

ETHICS PROGRAM INSPECTION REPORT

Agency: U.S. Ability One Commission

Report No.: 20-50I

Date: September 29, 2020

Period Covered by Review: January 1, 2019 through December 31, 2019

**UNITED STATES OFFICE OF
GOVERNMENT ETHICS**


Preventing Conflicts of Interest
in the Executive Branch

1.0	AGENCY DATA	
	EMPLOYEES	
1.1	Number of full-time agency employees.	25
1.2	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed.	N/A
1.3	Number of non-PAS public financial disclosure reports required to be filed.	3
1.4	Number of confidential financial disclosure reports required to be filed.	17
	ETHICS PROGRAM	
1.5	Title of Designated Agency Ethics Official (DAEO).	General Counsel
1.6	Grade level of DAEO.	GS-15
1.7	Title of Alternate DAEO (ADAEO).	Western U.S. Field Office Director
1.8	Grade level of ADAEO.	GS-15
1.9	Title of the primary, day-to-day ethics program administrator.	General Counsel/DAEO
1.10	Grade level of the primary, day-to-day ethics program administrator.	GS-15
1.11	Current number of full-time ethics officials.	0
1.12	Current number of part-time ethics officials.	2
1.13	Number of reporting levels between the DAEO and the agency head.	1
	COMMENTS	
	<p>(1.2) Operating as the U.S. AbilityOne Commission (Commission), the Committee for Purchase from People Who Are Blind or Severely Disabled, does not have any PAS officials. When fully staffed, the Commission is composed of 15 Commissioners appointed by the President. Eleven of whom represent government agencies (specifically the Departments of Agriculture, Air Force, Army, Commerce, Defense, Education, Justice, Labor, Navy and Veteran Affairs and the General Services Administration). The remaining four members are private citizens knowledgeable of the employment challenges faced by people who are blind or have significant disabilities, including those employed by non-profit agencies affiliated with the AbilityOne program. The presidential appointees who are private citizens serve five-year terms and may be re-appointed. Federal government appointees serve for a period of time designated by their agency. At the time of OGE's inspection, the Commission was comprised of five Federal appointee members and two private citizen appointees.</p> <p>(1.3) The Executive Director, the General Counsel/DAEO, and the Inspector General are the Commission's only public financial disclosure report filers. The DAEO's report is initially reviewed by the agency's ADAEO and is then forwarded to OGE for final review and certification.</p>	

2.0	LEADERSHIP			
	COMPLIANCE REQUIREMENTS	Yes	No	N/A
2.1	OGE has received an up-to-date designation from the agency head naming the DAEO. <i>See</i> 5 C.F.R. § 2638.107(a).	<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. § 2638.107(a).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	COMMENTS			
	<p>(2.2) The current ADAEO replaced the former Assistant General Counsel as the Commission's ADAEO in May 2019, after the former Assistant General Counsel departed for another government agency in March 2019. OGE was advised that the current ADAEO previously served in the ADAEO position at another agency. This helps address the requirement at 5 C.F.R. § 2638.104(d) that the ADAEO has demonstrated the skills necessary to assist the DAEO in the administration of the agency's ethics program.</p>			

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3.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278e, OGE Form 278-T)						
COMPLIANCE REQUIREMENTS				Yes	No	N/A
The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).						
3.1	• Collection of public financial disclosure reports.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
3.2	• Review/evaluation of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3.3	• Public availability of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3.4	The agency can demonstrate that late filing fees are collected or, where appropriate, waivers are issued when public filers do not timely file financial disclosure reports.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
3.5	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3.6	Public financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.603(g)(1).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
3.7	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after appointment) notifies the DAEO of all appointments to positions that require incumbents to file public financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(1).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
3.8	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after termination) notified the DAEO of terminations of employees in positions that require incumbents to file public financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(2).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
DATA ANALYSIS				%		
3.9	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	N/A				
3.10	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	67%				
3.11	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A				
3.12	Percentage of sampled non-PAS public financial disclosure reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	33%				
3.13	Percentage of sampled non-PAS public financial disclosure reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	33%				
3.14	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	N/A				
3.15	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A				
3.16	Percentage of sampled PAS annual and termination reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	N/A				
3.17	Percentage of sampled PAS annual and termination reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	N/A				
COMMENTS						
<p>(3.1) While OGE found written procedures in place governing the administration of the Commission's public financial disclosure system, OGE noticed that these procedures did not address the collection, review and certification of termination public reports. Therefore, OGE recommends that the Ethics Office update these procedures to address this issue. OGE also suggests these procedures be updated to indicate that the ADAEO position is responsible for reviewing and certifying the DAEO's report prior to it being forwarded to OGE for final review and certification. While OGE confirmed this to be the standard practice, this is important to include since, at the time of inspection, the ADAEO position was filled by a staff member other than the Commission's Assistant General Counsel. The responsibility for reviewing and certifying the DAEO's report is currently included within the Assistant General Counsel's position description, which has been vacant since March 2019.</p> <p>(3.14 through 3.17) The Commission does not have any PAS officials.</p>						

