

United States Office of Government Ethics

Compliance Division

Ethics Program Review

Nuclear Regulatory Commission

Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the Nuclear Regulatory Commission (NRC) ethics program in December 2013 and January 2014. The results of the review indicated that while NRC recently restructured its ethics program to improve efficiency across program areas, it has systemic problems with the identification of new entrant filers, timeliness of financial disclosure filing and certification, and proper financial disclosure report retention.

Highlights

- NRC is harnessing technology to improve the overall efficiency of its program by utilizing an electronic financial disclosure system, an ethics group email box, and electronic ethics training.

Concerns

- NRC does not have an effective mechanism for identifying new entrant confidential financial disclosure report filers, resulting in a failure to collect new entrant confidential financial disclosure reports in a timely manner.
- 42 percent of NRC’s public financial disclosure reports examined by OGE were certified by ethics officials beyond the certification deadline.
- NRC did not properly destroy those financial disclosure records that had exceeded the retention period.

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Objectives, Scope, and Methodology

OGE provides overall leadership and oversight of the executive branch ethics program designed to prevent and resolve conflicts of interest. The purpose of a review is to identify and report on the strengths and weaknesses of an ethics program by evaluating (1) agency compliance with ethics requirements as set forth in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures for administering the program. OGE has the authority to evaluate the effectiveness of executive agency ethics programs. *See* title IV of the Ethics in Government Act, 5 U.S.C. app. § 402, and 5 C.F.R. part 2638.

To assess NRC's ethics program, OGE examined a variety of materials covering calendar year 2013, including the most recent Agency Ethics Program Questionnaire, public and confidential financial disclosure reports, and ethics training provided to employees. Members of OGE's Compliance Division also met with NRC ethics officials to verify data collected, clarify any issues identified during OGE's document analysis, and discuss ethics program operations in further detail. In addition, OGE's staff met with representatives of NRC's Office of Inspector General and Office of the Chief Human Capital Officer.

Program Administration

NRC is an independent agency of the United States government that was established by the Energy Reorganization Act of 1974 and began operations on January 19, 1975. As one of two successor agencies to the United States Atomic Energy Commission, NRC was charged with overseeing reactor safety and security, reactor licensing and renewal, radioactive materials safety, and spent fuel management (storage, security, recycling, and disposal). NRC's mission is to regulate the nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, to promote the common defense and security, and to protect the environment.

NRC is headed by five commissioners appointed by the President of the United States and confirmed by the United States Senate for five-year terms. One of them is designated by the President to be the Chairman of NRC. NRC has approximately 4,200 employees, with approximately 3,500 employees at its Rockville, Maryland headquarters. The remaining employees are located in four regions throughout the United States.

NRC's ethics program is organizationally located within the Legal Counsel, Legislation, Special Projects Division of the Office of General Counsel (OGC). The agency's General Counsel serves as the Designated Agency Ethics Official (DAEO) and the Associate General Counsel serves as the Alternate DAEO (ADAEO). The Assistant General Counsel supervises the day-to-day operations of the ethics program.

The DAEO has delegated authority to eight Deputy Ethics Counsels (DECs) within NRC to establish and administer the financial disclosure, ethics counseling, and ethics training programs. There are currently four DECs in headquarters at OGC and one DEC in each of the four regional offices. One headquarters DEC is devoted 100 percent to ethics duties and assumed this position

in July 2013. The remaining DEC's are part-time ethics officials with 25 to 50 percent of their time devoted to ethics. The DEC's perform all ethics-related duties, including providing ethics advice, reviewing financial disclosure reports, and providing ethics training. The ethics officials work under the guidance of NRC's Management Directive Handbook, which contains instructions for administering the various ethics program elements, including financial disclosure, advice and counsel, and ethics training.

