



# Ethics Program Review

U.S. Department of Energy

Report No. 21-18  
April 28, 2021



The U.S. Office of Government Ethics (OGE) conducted a review of the U.S. Department of Energy (DOE) ethics program from October 2020 through February 2021. The following summarizes the results of that review.

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## Objectives, Scope, and Methodology

**Objectives:** OGE provides overall leadership and oversight of the executive branch ethics program designed to prevent and resolve conflicts of interest. The Ethics in Government Act gives OGE the authority to evaluate the effectiveness of executive agency ethics programs.<sup>1</sup> OGE uses this evaluation authority largely to conduct reviews of agency ethics programs. 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.

**Scope:** OGE examined all elements of the DOE ethics program administered by the Ethics Office, which is located within DOE headquarters. These elements include program administration, financial disclosure, education and training, ethics counseling, agency-specific ethics rules, conflict remedies, enforcement, and special government employees.

**Methodology:** OGE conducted the review of the DOE ethics program from October 2020 through February 2021. As part of its review, OGE examined a variety of documents provided by DOE ethics officials, including DOE’s response to OGE’s 2020 Annual Agency Ethics Program Questionnaire, written procedures for administering the program, samples of public and confidential financial disclosure reports filed in 2020, ethics training materials, and a sample of the ethics counseling provided to employees. In addition, OGE met with DOE ethics officials to clarify the information gathered, follow up on issues identified during the review, and discuss ethics program operations in further detail.

<sup>1</sup> See 5 U.S.C. app. § 402 and 5 C.F.R. part 2638.

## Program Administration

The Ethics Office is located within the Office of the General Counsel (OGC), under the Office of the Deputy General Counsel for Agency Operations. The Deputy General Counsel for Administration serves as the Designated Agency Ethics Official (DAEO) and manages an ethics team of six attorneys, a management specialist, and a paralegal specialist. The Assistant General Counsel for Ethics and Personnel Law serves as the ADAEO. However, that position was vacant during OGE's review.

The Ethics Office provides ethics services to all DOE employees stationed in the Washington DC commuting area, with the following exceptions: employees of the National Nuclear Security Administration (NNSA) and the Bonneville Power Administration (BPA). The Ethics Office also provides ethics services to all employees of DOE's Office of Inspector General, Office of Legacy Management, and Office of Scientific and Technical Information, regardless of duty station. The office also provides ethics guidance to all political appointees and reviews and certifies all public financial disclosure reports throughout DOE.

In addition to the employees of the Ethics Office, DOE has approximately 85 ethics officials located throughout the country who are responsible for providing ethics training, advice, and outside-activity approval, and for reviewing and certifying confidential financial disclosure reports for non-headquarters employees.

## Financial Disclosure

Title I of the Ethics in Government Act requires that agencies administer public and confidential financial disclosure systems. 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 process also offers an opportunity for ethics officials to provide ethics-related counseling to report filers.

To evaluate DOE's financial disclosure systems, OGE examined the required written procedures for administering the systems, DOE's processes for notifying the DAEO when employees enter or depart filing positions, and a sample of public and confidential financial disclosure reports.

### Financial Disclosure Written Procedures

Each executive branch agency must establish written procedures for collecting, reviewing, evaluating, and where applicable, making publicly available financial disclosure reports filed by the agency's officers and employees.<sup>2</sup> OGE examined DOE's written procedures and determined that they meet applicable requirements.

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<sup>2</sup> See 5 U.S.C. app. § 402(d)(1).

## Notices to the DAEO Regarding Positions Requiring Financial Disclosure

Agency human resources offices play a vital role in ensuring the effective administration of the ethics program. Without necessary information about agency employees, ethics officials cannot successfully carry out their important work. Among other things, the lead human resources official is required to notify the DAEO of all appointments to positions that require incumbents to file public or confidential financial disclosure reports no later than 15 days after the appointment. The lead human resources official must also notify the DAEO of terminations of employees in positions that require incumbents to file public financial disclosure reports no later than 15 days after termination.<sup>3</sup>

DOE's Office of the Chief Human Capital Officer (CHCO), Office of Corporate Executive Management (OCEM), or the appropriate field personnel office is responsible for notifying the Ethics Office of appointments and terminations of public financial disclosure report filers. OGE reviewed a sample of appointment and termination notifications provided to the Ethics Office in 2020 and found that they were provided timely.