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(3.4) OGE examined the Executive Director's 2019 annual public financial disclosure report covering 2018. The Executive Director had received a filing extension from the DAEO that established an extended due date of August 1, 2019. The report was not filed until August 17, 2020. This report had also not been certified at the time of OGE's examination on September 17, 2020. It is troubling that no administrative action to collect the applicable \$200 late filing fee or refer the matter to the Department of Justice (DOJ) had been initiated. *See* 5 C.F.R. § 2634.704. This failure raises concern that this matter might have gone unaddressed had the timing of OGE's review been different.

OGE recommends that, if the Executive Director does not request and receive a waiver of the late filing fee for the annual report due in 2019, the \$200 late filing fee be assessed. If a waiver of the late filing fee is granted, the DAEO must submit the Executive Director's written request and the written approval to OGE.

OGE also examined the Executive Director's 2020 annual public financial disclosure report, covering 2019, and required to be filed by May 15, 2020. The Executive Director also received a filing extension from the DAEO for this report which established an extended due date of August 13, 2020. This report was not filed until August 20, 2020. Although this report was filed late, it was not subject to the \$200 late file fee. *See* 5 C.F.R. § 2634.704. This report also had not been certified as of September 17, 2020.

(3.6) OGE was not able to assess whether the Commission was in compliance with this requirement. The relevant records are stored in the Commission's office space and cannot be accessed remotely. Consistent with guidance from the Office of Management and Budget, all OGE staff and most of the Commission's staff are working remotely during the COVID-19 pandemic. Commission and OGE staff would need to physically enter the Commission's office space to allow OGE to make its assessment. OGE's policy during the COVID-19 pandemic is that OGE personnel will not enter an agency's facilities and prohibits OGE from asking an agency to send staff to agency offices or otherwise violate social-distancing or other mitigation policies to assess compliance. OGE will assess the Commission's compliance with this requirement when circumstances permit.

(3.7) – (3.8): The requirement for human resources officials to notify the DAEO of appointments to or terminations from positions that require incumbents to file public financial disclosure reports is intended to ensure the DAEO can timely advise employees of relevant filing requirements. The Commission has only three positions whose incumbents are required to file public financial disclosure reports and there were no appointments to, or terminations from, these positions during the period covered by the inspection. The DAEO (who is one of the agency's two public filers) would be aware of pending appointments and terminations. Therefore, formal notification from human resources officials is not necessary to ensure public filers receive timely notification of filing requirements.

4.0 CONFIDENTIAL FINANCIAL DISCLOSURE**COMPLIANCE REQUIREMENTS****Yes****No****N/A**The agency has written policies and procedures in place governing: *See* 5 U.S.C app. IV, § 402(d)(1).

4.1	• Collection of confidential financial disclosure reports.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.2	• Review/evaluation of confidential financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.3	Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-2.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4	Confidential financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.604.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.5	The agency's OGE-approved alternative confidential financial disclosure system complies with plans approved by OGE. <i>See</i> 5 C.F.R. § 2634.905(a).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.6	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after appointment) notifies the DAEO of all appointments to positions that require incumbents to file confidential financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
4.7	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	0%		
4.8	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	58%		

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4.9	Percentage of sampled reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	0%
4.10	Percentage of sampled confidential financial disclosure reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. §§ 2634.605(a) and 2634.909(a).	0%

COMMENTS

(4.1) While OGE found written procedures in place governing the administration of the Commission's confidential financial disclosure system, OGE noted that these procedures included a reference to the use of the OGE Optional Form 450-A. OGE notes that effective January 1, 2019, the OGE Optional Form 450-A is no longer approved for use. Agencies that wish to use a similar format as an alternative reporting procedure must now submit a written request to OGE in accordance with 5 C.F.R. § 2634.905. Prior to the conclusion of OGE's inspection, the Commission removed the reference of the OGE Optional Form 450-A from its written procedures. As a result, OGE is making no formal recommendation in this area.