OGE reviewers were informed of significant turnover in NRC's ethics program. As a result, the ethics program was restructured and decentralized to enable ethics officials to address more recent ethics requirements such as the STOCK Act and periodic transaction reports. Included among the changes is a team concept, which shifted the structure from a single point of contact for ethics advice to a team of ethics counselors. NRC feels the new team concept allows for improved services, succession planning, and the development of staff expertise. The ethics office is also considering adding another full-time ethics official. Additionally, an ethics resources mailbox (DEC's group email box) was established for NRC ethics officials to allow timely access and response to all ethics-related emails. The ethics resources mailbox is primarily managed by the full-time DEC and is accessible by all DEC's.

The ethics office indicated that NRC's leadership is supportive of the ethics program but is not directly involved in the day-to-day, ethics-related activities. The DAEO attends agency senior staff meetings and addresses ethics if there are significant ethics issues to be discussed. Although there are no agency-wide memos or directives issued by agency leadership in relation to ethics responsibilities, all ethics-related memos that are issued by OGC are reviewed by the DAEO prior to issuance. The DAEO also signs off on "Yellow Announcements" (posted on NRC's internal web page and circulated via agency-wide email alerts) used to broadcast specific ethics issues.

The ethics office has not conducted any surveys or performed any assessments to gauge the effectiveness of the ethics office and the ethics program. However, NRC stated that the agency is committed to ethics. NRC communicated that its staff has a good understanding of ethics rules, the agency has no history of ethics violations, and employees are diligent about coming to ethics officials with questions regarding ethics issues.

Financial Disclosure

Title I of the Ethics in Government Act requires that agencies ensure confidence in the integrity of the federal government by demonstrating that officials are able to carry out their duties without compromising the public trust. High-level federal officials publicly disclose their personal financial interests using the OGE Form 278. Title I also authorizes OGE to establish a confidential financial disclosure system, in which less senior executive branch personnel in certain designated positions may be required to complete the OGE Form 450. Financial disclosure serves to prevent, identify, and resolve conflicts of interest by providing for a systematic review of the financial interests of officers and employees. The financial disclosure reports assist agencies in administering their ethics programs and also assist in providing counseling to employees. *See* 5 C.F.R. part 2634.

Written Procedures

Section 402(d)(1) of the Ethics in Government Act requires that each executive branch agency establish written procedures for collecting, reviewing, evaluating, and where applicable, making publicly available financial disclosure reports filed by the agency's officers and employees. NRC's Management Directive Handbook contains the agency's written procedures for financial disclosure. OGE's review of these procedures found that they met the statutory requirements for review, evaluation, and public availability of public financial disclosure reports. Additionally, the procedures met the statutory requirements for confidential financial disclosure.

Public Financial Disclosure System

NRC uses an e-filing system to help manage the public financial disclosure reports. Public filers were encouraged to use the system to prepare, submit, and digitally sign their financial disclosure reports during the 2013 annual filing cycle. However, where it was not practical, the DEC's allowed employees to prepare and submit their financial disclosure forms manually.

The agency uses a master list to track filers, although ethics officials are currently modifying this tracking mechanism to ensure that it is updated regularly and accounts for all filers. The master lists of both public and confidential financial disclosure filers are maintained on electronic spreadsheets, which are updated each fall for confidential filers and early spring for public filers.

Identifying public filers within NRC is a clear-cut process because all Senior Executive Service (SES), Senior Level System (SLS), and Administrative Law Judges are public filers. Upon entering the agency, the Office of the Chief Human Capital Officer (OCHCO) notifies all new public financial disclosure-filing employees via email that they are required to file a new entrant report and the ethics resources mailbox is copied, advising the ethics office. In addition, the ethics office is further updated on the status of public filers when OCHCO forwards a list to the ethics office of all NRC employees every two weeks. The required filers (SES/SLS) are easy to identify in the system since they are uniquely coded in the NRC personnel system. Additionally, the offices within NRC inform OCHCO and the ethics office of their intent to employ an employee paid at a rate above GG-15¹, which triggers the public filing requirement. Departing employees are similarly treated as they are notified via email by OCHCO of their requirement to file a termination report and the ethics resources mailbox is copied.