The CHCO or the appropriate field personnel office is also responsible for notifying the Ethics Office of appointments to positions whose incumbents are required to file confidential reports. OGE reviewed a sample of appointment notifications provided to the Ethics Office and found they were provided timely.

### Public Financial Disclosure

Within 30 days of assuming a covered public filing position, an individual must file a public financial disclosure report.<sup>4</sup> The individual must subsequently file an annual report by May 15 each year and a termination report within 30 days of departing the public filing position.<sup>5</sup> Ethics officials are required to review the reports for potential conflicts of interest and certify them within 60 days of receipt by an agency's ethics office, unless they are seeking additional information from the filer or taking remedial action.<sup>6</sup>

DOE's public financial disclosure report filers submit their reports to the Ethics Office through *Integrity*, OGE's web-based electronic filing system. To evaluate the administration of DOE's public financial disclosure system, OGE examined a sample of 24 new entrant, 45 annual, and 22 termination reports that were required to be filed in 2020. Table 1 below presents the results of OGE's examination.

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<sup>3</sup> See 5 C.F.R. § 2638.105(a)(1) and (2).

<sup>4</sup> See 5 C.F.R. § 2634.201(b).

<sup>5</sup> See 5 C.F.R. § 2634.201(a) and (e).

<sup>6</sup> See 5 C.F.R. § 2634.605.

**Table 1. OGE’s Examination of DOE Public Financial Disclosure Reports Filed in 2020**

	New Entrant		Annual		Termination		Total	
<b>Reports Examined</b>	24		45		22		91	
<b>Filed Timely</b>	20	(83%)	45	(100%)	17	(77%)	82	(90%)
<b>Certified within 60 Days of Receipt</b>	23	(96%)	32	(71%)	20	(91 %)	75	(82%)

As noted in Table 1 above, 82 (90%) of the public reports OGE examined were filed timely. Of the remaining 9 reports, 5 were filed more than 30 days after the applicable due date. OGE found that DOE officials made a determination to assess or waive the late filing fee for these reports.

Table 1 also shows that only 17 (77%) of the termination reports OGE examined were filed timely. To improve the filing timeliness of termination reports, OGE encourages DOE to make use of the regulatory provision allowing departing filers to file their termination reports up to 15 days before their termination date, if the filers agree to update these reports in the event that there are changes to reportable information before or on their termination dates.<sup>7</sup>

**Confidential Financial Disclosure**

Within 30 days of assuming a confidential filing position, an individual must file a new entrant confidential financial disclosure report.<sup>8</sup> The individual must also subsequently file an annual report by February 15 each year.<sup>9</sup> Ethics officials are required to review the reports for potential conflicts of interest and certify them within 60 days of receipt, unless they are seeking additional information from the filer or taking remedial action.<sup>10</sup>

New E-filing System

At the beginning of the COVID-19 pandemic, new entrant confidential filers were instructed to file their reports by completing fillable PDF forms and submitting them via email to ethics officials. Then, in December 2020, DOE began requiring its confidential filers to use an electronic filing system, FDOonline, to file their reports. Employees filing annual reports in 2021 were also required to use the electronic system.

DOE’s ethics officials advised OGE that all 2020 annual confidential financial disclosure reports were filed using paper forms. The reports are physically stored in DOE office space and were inaccessible at the time OGE’s review because of COVID-19 restrictions. OGE’s policy during the COVID-19 pandemic prohibits asking agencies to send staff to their offices or

<sup>7</sup> See PA-16-06

<sup>8</sup> See 5 C.F.R. § 2634.903(b).

<sup>9</sup> See 5 C.F.R. § 2634.903(a).

<sup>10</sup> See 5 C.F.R. § 2634.605.

otherwise violate social-distancing or other mitigation policies to retrieve requested materials. OGE will assess DOE’s compliance with the annual confidential financial disclosure requirements when circumstances permit.

OGE examined a sample of 42 DOE confidential new entrant reports filed in 2020. Table 2 below presents the results of OGE’s examination.