(4.3) According to the DAEO, confidential financial disclosure reports are stored in a lockable filing cabinet located in the DAEO's office. The DAEO's office is locked when the DAEO is not in the office.

(4.4) OGE was not able to assess whether the Commission was in compliance with this requirement. The relevant records are stored in the Commission's office space and cannot be accessed remotely. Consistent with guidance from the Office of Management and Budget, all OGE staff and most of the Commission's staff are working remotely during the COVID-19 pandemic. Commission and OGE staff would need to physically enter the Commission's office space to allow OGE to make its assessment. OGE's policy during the COVID-19 pandemic is that OGE personnel will not enter an agency's facilities and prohibits OGE from asking an agency to send staff to agency offices or otherwise violate social-distancing or other mitigation policies to assess compliance. OGE will assess the Commission's compliance with this requirement when circumstances permit.

(4.5) The Commission does not have an OGE-approved alternative confidential financial disclosure system.

(4.6) The Commission had 17 positions in 2019 whose incumbents are required to file confidential financial disclosure reports. The DAEO is aware of appointments to positions whose incumbents are required to file confidential financial disclosure reports. Notification from human resources are not necessary to ensure confidential filers are timely notified of filing requirements.

(4.7) OGE examined two new entrant confidential financial disclosure reports that were filed in 2019. Both filers indicated they entered their respective positions in 2018.

(4.8) OGE examined 12 annual confidential financial disclosure reports that were required to be filed during the period covered by this review. Of the 12 reports examined, seven were filed late. Late filing ranged from nine to 11 days past the required February 15th deadline.

(4.9 - 4.10) Of the 14 confidential reports that OGE examined, none were certified. According to the DAEO, when the former ADAEO left the agency at the end of March 2019, the DAEO was not aware that the ADAEO had not reviewed any of the confidential reports before leaving the agency. The DAEO stated that the review and certification of confidential reports was the responsibility of the ADAEO. Due to non-ethics related Commission matters the DAEO did not have the time to review the confidential reports filed in 2019. We find this troubling. While the authority to review and certify financial disclosure reports may be delegated, the DAEO is responsible for carrying out an effective financial disclosure program. This includes: requiring public and confidential filers to comply with deadlines; reviewing financial disclosure reports; and, timely certifying financial disclosure reports. *See* 5 C.F.R. 2638.104(C)(8). In view of the importance of financial disclosure in ensuring the public's confidence in an ethical government, OGE is recommending that all 2019 and 2020 confidential reports be reviewed and certified no later than November 1, 2020.

5.0 Notices to Prospective Employees

COMPLIANCE REQUIREMENTS

Yes No N/A

Written offers of employment for positions covered by the Standards of Conduct provide: *See* 5 C.F.R. § 2638.303.

5.1	<ul style="list-style-type: none">A statement regarding the agency's commitment to government ethics.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.2	<ul style="list-style-type: none">Notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes as an employee.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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5.3	<ul style="list-style-type: none"> Contact information for an appropriate agency ethics office or an explanation of how to obtain additional information on applicable ethics requirements. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.4	<ul style="list-style-type: none"> Where applicable, notice of the time frame for completing initial ethics training. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.5	<ul style="list-style-type: none"> Where applicable, a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.6	The agency has established written procedures for issuing the notice to prospective employees. <i>See</i> 5 C.F.R. § 2638.303(c).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.7	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.303(c).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.8	The agency can demonstrate that there is an effective process for ensuring all covered employees receive the required information with their written offer of employment. <i>See</i> 5 C.F.R. § 2638.303.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
<p>(5.1 through 5.5) At the time of inspection, OGE could not determine whether the agency's offer letters included all of the content requirements of 5 C.F.R. § 2638.303.</p> <p>(5.6 through 5.8) At the time of inspection, the DAEO had not established written procedures or an effective process for issuing notices to prospective employees.</p>				