Beginning in March 2013, NRC's e-filing system began sending email reminders to filers of their annual requirement to file. Scheduled reminders are subsequently sent by the filing system until the filing deadline. Reminders continue to be sent to those filers who have not filed by the deadline, with a copy sent to their supervisor. Requests for extensions of the filing deadline, when necessary, are sent via email and also approved via email.

NRC's five Commissioners and Inspector General (IG) are Presidential appointees confirmed by the Senate (PAS). Their reports are reviewed for conflicts of interest by the DEC's and certified by

¹ NRC is an Excepted Service Agency, using the GG pay band rather than the GS pay band. The Excepted Service can be defined as employment in a federal position or with an agency that is outside the federal Competitive Service. These agencies have authority to establish their own hiring programs to fill Excepted Service vacancies.

the DAEO. All other public financial disclosures at NRC are reviewed and certified by the DEC's. Conflicts analysis primarily focuses on whether the filer holds any assets or outside positions related to those items included in NRC's prohibited securities lists. NRC believes filers should be fully aware of the prohibited securities list because agency-wide announcements are issued annually in December. NRC employees are not restricted from holding other securities or assets. However, employees are warned that assets outside of the prohibited securities list can still cause a conflict of interest.

Examination of Public Reports

NRC has 250 public filers. OGE examined 69 public reports (OGE Form 278) required to be filed in 2013, comprising 16 new entrant reports, 35 annual reports, and 18 termination reports. Table 1 presents the results of our examination.

Table 1. Examination of NRC's Public Financial Disclosure Reports

	New Entrant	Annual	Termination
278 Reports Sampled	16	35	18
Filed Timely	13 (81%)	33 (94%)	18 (100%)
Certified Timely	10 (63%)	22 (63%)	8 (44%)

OGE found that while 94 percent of annual reports and 100 percent of termination reports were filed timely, only 81 percent of new entrant reports were filed timely. Nearly 20 percent of the new entrant filer sample, including four Senior Technical Advisors and a Deputy Director were in a position to perform their NRC duties without the benefit of a timely conflict of interest analysis by ethics officials. Compounding OGE's concern with late new entrant report submission is the additional delay in ethics official certification of all public financial disclosure reports. In OGE's sample, NRC ethics officials failed to meet the 60-day conflict of interest review and certification deadline 42 percent of the time overall. The significant delays in NRC's financial disclosure certification process put NRC employees at heightened risk for real or apparent conflicts of interest.

Recommendations

- Improve the filing timeliness of new entrant public financial disclosure reports.
- Improve the certification timeliness of all public financial disclosure reports.

Regarding public financial disclosure report storage, the reports are kept in a locked file cabinet. In a review of the physical files sampled, OGE found that there were 12 reports that exceeded the file retention period (over 6 years old). In a discussion with the DEC's, they stated that although there is no set schedule to purge the files, they typically purge them during the summer. OGE

recommends that NRC purge the existing reports that have been retained beyond the retention period, establish a regular destruction schedule.

Recommendations

- Purge any existing public financial disclosure reports that have been kept beyond the retention period.
- Establish a regular destruction schedule for public financial disclosure reports.

Confidential Financial Disclosure System

NRC also uses its e-filing system to manage the confidential financial disclosure system. NRC verifies the accuracy of its master list of confidential filers in the fall of each year when the ethics office sends office directors and regional administrators the names of employees in their respective offices and a list of positions subject to the filing requirements set forth in division management directives. Office directors and regional administrators update the list of employees in their respective offices or regions who are required to file and send the updated list to the ethics office. This request is ticketed (monitored for receipt and completion) by the ethics office, and a due date of 15 days is typically given. Within NRC, response rates are tied to performance, so the response rate is generally high, and the ethics office anticipates timely responses.

