

ETHICS PROGRAM REVIEW FOLLOW-UP REPORT

Agency: Environmental Protection Agency

Follow-up to OGE Report Number: 20-42

Report No.: 21-12F

Date: March 25, 2021

UNITED STATES OFFICE OF
GOVERNMENT ETHICS


Preventing Conflicts of Interest
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As a result of its review of the Environmental Protection Agency (EPA) ethics program, the Office of Government Ethics (OGE) issued 24 recommendations in its September 2020 review report. OGE conducted a follow-up review to assess whether the EPA has taken sufficient action to resolve the deficiencies underlying these recommendations. The results of the follow-up review are summarized below.

	Recommendation	Agency Action and OGE Finding	Status
1	Ensure that written procedures for public financial disclosure include the requirement that new entrant and termination public financial disclosure reports are filed no later than 30 days after the date of an employee's appointment to or termination from a public filing position.	OGE reviewed EPA written procedures for public financial disclosure issued in December 2020 and found that they include the requirement that new entrant and termination public financial disclosure reports are filed no later than 30 days after the date of an employee's appointment to or termination from a public filing position.	Closed
2	Ensure the written procedures for confidential financial disclosure are revised to reflect the process for filing confidential reports through EPA's new electronic filing system.	OGE reviewed EPA written procedures for confidential financial disclosure issued in December 2020 and found that they reflect the process for filing confidential reports through EPA's new electronic filing system.	Closed
3	Ensure that OHR notifies the DAEO or responsible DEO when an employee enters a position whose incumbent is required to file a confidential financial disclosure report, as required by 5 C.F.R. § 2638.105.	EPA OGC Ethics is continuing to work with OHR to address this recommendation.	Open
4	Ensure that new entrant public financial disclosure reports are filed timely.	OGE examined a sample of 25 of the 70 new entrant reports filed in 2020. OGE's examination found that 23 (92%) of the reports were filed timely.	Closed
5	Ensure that termination public financial disclosure reports are filed timely.	OGE reviewed a sample of 25 of the 59 termination reports filed in 2020. OGE's examination found that 20 (80%) of the reports were filed timely. One of the late reports was filed only two days after the deadline for filing.	Closed
6	Assess or waive late filing fees for public financial disclosure report filers who file reports more than 30 days after the applicable due date.	Two of the termination reports reviewed by OGE were filed more than 30 days after the applicable due date. OGE found that the waiver of the late filing fee was documented in Integrity.	Closed

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7	Ensure that public financial disclosure reports are certified timely.	OGE found that 47 of the 50 (94%) public reports reviewed by OGE were certified timely.	Closed
8	Ensure that new entrant confidential financial disclosure reports are filed timely.	<p>EPA officials provided OGE a report produced by its confidential financial disclosure electronic filing system showing that 85% of all new entrant reports were filed timely. However, ethics officials indicated on the report that the percent of new entrant reports filed timely cannot easily be calculated. They explained that they do not have access to appointment dates for new entrants, nor do they track the dates that their organizations registered new entrants to file a confidential disclosure report. When ethics officials are made aware that an employee has entered into a covered position or has been identified as performing duties that require them to file a confidential report, they advise the filer that they are required to submit the report within 30 days of being notified. The percentage of reports filed timely was calculated using the due date ethics officials set (30 days from notification) and the date the report was filed.</p> <p>It is imperative that EPA ethics officials be able to identify the appointment date of each new entrant filer. The appointment date is necessary to determine the due date for a new entrant filer's report. If necessary, ethics officials should engage with agency leadership to ensure OHR fulfills its regulatory obligation to support the ethics program.</p>	Open