6.0	Notices to New Supervisors			
	COMPLIANCE REQUIREMENTS	Yes	No	N/A
	The agency must provide each employee upon initial appointment to a supervisory position with: <i>See</i> 5 C.F.R. § 2638.306.			
6.1	<ul style="list-style-type: none"> Contact information for the agency's ethics office. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.2	<ul style="list-style-type: none"> The text of 5 C.F.R. § 2638.103. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.3	<ul style="list-style-type: none"> A copy of, a hyperlink to, or the address of a Web site containing the Principles of Ethical Conduct. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.4	<ul style="list-style-type: none"> Other information the DAEO deems necessary. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.5	The agency has established written procedures for supervisory ethics notices. <i>See</i> 5 C.F.R. § 2638.306(d).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.6	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.306(d).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.7	The agency can demonstrate that there is an effective process for ensuring that new supervisors receive the required information within one year of appointment. <i>See</i> 5 C.F.R. § 2638.306(b).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
<p>(6.1 – 6.4) At the time of inspection, OGE could not determine whether the Commission's notices to new supervisors included all of the content requirements of 5 C.F.R. § 2638.306.</p> <p>(6.5, 6.7) At the time of inspection, the DAEO had not established written procedures nor an effective process for issuing notices to new supervisors.</p>				

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7.0 Initial Ethics Training				
	COMPLIANCE REQUIREMENTS	Yes	No	N/A
	Each new employee of the agency subject to the Standards of Conduct must complete initial ethics training. <i>See 5 C.F.R. § 2638.304.</i>			
7.1	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. <i>See 5 C.F.R. § 2638.304(e)(1).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.2	The agency provided new employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency’s ethics officials. <i>See 5 C.F.R. § 2638.304(e)(2).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.3	The agency has established written procedures for initial ethics training. <i>See 5 C.F.R. § 2638.304(f).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.4	The agency’s written procedures are reviewed by the DAEO each year. <i>See 5 C.F.R. § 2638.304(f).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
7.5	Percentage of new employees who received initial ethics training. <i>See 5 C.F.R. § 2638.304.</i>	100%		
7.6	Percentage of new employees who received initial ethics training within three months of appointment. <i>See 5 C.F.R. § 2638.304(b).</i>	100%		
COMMENTS				
<p>(7.1) The Commission had two new employees who were required to receive initial ethics training during the period covered by OGE’s inspection. OGE examined the Commission’s initial ethics training presentation and found it addressed all required concepts with the possible exception of the misuse of position concept. While OGE is not making a formal recommendation OGE suggests that Commission ethics officials make certain to highlight each of the four topics through discussion questions or summary statements by the presenter to ensure that each concept is addressed in future trainings.</p> <p>(7.3 - 7.4) At the time of OGE’s inspection, the Commission had not established written procedures for initial ethics training.</p>				

8.0 Annual Ethics Training				
COMPLIANCE REQUIREMENTS				
		Yes	No	N/A
	Each calendar year, public filers, confidential filers, and certain other employees must complete ethics training which meets specified requirements. <i>See 5 C.F.R. §§ 2638.307 and 2638.308.</i>			
8.1	The training presentation(s) addressed concepts related to financial conflicts of interest, impartiality, misuse of position and gifts. <i>See 5 C.F.R. §§ 2638.307(e)(1) and 2638.308(f)(1).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.2	The agency provided employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See 5 C.F.R. § 2638.304(e)(2).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.3	The agency's annual ethics training complies with the formatting requirements for public filers, confidential filers, and certain other employees. <i>See 5 C.F.R. §§ 2638.307(d) and 2638.308(e).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.4	The agency's program for annual ethics training complies with the tracking requirements for public filers, confidential filers, and certain other employees. <i>See 5 C.F.R. §§ 2638.307(f) and 2638.308(g).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8.5	The agency can demonstrate it has an effective process for ensuring covered public filers, other than those whose pay is set at Level I or Level II of the Executive Schedule, complete live annual ethics training at least once every two years. <i>See 5 C.F.R. § 2638.308(e)(2).</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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	DATA ANALYSIS	Training Format	
		Live	Interactive
	Percentage of public filers who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.308(a).		
8.6	• Executive Schedule Level I and Level II. <i>See</i> 5 C.F.R. § 2638.308(e)(1).	N/A	N/A
8.7	• Other PAS and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(2).	N/A	N/A
8.8	• SES and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(3).	0%	0%
	Percentage of confidential filers and certain other employees who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.307(a)(d).		
8.9	• Employees required to file an annual confidential financial disclosure report. <i>See</i> 5 C.F.R. § 2638.307(a)(1).	0%	0%
8.10	• Employees appointed by the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	0%	0%
8.11	• Employees of the Executive Office of the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	N/A	N/A
8.12	• Contracting officers described in 41 U.S.C. § 2101. <i>See</i> 5 C.F.R. § 2638.307(a)(3).	N/A	N/A
8.13	• Other employees designated by the head of the agency. <i>See</i> 5 C.F.R. § 2638.307(a)(4).	N/A	N/A
	COMMENTS		
	<p>(8.1) OGE examined the Commission's annual training presentation and found it to address all training concepts with the possible exception of the misuse of position concept. While OGE is not making a formal recommendation for the omission of the concept related to misuse of position, OGE suggests that Commission ethics officials make certain to highlight each of the four topics through discussion questions or summary statements by the presenter to ensure that each concept is addressed in future trainings.</p> <p>(8.2 – 8.13) Annual ethics training was not provided to covered employees in 2019. Ethics officials stated that training was not provided mainly because non-ethics Commission matters were given precedence over ethics-related program matters. OGE reminds the Commission of the importance of a strong ethics education and training program to help in preventing employees from committing ethics violations and recommends that the Commission provide annual ethics training, as required. While OGE was advised that all covered employees will be trained in September 2020 to help satisfy the annual ethics training requirement for 2020, as a good management practice, OGE suggests that the required training be rendered throughout the year to various employees rather than waiting until the end of year.</p> <p>(8.6) The Commission does not have any Executive Schedule Level I or Level II employees.</p> <p>(8.7) The Commission does not have any other PAS or equivalent employees required to file a public financial disclosure report.</p> <p>(8.11 – 8.13) The Commission does not have any employees required to receive annual ethics training in these categories.</p>		