In early January, the DEC's e-mail a reminder of the filing requirements to each employee required to file an annual confidential disclosure report. The DEC's also provide instructions for completing and filing the reports. Filing and collection of the confidential reports is done through NRC's e-Filing system and follows a process similar to the public reports. Confidential financial disclosures are reviewed for conflicts of interest and certified by the DEC's.

Examination of Confidential Reports

According to the DEC's, NRC has 751 confidential filers. OGE examined 30 confidential reports (OGE Form 450) required to be filed in 2013. Table 2 presents the results of our examination.

Table 2. Examination of NRC's Confidential Financial Disclosure Reports

	New Entrant	Annual
450 Reports Sampled	0*	30
Filed Timely	0 (0%)	29 (97%)
Certified Timely	0 (0%)	24 (80%)

* See explanation, below

OGE found that while annual confidential financial disclosure reports were submitted more timely than public reports, delays still existed in the ethics official review and certification process. Twenty percent of the sampled reports missed the 60-day certification deadline.

OGE's primary concern is NRC's tracking of new entrant confidential filers. NRC was unable to provide a sample of new entrant confidential reports for OGE review because it was unable to distinguish the new entrants from the incumbents within its master list of confidential filers. OCHCO, the office responsible for identifying new confidential filers and notifying OGC, does not have a systematic method of identifying new filers. Without proper notification, ethics officials must manually update the master list of confidential filers annually by requesting that agency offices provide an updated list of individuals in confidential filing positions. Employees not previously on the master list are then asked to file financial disclosure reports with the rest of annual filers and are recorded on the master list as annual filers, rather than new entrant filers. Under this system, NRC employees could serve in filing positions for up to a year without submitting financial disclosure reports – far exceeding the 30-day filing deadline – and perform their duties without receiving timely conflict of interest reviews by ethics officials.

As a result of OGE identifying this systemic weakness, NRC began utilizing OCHCO's Entrance-on-Duty (EOD)/Loss Report list as an interim new entrant identification measure until OCHCO determines a more permanent solution. The Entrance-On-Duty/Loss Report contains a list of employees new to the agency; employees who transfer to another office within the agency; and employees who leave the agency. This list does not cover employees who have a grade change. OCHCO is currently working on a mechanism to properly notify employees designated as confidential filers. The DEC responsible for day-to-day ethics program administration keeps a spreadsheet of incoming employees based on information contained in the EOD/Loss Report and communicates with OCHCO weekly to determine if any of the new employees are new entrant confidential filers. If a new employee is a filer, the DEC then requests that the employee file a confidential financial disclosure report and records the employee as a new entrant filer on NRC's master list of filers.

Recommendations

- Improve the filing timeliness of new entrant confidential financial disclosure reports.
- Implement a permanent system to timely identify new entrant confidential financial disclosure filers and collect their reports.

OGE's review of NRC's annual confidential reports found that the technical sufficiency of the reports was adequate. Also, the reports' review notes showed evidence of ethics official review. Of the 93 sample reports reviewed, 5 of the incumbent filers submitted Confidential Certificates of No New Interests (OGE Form 450-A). For each OGE Form 450-A, the ethics office properly maintained a supporting OGE Form 450 for its conflict of interest review.

Confidential financial disclosure reports are stored in the same manner as the public reports. In a review of the physical files sampled, OGE found that there were 10 reports that exceeded the file retention period (over 6 years old).

Recommendations

- Purge any existing confidential financial disclosure reports that have been kept beyond the retention period.

- Establish a regular destruction schedule for confidential financial disclosure reports.

Education and Training

Initial Ethics Orientation

OGE regulation requires all new agency employees receive ethics official contact information along with the following material within 90 days of beginning work for an agency: (1) the Standards of Ethical Conduct for Employees of the Executive Branch (the Standards) and any agency supplemental Standards to keep or review; or (2) summaries of the Standards, any agency supplemental Standards, and the Principles of Ethical Conduct (the Principles) to keep. Employees must receive one hour of official duty time to review the material. *See* 5 C.F.R. § 2638.703.