**Table 2. OGE’s Examination of DOE New Entrant Confidential Financial Disclosure Reports Filed in 2020**

	New Entrant Confidential Reports	
<b>Reports Examined</b>	42	
<b>Filed Timely</b>	32	(76 %)
<b>Certified within 60 Days of Receipt</b>	27	(64 %)

Table 2 shows that of the confidential new entrant reports examined by OGE, 32 (76%) were filed timely and only 27 (64%) were certified within 60 days of receipt (Two of the reports OGE examined and found to be certified more than 60 days after receipt were certified within 63 days of receipt.) OGE encourages DOE to improve the filing timeliness of the new entrant reports to ensure that employees’ potential conflicts of interest are promptly identified and addressed.

DOE ethics officials cited two issues that contributed to the low percentage of new entrant reports certified timely. First, ethics officials stated that due to technological difficulties, some filers were unable to submit their confidential financial disclosure reports using the fillable OGE Form 450. Thus, when ethics officials received the reports, frequently they were unable to edit and sign them. Second, the ethics office experienced staff shortages in 2020. Although DOE hired two new ethics attorneys during the last three months of 2020, both attorneys required training to prepare them to review and certify confidential reports.

Recommendation

1. Ensure that confidential financial disclosure reports are certified timely.

**Education and Training**

Each executive branch agency must carry out a government ethics education program to teach employees how to identify government ethics issues and obtain assistance in complying with government ethics laws and regulations. The training program is required to include: briefings for certain presidentially appointed, Senate-confirmed (PAS) officials; notices for prospective employees and newly appointed supervisors regarding their ethics-related obligations; initial ethics training for new employees; and annual ethics training for public and confidential financial disclosure report filers and certain other employees.<sup>11</sup> An ethics education

<sup>11</sup> See 5 C.F.R. Part 2638 Subpart C.

program is essential to raising awareness among employees about the ethics laws and rules that apply to them and the availability of agency ethics officials to provide ethics counseling.

### **Ethics Briefings for Certain Agency Leaders**

Certain PAS officials must complete an ethics briefing to discuss their immediate ethics obligations no later than 15 days after their appointment, unless the DAEO grants an extension. Any extension of more than 15 days requires the DAEO to make a written determination that extraordinary circumstances make it necessary to provide the briefing at a later date.<sup>12</sup> OGE's review determined that DOE ethics officials provided the ethics briefing timely to the only PAS official appointed in 2020.

### **Notices to Prospective Employees**

Written offers of employment for positions covered by the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) must include: a statement regarding the agency's commitment to government ethics; notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes; information on how to obtain additional information on applicable ethics requirements; and, when applicable, notice of the time frame for completing initial ethics training and information regarding the filing of new entrant financial disclosure reports.<sup>13</sup>

OGE's review determined that DOE has established written procedures for issuing notices to prospective employees. OGE also determined that DOE has a process to ensure that the DAEO reviews the written procedures annually. OGE also reviewed a sample of written offers of employment issued to prospective employees in 2020 and found that they met applicable requirements.

### **Notices to New Supervisors**

An agency must provide each employee upon initial appointment to a supervisory position with certain written materials within one year of the appointment. The written materials must include: contact information for the agency's ethics office and the text of the regulation specifying the government ethics responsibilities of supervisors;<sup>14</sup> a copy of, a hyperlink to, or the address of a web site containing the Principles of Ethical Conduct; and such other information as the DAEO deems necessary for new supervisors.<sup>15</sup>

OGE's review determined that DOE has established written procedures for issuing the required written materials to new supervisors within one year of appointment. OGE also determined that DOE has a process to ensure that the DAEO reviews the procedures every year. OGE also reviewed a sample of notices provided to new supervisors in 2020 and found that they met applicable requirements.

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<sup>12</sup> See 5 C.F.R. § 2638.305.

<sup>13</sup> See 5 C.F.R. § 2638.303.

<sup>14</sup> See 5 C.F.R. § 2638.103.

<sup>15</sup> See 5 C.F.R. § 2638.306.

## **Initial Ethics Training**

Each new employee subject to the Standards of Conduct must complete initial ethics training (IET) that meets the requirements of 5 C.F.R. § 2638.304 within three months of appointment, unless excluded by the DAEO. The training must be interactive and focus on government ethics laws and regulations that the DAEO deems appropriate. The training must address: financial conflicts of interest, impartiality, misuse of position, and gifts. In addition to the training presentation, the agency must provide the employee with either written copies of, or written instructions for accessing: the summary of the Standards of Conduct distributed by OGE or an equivalent summary prepared by the agency; provisions of the agency's supplemental regulations or a summary thereof, as determined appropriate by the DAEO; and instructions for contacting the agency's ethics office.<sup>16</sup>

OGE determined that DOE has established written procedures for providing IET. OGE also determined that DOE has a process to ensure that the DAEO reviews the procedures each year.