9.0	ETHICS ADVICE AND COUNSELING			
	COMPLIANCE REQUIREMENT	Yes	No	N/A
9.1	Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations. <i>See</i> 5 C.F.R. § 2638.104(c)(4).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	COMMENTS			
	(9.1) According to the DAEO, written ethics counseling was not provided to Commission employees during the period under review.			

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Date: September 29, 2020

Period Covered by Review: January 1, 2019 through December 31, 2019

**UNITED STATES OFFICE OF
GOVERNMENT ETHICS**


Preventing Conflicts of Interest
in the Executive Branch
10.0 Special Government Employees (SGE)**Confidential Financial Disclosure**

10.1	Number of SGEs serving on Advisory Committees and Boards.	N/A
	DATA ANALYSIS	%
10.2	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	100%
10.3	Percentage of sampled reports reviewed within 60 days of receipt but not later than the SGE's first meeting. <i>See</i> 5 C.F.R. § 2634.605(a).	0%
10.4	Percentage of sampled reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	0%

Ethics Training

	COMPLIANCE REQUIREMENTS	Yes	No	N/A
	Required ethics training must be provided to each SGE. <i>See</i> 5 C.F.R. §§ 2638.304 and 2638.307.			
10.5	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. § 2638.304(e)(1).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10.6	The agency provided employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See</i> 5 C.F.R. § 2638.304(e)(2).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	DATA ANALYSIS	%		
10.7	Percentage of SGEs who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.	N/A		
10.8	Percentage of SGEs who received initial ethics training timely. <i>See</i> 5 C.F.R. § 2638.304(b)(2).	N/A		
10.9	Percentage of SGEs who received annual ethics training. <i>See</i> 5 C.F.R. § 2638.307(d)(2).	0%		

COMMENTS

(10.2) Presidential Commission appointees who are private citizens serve five-year terms and work for not more than 130 days during any consecutive 365-pay period and are considered Special Government Employees. At the time of OGE's inspection, there were two private citizen Commission members. OGE examined both their new entrant confidential reports and found both were filed timely. However, neither report filed in 2019 was certified.

(10.5 -10.9) Private citizen commission members were not provided annual ethics training in 2019. The DAEO stated this was due to non-ethics related Commission matters being given precedence over ethics program-related matters.