Initial ethics training is required as part of a new employee's on-boarding process at NRC. During new employee orientation, each new employee is given a summary of the Principles and Standards by OCHCO. New employees are informed that they are subject to OGE and NRC conduct regulations and are directed to NRC's internal ethics website for links to ethics laws, regulations, and related Executive Orders, as well as contact information for NRC ethics counselors. Employees are authorized to spend at least one hour of official duty time to review these materials.

In addition to the written material provided by OCHCO, NRC provides online ethics training for new employees through its iLearn training webpage. Employees are required to complete this training within 90 days of the start of their employment at NRC. The iLearn module sends automatic reminder notices to employees until the training has been completed. Once completed, the employee's training status is recorded in the iLearn system. The DEC's verify completion of initial ethics orientation through the iLearn tracking system. According to NRC, 254 employees were required to complete IEO in 2013 and all 254 completed the training.

OGE's observation of the ethics training materials provided by OCHCO and in the iLearn system indicated that they met the initial ethics orientation content requirements. NRC's initial ethics training covers the major ethics laws and regulations, including the Standards, NRC's supplemental Standards, the criminal conflict of interest statutes, and NRC ethics policies. The names, titles, office addresses, and telephone numbers for NRC's DEC's were provided as part of the training.

Annual Ethics Training Plan

OGE regulations under 5 C.F.R. § 2638.706 require agencies to develop, at the beginning of each year, a written plan for annual ethics training. The plan must contain a brief description of the agency's annual training and include estimates of the number of employees who will receive

verbal and written training. NRC's 2013 Annual Training Plan was completed timely in December, 2012. The plan contains a brief description of the agency's annual training and includes estimates of the number of employees required to receive verbal and written training in 2013.

Annual Ethics Training

OGE regulation requires that all covered employees receive annual ethics training consisting of a review of: (1) the Principles; (2) the Standards; (3) any agency supplemental Standards; (4) the criminal conflict of interest statutes; and (5) ethics official contact information. Training length and delivery method vary by an employee's financial disclosure filing status. *See* 5 C.F.R. § 2638.704 and 705.

NRC's 2013 annual ethics training covered the Standards, the Principles, NRC's supplemental Standards, and the criminal conflict of interest statutes. The training focused additionally on public and confidential financial disclosure requirements. The names, titles, office addresses, and telephone numbers for NRC's DEC's were provided as part of the training. The training was prepared by a qualified instructor and met OGE's content requirements.

The DEC's provide verbal annual ethics training every spring using the iLearn system. It is a collaborative team effort from logistics to training materials. The planning of the verbal training starts a few months before the actual date of the training. DEC's oversee the preparation and content of the iLearn training, and work closely with the training support staff (and with the video/photo department staff on occasion) to make sure the training materials are placed on the iLearn module accordingly. The DEC's also review the list of covered employees, and a list of annual filers required to take ethics training is sent to the training support staff.

NRC's Management Directive Handbook identifies the personnel required to receive ethics training. OGE reviewed NRC's training records to determine whether employees required to file financial disclosure reports received annual ethics training in 2013. According to NRC records, 97 percent (970 of 1001) of all financial disclosure filers received verbal training in 2013. This amounted to 242 of 250 public filers and 728 of 751 confidential filers. The 8 public and 23 confidential filers who did not complete annual ethics training for 2013 are currently in the process of completing this requirement.

Recommendation

- Ensure that the 31 covered employees who did not receive annual ethics training for 2013 complete the required training.

Advice and Counsel

The DAEO is required to ensure that a counseling program for agency employees, concerning ethics and standards of conduct matters, including post-employment matters, is developed and conducted. *See* 5 C.F.R. § 2638.203. The DAEO may delegate to one or more deputy ethics

officials the responsibility for developing and conducting the counseling program. *See* 5 C.F.R. § 2638.204.

