

ETHICS PROGRAM INSPECTION REPORT

Agency: Social Security Administration

Report No.: 17-37I

Date: August 10, 2017

Period Covered by Review: January 1, 2016 – December 31, 2016

UNITED STATES OFFICE OF
GOVERNMENT ETHICS


Preventing Conflicts of Interest
in the Executive Branch

1.0 AGENCY DATA		
EMPLOYEES (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	62,187
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	3
1.4	Number of non-PAS public financial disclosure reports required to be filed	2,007
1.5	Number of confidential financial disclosure reports required to be filed	1,791
ETHICS PROGRAM		
1.6	Title of Designated Agency Ethics Official (DAEO)	Deputy General Counsel
1.7	Grade level of DAEO	SES
1.8	Title of Alternate DAEO (ADAEO)	Senior Ethics Attorney
1.9	Grade level of ADAEO	GS-15
1.10	Title of the primary, day-to-day ethics program administrator	Senior Ethics Attorney
1.11	Grade level of the primary, day-to-day ethics program administrator	GS-15
1.12	Current number of full-time ethics officials	13
1.13	Current number of part-time ethics officials	6
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%.)	50%
1.15	Number of reporting levels between the DAEO and the agency head	1
COMMENTS		
(1.15) The DAEO reports directly the agency head regarding ethics-related matters.		

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	During the period under review, all PAS officials 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	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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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	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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
COMMENTS				
(3.1-3.3) No PAS officials entered into an ethics agreement during the period covered by the review. (3.4-3.5) At the time of OGE's onsite visit, all of SSA's PAS positions were vacant. However, the one PAS official who was serving at SSA in 2016, and who had an ethics agreement, had complied with the terms of the ethics agreement. The ethics agreement and compliance documentation were properly maintained.				

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.3	• Public availability of public financial disclosure reports	<input checked="" type="checkbox"/>	<input 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"/>
DATA ANALYSIS		%		
4.5	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	76%		
4.6	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	92%		
4.7	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	76%		
4.8	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.	24%		
4.9	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	100%		
4.10	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	0%		
4.11	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%		
COMMENTS				
(4.2) As part of its Inspection, OGE examined 75 public financial disclosure reports. Of the 75 reports OGE examined, 14 were filed late. Of the 14 reports that were filed late, 7 were filed less than 30 days late. No late filing fees were collected from the filers whose reports were filed more than 30 days beyond the applicable filing deadline, nor were any waivers of the late fees granted. SSA ethics officials stated they choose to "work with the filers" to obtain their reports, rather than collect late filing fees or grant late fee waivers. Ethics officials are reminded that they must either collect the late filing fee or grant a waiver of the late filing fee when a report is filed more than 30 days after the applicable deadline. Waivers may only be granted when the delay in filing was caused by extraordinary circumstances. <i>See</i> 5 C.F.R. § 2624.704. (4.5) 19 of 25 new entrant reports OGE examined were filed timely. (4.7) 19 of 25 termination reports OGE examined were filed timely				

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(4.8) 18 of 75 reports OGE examined were certified timely
(4.10) One annual/termination combination report was filed more than 30 days late. The filer initially filed a 278-T (periodic transaction report) instead of the required 278 annual/termination report, which caused the delay. No other PAS termination reports were required to be filed during the period covered by the review.

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"/>
5.1.2	• Review/evaluation of confidential financial disclosure reports				<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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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).				44%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).				92%		
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).				36%		
COMMENTS							
(5.3) The agency has no alternative financial disclosure system. (5.5) 9 of 24 new entrant reports OGE examined were filed timely. (5.7) 18 of 50 confidential financial disclosure reports OGE examined were certified timely.							

6.0 INITIAL ETHICS ORIENTATION							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
6.1	All initial ethics orientation material contains: <i>See</i> 5 C.F.R. § 2638.703(a) and (b).						
6.1.1	• Current contact information of relevant ethics official(s)				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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				<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS				%			
6.3	Percentage of new agency employees who received initial ethics orientation within 90 days. <i>See</i> 5 C.F.R. § 2638.703.				67%		
COMMENTS							
(6.2-6.3) In 2016, only 1,617 of 2,406 new employees received IEO.							

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7.0 ANNUAL ETHICS TRAINING						
COMPLIANCE REQUIREMENT			Yes	No	N/A	
7.1	All annual ethics training material contains: <i>See</i> 5 C.F.R. § 2638.704(b).					
7.1.1	• Current contact information of relevant ethics official(s)			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.2	• Review of the criminal conflict of interest statutes			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.3	• Review of the Standards of Ethical Conduct			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.4	• Review of the 14 Principles			<input checked="" type="checkbox"/>	<input 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"/>
DATA ANALYSIS			%			
7.3	Public financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(a).			98%		
7.4	Confidential financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.705(a)(3).			97%		
COMMENTS						
(7.1.5) The agency has no supplemental regulations.						