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9	Ensure that new entrant confidential financial disclosure reports are certified timely.	According to the EPA's electronic confidential disclosure filing system, 91% of the new entrant reports were certified timely. Although EPA's electronic filing system does not provide accurate data concerning filing timeliness, it does provide reliable data concerning timeliness of review and certification. These calculations are primarily based on the number of days between a report being filed, reviewed, and certified, even when the report is filed after it's due date.	Closed
10	Ensure that confidential financial disclosure reports are thoroughly reviewed in order to eliminate technical reporting deficiencies.	EPA ethics officials indicated that the technical reporting deficiencies that OGE identified in previous reviews, such as missing dates of appointment or dates received have been remedied by the electronic filing system. The system draws this information directly from the Agency's business platform. Reports cannot be submitted without the relevant fields being populated by the system. OGE will examine EPA's electronic system during its next follow-up review.	Open
11	Ensure that the confidential disclosure forms generated by EPA's electronic financial disclosure system exactly replicate the existing paper version of the OGE Form 450.	EPA modified the confidential disclosure form generated by its electronic financial disclosure system to replicate the existing paper version of the OGE Form 450.	Closed
12	Ensure that PAS officials complete the required ethics briefing no later than 15 days after their appointment.	OGE will evaluate EPA's progress in addressing this recommendation once new PAS officials are appointed in 2021.	Open
13	Establish written procedures for issuing the required notices to prospective employees and ensure the DAEO reviews them annually.	EPA established written procedures for issuing the required notices to prospective employees and committed to ensuring that the DAEO reviews them annually.	Closed
14	Ensure OHR or other responsible office provides the DAEO a summary of written procedures for providing the notices to prospective employees and that the DAEO reviews those procedures annually.	EPA established written procedures for issuing the required notices to prospective employees and committed to ensuring that the DAEO reviews them annually.	Closed

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15	Ensure that OHR or other responsible office provides the DAEO written confirmation that there is a reasonable basis for concluding that the procedures have been implemented.	OHR provided the DAEO written confirmation that there is reasonable basis for concluding that the procedures have been implemented.	Closed
16	Ensure that the notices to prospective employees meet all content requirements and are issued as required.	OGE examined a sample of notices issued to prospective employees and found that they met all content requirements.	Closed
17	Ensure the DAEO establish written procedures for issuing supervisory ethics notices and that the DAEO reviews the written procedures annually.	OHR advised that it does not send materials to first time supervisors. OHR relies on supervisors' managers to provide all required information. OGC Ethics is working with OHR to address this recommendation.	Open
18	Ensure OHR or other responsible office provides the DAEO a summary of written procedures for providing the supervisory ethics notices and that the DAEO reviews those procedures annually.	OGC Ethics is working with OHR to address this recommendation.	Open
19	Ensure that OHR or other responsible office provides the DAEO written confirmation that there is a reasonable basis for concluding that the procedures for issuing the supervisory ethics notices have been implemented.	OGC Ethics is working with OHR to address this recommendation.	Open
20	Ensure that the supervisory ethics notices meet all content requirements and are issued as required.	OGC Ethics prepared a template for the supervisory ethics notices. The template meets all content requirements. OGE will review a sample of the notices provided to new supervisors during its next follow-up	Open
21	Ensure the DAEO establish written procedures for providing IET to new employees within three months of appointment and that the DAEO reviews the written procedures annually.	EPA established written procedures for providing IET to new employees within 3 months of appointment. The written procedures were reviewed in December 2020.	Closed
22	Ensure that the Administrator, as an Executive Schedule Level II employee, completes live annual ethics training every year.	The EPA Administrator received live training in November 2020.	Closed

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23	When possible, provide OGE the EPA 3110-48 reports filed by FIFRA and HSRBC members in 2019.	Access to these documents requires that the Designated Federal Officers return to the office. OGE will evaluate EPA's progress in addressing this recommendation once it is safe for ethics officials to return to the office.	Open
24	When possible, provide evidence of annual ethics training completion in 2019 and 2020 by all FIFRA SAP and HSRB members.	Access to these documents requires that the Designated Federal Officers return to the office. OGE will evaluate EPA's progress in addressing this recommendation once it is safe for ethics officials to return to the office.	Open

Based on the results of OGE's follow-up review, recommendations 1- 2, 4-7, 9, 11, 13-16 and 21-22 are closed. OGE will conduct an additional follow-up review in approximately 6 months to assess whether the EPA has taken sufficient action to resolve the deficiencies underlying the recommendations which remain open.