The DEC's provide advice and counsel to NRC employees, with the four regional DEC's providing ethics advice to regional employees. According to the DEC's, they receive requests for advice and counsel primarily via email. If they receive requests for advice from employees by phone, employees are asked to send an email of their question.

Regional DEC's refer non-routine ethics matters to headquarters DEC's for additional support. Advice and counsel procedures are covered in NRC's Management Directive Handbook. Employee questions and the advice provided by ethics officials are maintained electronically or in hard copy. The DEC's have access to all advice and counsel. NRC issued 222 pieces of written advice and counsel in 2013.

OGE's review of 20 samples of advice and counsel indicated that it appeared to be provided timely and the DEC's responses were sufficiently detailed. The sample of advice and counsel covered a broad range of ethics topics including financial conflicts of interest, impartiality, post-government employment, gifts, financial disclosure, and outside activities.

Agency-Specific Ethics Rules

As authorized by Executive Order 12674 and implemented by 5 C.F.R. § 2635.105, an agency may modify or supplement the Standards of Ethical Conduct, with the concurrence of OGE, to meet the particular needs of that agency. A supplemental agency regulation is issued jointly by the agency and OGE and is published in title 5 of the Code of Federal Regulations.

NRC has supplemental regulations approved by OGE at 5 C.F.R. part 5801 – Supplemental Standards of Ethical Conduct for Employees of NRC. The supplemental regulation is also referenced in NRC's Management Directive Handbook. NRC's supplemental regulation prohibits ownership in securities that NRC periodically identifies and publishes. The supplemental regulations also contain provisions for prior approval for outside employment with certain entities that have a relationship with NRC or are engaged in activities in the nuclear field. OGE's examination of the samples of public and confidential financial disclosure reports did not identify any holdings prohibited by NRC's supplemental regulations or activities that warranted prior approval. OGE also reviewed the one outside activity request received by the ethics office from an NRC employee in 2013 and confirmed that the guidance was provided in a timely manner and appeared to contain detailed rationale for the decision rendered.

Conflict Remedies

The criminal conflict of interest statute at 18 U.S.C. § 208 prohibits employees from participating in an official capacity in a particular matter in which they have a financial interest. Congress included two provisions that permit an agency to issue a waiver of the prohibition in individual cases. Under Executive order 12674, agencies must consult with OGE prior to issuing a waiver

under section 208. The procedure for issuing waivers under section 208 is in NRC's Management Directive Handbook. As the responsible official, the ADAEO determines whether to grant or deny a request for a waiver after consultation with OGE. NRC did not issue any waivers under 18 U.S.C. § 208 in 2013.

Additionally, the Ethics in Government Act expressly recognizes the need for PAS nominees to address actual or apparent conflicts of interest by requiring written notice of the specific actions to be taken in order to alleviate the conflict of interest, commonly known as an "ethics agreement." The Chairman, the agency's only PAS official with an ethics agreement, satisfied the terms of her ethics agreement in accordance with 5 C.F.R. § 2634.802(b). In addition, all required evidence of action taken to comply with the agreement was submitted to OGE in accordance with 5 C.F.R. § 2634.802(a).

Enforcement

NRC reported 1 disciplinary action based wholly or in part upon violations of the criminal conflict of interest statutes (18 U.S.C §§ 203, 205, 207, 208, and 209) and zero disciplinary actions based wholly or in part upon violations of the Standards (5 C.F.R. part 2635) in 2013.

NRC has a Memorandum of Understanding that describes the roles and responsibilities of the OGC and the Office of Inspector General (OIG) for matters within the purview of the Inspector General. According to OIG officials, they notify OGC when making a referral to the Department of Justice (DOJ) regarding potential conflict of interest. OGC then concurrently notifies OGE of the referral. Additionally, OIG will subsequently advise the OGC of the disposition of the referral in a case closing report. OGC notifies OGE of the disposition of referrals to DOJ. NRC's OIG made one referral to DOJ in 2013 and OGE was appropriately notified of the referral.