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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS						
None						

9.0 RECOMMENDATION(S)			
#	Element	RECOMMENDATION	Compliance Due
1	4.2	<p><u>RECOMMENDATION:</u> Ensure late filing fees are collected or, where appropriate, late fee waivers are granted when public filers do not timely file financial disclosure reports.</p> <p><u>AGENCY RESPONSE:</u> The Social Security Administration concurs with OGE that the agency should enforce the regulatory penalties for late financial disclosure filings and the agency is taking action to ensure that filing fees are collected and where appropriate late filing fee waivers are granted. The agency is amending its procedural manual to better instruct ethics officials when and how to implement the filing fees or filing fee waivers.</p>	February 2018
2	4.5	<p><u>RECOMMENDATION:</u> Ensure public financial disclosure reports are filed timely.</p> <p><u>AGENCY RESPONSE:</u> The Social Security Administration concurs with OGE and is taking action to ensure that employees timely file public financial disclosure reports. The ethics office is working with other agency components to better identify when public filers enter onto duty, or terminate their employment to ensure timely filing. The agency would note, however, when reviewing all of the annual</p>	February 2018

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		public filings, employees filed in calendar year 2016, 94% were timely.	
3	4.8	<p><u>RECOMMENDATION:</u> Ensure public financial disclosure reports are certified timely.</p> <p><u>AGENCY RESPONSE:</u> The Social Security Administration acknowledges that it has not met OGE’s inspection standard that all financial disclosure reports must be certified in 60 days. However, the agency asserts that it met the requirement to perform a technical review and conflict of interest analysis within 60 days on the majority of the public financial disclosure reports filed. As described in section 4.01 of OGE’s Public Financial Disclosure Guide, the agency’s trained ethics staff completes a full intermediate review of each form as soon as possible after filing. The guide requires these reviewers to “follow the same review standards applicable to certifying officials.” Without taking into account any time tolled to obtain additional information from the filer, the agency reviewed 67% of the total annual forms filed in 2016 within 60 days. After the full intermediate review, an executive within the agency’s Office of the General Counsel certifies the form ensuring that the original technical and conflict analysis is complete. Relying on OGE guidance in sections 4.01 and 4.02, which states that the agency needs to perform a technical review and conflict of interest analysis within 60 days of receiving the report, the agency understood that its procedure satisfied the regulatory requirements for timely review of the forms. During this inspection, OGE informed the agency that this full intermediate review did not “count” as a technical or conflict of interest review. Under the new guidance, the agency will review its financial disclosure procedures to determine how to meet this new 60-day certification standard with the limited resources afforded to this office. The agency suggests that OGE update the guidance in sections 4.01 and 4.02 to reflect the policy that certification, not review, must be done within 60 days and that a full intermediate review does not satisfy the technical and conflict of interest review standard.</p> <p><u>OGE COMMENT:</u></p> <p>OGE advised the agency that the general requirement is that reports be certified within 60 days of being filed. In certain relatively rare circumstances, where required additional information can’t be obtained or remedial action is necessary to resolve a real or potential conflict of interest, certification may be delayed. As noted above, only 18 of the 75 public financial disclosure reports OGE examined during the Inspection were certified within 60 days of the date they were filed. Having completed an initial review of a report within 60 days does not alone meet the certification. That guidance is not in conflict with the guidance provided in OGE’s Public Financial Disclosure Guide.</p>	February 2018
4	5.7	<p><u>RECOMMENDATION:</u> Ensure confidential financial disclosure reports are certified timely.</p> <p><u>AGENCY RESPONSE:</u> Please see the agency’s response to 4.8. Additionally, the agency notes that it has altered its review procedures for the 450A form, to ensure timelier certification.</p> <p><u>OGE COMMENT:</u></p> <p>See OGE’s comment to the agency’s response to recommendation 3.</p>	February 2018
5	6.2-6.3	<p><u>RECOMMENDATION:</u> Ensure new employees receive initial ethics orientation.</p> <p><u>AGENCY RESPONSE:</u> The Social Security Administration concurs with OGE and is taking action to ensure that new employees receive initial ethics orientation. The ethics office is working with other components to better satisfy the new regulatory requirements in 5 C.F.R. Subpart 2638.</p>	February 2018