it should be further noted that the SGE filer’s deadline had been extended by 45 days to June 23, 2013, to facilitate submission of a combined New Entrant/Termination report, and that the report was signed by the filer and received by the agency on June 27, 2013.</p> | 8/15/15 |
| 3 | 5.4  | <p><b>RECOMMENDATION:</b> Destroy any confidential financial disclosure reports found to have been retained beyond their destruction date in accordance with 5 C.F.R. § 2634.604.</p> <p><b>AGENCY RESPONSE:</b> There was a miscalculation in the retention time period for agency confidential financial disclosure reports, but the agency has since corrected the error and destroyed outstanding financial disclosure reports in accordance with 5 C.F.R. § 2634.604.</p>  | 5/18/15 |
| 4 | 5.5  | <p><b>RECOMMENDATION:</b> Ensure new entrant confidential financial disclosure reports are filed timely in accordance with 5 C.F.R. § 2634.903(b).</p> <p><b>AGENCY RESPONSE:</b> The agency strives to ensure that all confidential financial disclosure reports are filed in a timely manner, and agency ethics officials provide advance notice of filing deadlines to filers as well as ample reminders and assistance prior to those deadlines. However, agency ethics officials have no ability to actually compel individuals to submit reports in a timely manner. Since 2010, the ethics office has worked with the Office of Human Resources to put in place processes that identify new hires filling covered positions in a manner that will ensure timely new entrant filing. The ethics office will notify senior management of the need to follow Office of Human Resources processes when reassigning employees to covered positions and request that they notify the Ethics Office when such reassignments occur. The agency cannot estimate when those processes will be in place and fully effective.</p>  | 1/1/16  |
| 5 | 5.6  | <p><b>RECOMMENDATION:</b> Ensure annual confidential financial disclosure reports are filed timely in accordance with 5 C.F.R. § 2634.903(a).</p> <p><b>AGENCY RESPONSE:</b> The agency strives to ensure that all confidential financial disclosure reports are filed in a timely manner, and agency ethics officials provide advance notice of filing deadlines to filers as well as ample reminders and assistance prior to those deadlines. However, agency ethics officials have no ability to actually compel individuals to submit reports in a timely manner. Management takes disciplinary action when filers do not comply with 5 C.F.R. § 2634.903(a) after being ordered by senior management to comply with the filing requirements.</p>   | 5/15/16 |

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| 6 | 5.7              | <p><u>RECOMMENDATION:</u> Ensure confidential financial disclosure reports are certified timely by ethics officials in accordance with 5 C.F.R. §§ 2634.605(a), 2634.909(a).</p> <p><u>AGENCY RESPONSE:</u> During the 2013 filing year, the ethics official responsible for management of the agency's confidential financial disclosure system was on detail to the Office of Government Ethics. The agency acknowledges that during the 2013 filing season 20% of the sample reports reviewed (8 of 40) were not certified in a timely manner. The agency rectified this issue based on verbal guidance from OGE in September 2014 and reports were certified with a post-certification note explaining what had occurred. The agency now tracks both the date reports are filed and their projected certification deadline (60 days from filing date) to ensure reports will be certified in a timely manner.</p> | 7/15/16 |
| 7 | 7.1.2 –<br>7.1.4 | <p><u>RECOMMENDATION:</u> Ensure all annual ethics training packages include reviews of the criminal conflict of interest statutes, Standards of Ethical Conduct, and 14 Principles.</p> <p><u>AGENCY RESPONSE:</u> Although the agency has always prepared and presented annual training that incorporates and addresses elements of the Standards, Principles, and statutes, that training has not included an explicit and simultaneous review of all of those items. The agency will rework its annual training materials to include an explicit and simultaneous review of the content specified by 5 C.F.R. § 2638.704(b) consistent with OGE's recommendation.</p>   | 1/1/16  |
| 8 | 7.3              | <p><u>RECOMMENDATION:</u> Ensure public financial disclosure filers receive annual ethics training in accordance with 5 C.F.R. § 2638.704(a).</p> <p><u>AGENCY RESPONSE:</u> The agency provides ethics training to all its public financial disclosure filers on an annual basis, but in recent years training was provided late in the calendar year and not all covered employees completed their training until after 31 December. To ensure all public financial disclosure filers receive their training in the appropriate calendar year, the agency will schedule training to occur earlier in the calendar year to ensure all required training can be completed prior to 31 December.</p>   | 1/1/16  |