Special Government Employees

Special Government employees (SGE) are officers or employees of the executive or legislative branch, retained, designated, appointed or employed to perform their duties, full-time or intermittently, for not more than 130 days in any 365-day period. SGEs typically serve on agency advisory boards or commissions. An agency is required to determine SGE status at the time of appointment or retention for any individual who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation for a period not exceed 130 days during any consecutive 365-day period. *See* 18 U.S.C. § 202(a) and 5 C.F.R. § 2640.102(t).

SGEs at NRC serve either as members on Federal Advisory Committee Act (FACA) committees or as consultants and experts. NRC has 59 SGEs serving on its three FACA committees and 21 SGEs serving as consultants and experts. NRC's Management Directive Handbook specifies that SGEs paid at a rate above GG-15 who serve more than 60 days during a 365-day period are required to file public financial disclosure reports (OGE Form 278). SGEs paid below the GG-15 rate, or paid above the GG-15 rate but working 60 days or less during a 365-day period, must file

confidential financial disclosure reports (OGE Form 450). The DEC's coordinate with program managers to ensure that senior SGEs working more than 60 days in a year file the required OGE Form 278. The DEC's also track the SGEs' work hours to ensure they don't exceed 130 days of work in any 365-day period.

NRC's SGEs submit their financial disclosure reports upon appointment and annually on the anniversary of their appointment dates. The Advisory Committee on Reactor Safeguards members were required to submit OGE Form 278 in 2013, as they served more than 60 days during the year and were paid above the GG-15 rate. The remaining SGEs filed OGE Form 450.

OGE examined the financial disclosure and ethics training services provided to NRC's SGEs. Financial disclosure reports for SGE are collected, reviewed, and certified by the DEC's prior to the SGEs' first meeting during the year. OGE selected 75 SGE financial disclosure reports for review and found only 61 percent of NRC's SGE financial disclosure reports were submitted timely while 95 percent of the reports were certified timely. NRC was unable to locate 4 FACA committee reports and 2 consultant and expert reports.

SGEs receive verbal training prior to their first committee meeting. The DEC's provided ethics training to all but two SGEs in 2013.² Training was tracked either through the iLearn system, with sign-in sheets, or via email confirmation. The training was prepared by a qualified instructor and met OGE's content requirements.

Recommendations

- Improve the filing timeliness of SGE financial disclosure reports.
- Improve SGE financial disclosure handling to ensure SGE financial disclosure reports are properly stored and accessible.
- Recover the missing SGE financial disclosure reports.
- Ensure that the SGE who did not receive annual ethics training for 2013 completes the required training.

1353 Travel Acceptances

Federal agencies may allow employees to accept payments from non-Federal sources for travel, subsistence, and related expenses incurred on official travel under the authority of the General Services Administration (GSA) regulation at 41 C.F.R. chapter 304, implementing 31 U.S.C. § 1353. Semiannual reports of payments accepted under 31 U.S.C. § 1353 must be submitted to OGE by May 31 and November 30 of each year. According to the DEC's, NRC does not accept

² One SGE resigned prior to receiving training. A second SGE did not complete the iLearn training according to NRC records.

1353 travel payments. NRC's 2013 semiannual reports to OGE (reflecting no payments received) were both received timely.

Agency Comments

NRC provided the following comments to OGE on October 17, 2014:

The NRC appreciates OGE's thorough review of its ethics program, and thanks OGE for its recommendations. The NRC shares OGE's views on the importance of ensuring that the Government's business is conducted with impartiality and integrity, and is committed to maintaining a high quality ethics program. To this end, the NRC has made substantial changes to its ethics program over the past year and a half.