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Preventing Conflicts of Interest
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ISSUES IDENTIFIED AND RESOLVED DURING THE INSPECTION

Element	ISSUE
4.1	<p><u>ISSUE:</u> The Commission's written procedures for confidential financial disclosure included a reference to OGE's Optional Form 450-A</p> <p><u>AGENCY RESPONSE:</u> The DAEO has removed the reference for OGE Optional Form 450-A from the Commission's procedures for confidential financial disclosure reporting.</p>

RECOMMENDATIONS

#	Element	RECOMMENDATION	Compliance Due
1	3.1	<p><u>RECOMMENDATION:</u> Update the agency's written procedures for public financial disclosure to address how the agency handles the collection, review and certification of termination public financial disclosure reports. OGE also recommends that these procedures be updated to reflect that the ADAEO position is the one responsible for the review and certification of the DAEO's public report.</p> <p><u>AGENCY RESPONSE:</u> The DAEO will coordinate with the Commission's Chief of Staff and OGE Desk Officer to draft written procedures for agency, collection, review and certification of termination public financial disclosure reports. The DAEO has drafted language for the Executive Director's approval to address this recommendation.</p>	November 2020
2	3.4	<p><u>RECOMMENDATION:</u> Collect the \$200 late filing fee from the Executive Director as a result of the 2019 public financial disclosure report being filed late.</p> <p><u>AGENCY RESPONSE:</u> The Agency is in the process of depositing the late fee collected from the Executive Director for the late filing for the 2019 report (covering 2018) which was filed on August 17, 2020. There is no late fee due for the 2020 report as the Executive Director had an extension through August 13, 2020. The Executive Director filed the 2020 278 report on August 20, 2020, within 30 days of the last extension. Pursuant to 5 C.F.R. § 2634.704(a)(2), no late fee is owed.</p>	November 2020
3	3.12,3.13	<p><u>RECOMMENDATION:</u> Ensure all public reports are reviewed and certified within 60 days of receipt.</p> <p><u>AGENCY RESPONSE:</u> The DAEO has received 278 reports for 2020 as of August 13 and August 20, 2020, and will ensure they are reviewed and certified within 60 days. Additionally, the DAEO received the Executive Director's 2019 report as of August 17 and will review and certify it within 60 days.</p>	November 2020
4	4.9, 4.10	<p><u>RECOMMENDATION:</u> Review and certify all confidential reports filed in 2019 and 2020.</p> <p><u>AGENCY RESPONSE:</u> The DAEO and ADAEO will complete all reviews by November 2020.</p>	November 2020

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5	5.1 – 5.5	<p><u>RECOMMENDATION:</u> Ensure that all written offers of employment meet the requirements of 5 C.F.R. § 2638.303.</p> <p><u>AGENCY RESPONSE:</u> The DAEO will coordinate with the Commission's Chief of Staff and OGE Desk Officer to ensure the GSA HR Shared Service Provider inserts the appropriate language in the written offer letters for Commission employees.</p>	March 2021
6	5.6, 5.8	<p><u>RECOMMENDATION:</u> Develop written procedures for issuing notices to prospective employees and ensure that prospective employees receive the notices, as required by 5 C.F.R. § 2638.303.</p> <p><u>AGENCY RESPONSE:</u> Again, the DAEO will coordinate with the Commission's Chief of Staff and OGE Desk Officer to develop procedures for the GSA HR Shared Service Provider to provide the appropriate notices to prospective employees.</p>	March 2021
7	6.1 – 6.4	<p><u>RECOMMENDATION:</u> Ensure that all written notices to new supervisors meet the requirements of 5 C.F.R. § 2638.306.</p> <p><u>AGENCY RESPONSE:</u> The DAEO will coordinate with the Commission's Chief of Staff and OGE Desk Officer to ensure the GSA HR Shared Service Provider inserts the appropriate notices to new Commission supervisors.</p>	March 2021
8	6.5	<p><u>RECOMMENDATION:</u> Develop written procedures for issuing notices to new supervisors and ensure supervisors receive the notices as required by 5 C.F.R. § 2638.306.</p> <p><u>AGENCY RESPONSE:</u> The DAEO will coordinate with the Commission's Chief of Staff and OGE Desk Officer to develop procedures for the GSA HR Shared Service Provider to provide the appropriate notices to Commission supervisors.</p>	March 2021
9	7.3	<p><u>RECOMMENDATION:</u> Establish written procedures for initial ethics training as required by 5 C.F.R. § 2638.304(f).</p> <p><u>Agency Comment:</u> The DAEO will coordinate with the Commission's OGE Desk Officer to develop written procedures for initial ethics training as required by 5 C.F.R. § 2638.304(f).</p>	March 2021
10	8.0, 10.0	<p><u>RECOMMENDATION:</u> Ensure that all Commission covered employees, including all Commission private members, receive the required annual ethics training by the end of 2020.</p> <p><u>Agency Comment:</u> The DAEO and ADAEO will complete annual ethics training for the Commission covered employees, including the Commission private members, by the end of 2020.</p>	December 2020