As OGE recognized, the agency experienced complete turnover of personnel on its ethics staff in 2012, and experienced additional turnover in 2013, including management changes. We took the opportunity to carefully examine and modify our ethics program. Instead of relying on only one or two individuals to simultaneously satisfy program requirements and provide individualized ethics advice to employees, we have converted to a team approach. Our goal in making this change is twofold: ensuring continuity and improving overall quality of the program. Since making the transition, we have steadily worked through a number of improvements. We focused first on hiring an ethics specialist to work fulltime on the program and on expanding the team of attorneys trained to provide ethics advice. We improved the quality of our review of financial disclosure forms, educating our filers and improving the accuracy of their submissions at the same time. We identified areas where we needed to make process improvements, for example to more accurately track new entrants, confidential disclosure form filers, and special government employees, and to track training completion, and we initiated discussions with our Office of the Chief Human Capital Officer (OCHCO) in order to make these process improvements. We purged our files to remove out-of-retention-period financial disclosure forms; this action is taken on an annual basis.

In the midst of these efforts, OGE announced its selection of the NRC for audit. We responded to multiple rounds of OGE requests for information prior, during, and after the audit team's site visit, working simultaneously throughout to maintain and improve the agency's ethics program. In the interval since OGE's site visit, NRC Ethics has reviewed its processes and procedures to identify additional improvements, including further coordination with OCHCO to enhance communications and tracking of employees.

We also wish to emphasize that the agency continues to impress upon its employees the importance of compliance with the substantive ethics laws and regulations, and that in the 40-year history of the NRC there has never been a prosecution of an NRC employee.

To address the specific recommendations in the report, we offer the following, keyed to each set of recommendations:

Public Financial Disclosure System, Examination of Public Reports section:

Recommendations on page 6:

- Prior to the audit, NRC Ethics had initiated process improvements in coordination with OCHCO to improve the filing timeliness of new entrant public financial disclosure form reports, and we will continue those efforts.
- As a result of extensive efforts to educate filers on how to accurately complete forms, we expect to require fewer edits and corrections to forms next year, which should shorten the review time and improve the timeliness of certifications. We also are identifying ways to improve our tracking of form review status for all public financial disclosure forms.

Recommendations on page 7:

- Files will be checked to ensure that all records are properly purged.
- We will continue to purge files on an annual basis.

Confidential Financial Disclosure System, Examination of Confidential Reports section:

Recommendations on page 8:

- Prior to the audit, NRC Ethics had identified the need for process improvements to remedy the filing timeliness of new entrant confidential financial disclosure reports, and we will continue those efforts.
- Prior to the audit, NRC Ethics had begun process improvement discussions in conjunction with NRC's OCHCO to timely identify new entrant confidential financial disclosure form filers, and we will continue those efforts. We plan to mandate electronic filing of 450 and 450-A reports, which will improve tracking.

Recommendations on page 9:

- Files will be checked to ensure that all records are properly purged.
- We will continue to purge files on an annual basis.

Annual Ethics Training section:

Recommendation on page 10:

- NRC Ethics has followed up to ensure that employees who remain at the agency have completed the required training. At this juncture, all public and confidential filers have completed the training for 2013. NRC Ethics is continuing to make process improvements to ensure that training completion is accurately tracked in the agency's electronic iLearn system.

Special Government Employees (SGEs) section:

Recommendations on page 13:

- NRC Ethics has coordinated with OCHCO and with Federal Advisory Committee Act (FACA) program managers to institute processes to correct the filing schedule and the timeliness of SGE financial disclosure reports.

- NRC Ethics has instituted procedures to improve SGE financial disclosure report record- keeping.
- NRC Ethics has attempted to locate the missing SGE financial disclosure reports. For the two missing FACA reports, one filer resubmitted and the other submitted a report for 2014. Both were reviewed and were conflict free. For the four missing Consultant/Expert reports, we located two reviewed reports, one un-reviewed report which we reviewed, and one report resubmitted and reviewed in 2014; all were conflict free.
- We followed up with the SGEs identified as having not completed the 2013 ethics training and ensured that all have received the required training. We have instituted processes to improve training attendance tracking.

We thank OGE and its audit team for its review of our ethics program. The NRC Ethics team looks forward to continued collaboration with OGE in the future.