Additionally, OGE reviewed the materials DOE used to provide IET to new employees in 2020 and determined that the materials met applicable content requirements. OGE also examined IET completion records and found that 99% of the headquarters employees hired in 2020 received IET at some point during the year and 90% of these employees received it within three months of appointment, as required.

## **Annual Ethics Training for Public Filers**

Generally, an agency must provide live training each calendar year to each of its employees whose pay is set at Level I or Level II of the Executive Schedule. An agency also must provide live training to other employees who are required to file public financial disclosure reports pursuant to 5 C.F.R. § 2634.201(a) every other year, and provide interactive training in the intervening years. The training presentation, whether live or interactive, must focus on government ethics laws and regulations that the DAEO deems appropriate. The training, whether live or interactive, must address: financial conflicts of interest, impartiality, misuse of position, and gifts. In addition to the training presentation, the agency must provide the employee with either written copies of, or written instructions for accessing: the summary of the Standards of Conduct distributed by OGE or an equivalent summary prepared by the agency; provisions of the agency's supplemental regulations or a summary thereof, as determined appropriate by the DAEO; and instructions for contacting the agency's ethics office.<sup>17</sup>

According to Ethics Office officials, in 2020 DOE conducted annual training for political appointees, including DOE's one Executive Schedule Level I and one Executive Schedule Level II employees, through live videoconference sessions. OGE reviewed the presentation materials for the videoconference sessions and determined that they met applicable content requirement.

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<sup>16</sup> See 5 C.F.R. § 2638.304.

<sup>17</sup> See 5 C.F.R. § 2638.308.

Ethics Office officials explained that career public filers received ethics training through online modules and videoconference sessions. OGE reviewed the modules and accompanying written materials and determined that both met applicable content requirements.

OGE examined DOE's 2020 training completion records and determined that 95% of all public filers received annual ethics training in 2020.

### **Annual Ethics Training for Confidential Filers and Certain Other Employees**

Generally, an agency is required to provide interactive training each calendar year to employees who are required to file a confidential financial disclosure report pursuant to 5 C.F.R. § 2634.904; employees appointed by the President and employees of the Executive Office of the President; contracting officers described in 41 U.S.C. § 2101; and, other employees designated by the head of the agency. The training presentation must focus on government ethics laws and regulations that the DAEO deems appropriate. The training must address: financial conflicts of interest, impartiality, misuse of position, and gifts. In addition to the training presentation, the agency must provide the employee with either written copies of, or written instructions for accessing: the summary of the Standards of Conduct distributed by OGE or an equivalent summary prepared by the agency; provisions of the agency's supplemental regulations or a summary thereof, as determined appropriate by the DAEO; and instructions for contacting the agency's ethics office.<sup>18</sup>

According to Ethics Office officials, in 2020 DOE provided annual ethics training for confidential filers using online modules. OGE reviewed the modules' accompanying written materials and determined that they met applicable content requirements. OGE also reviewed the training records of the headquarters confidential filers and found that 99% received annual training in 2020.

### **Ethics Counseling**

The DAEO, acting directly or through other officials, is responsible for providing advice and counseling to prospective and current employees regarding government ethics laws and regulations, and providing former employees with advice and counseling regarding post-employment restrictions applicable to them.<sup>19</sup> A robust ethics counseling program is necessary to ensure that employees receive the guidance they need to comply with the ethics rules.

OGE reviewed a sample of the ethics-related counseling that Ethics Office officials provided to DOE employees. The counseling addressed a variety of issues including gift acceptance, outside employment, outside speaking and other activities, impartiality, and post-employment restrictions. OGE's review found the counseling to be consistent with applicable laws and regulations.

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<sup>18</sup> See 5 C.F.R. § 2638.307.

<sup>19</sup> See 5 C.F.R. § 2638.104 (c)(4).

## Agency-Specific Ethics Rules

An agency may modify or supplement the Standards of Conduct, with the concurrence of OGE, to meet the particular needs of that agency.<sup>20</sup> A supplemental standards of conduct regulation is issued jointly by the agency and OGE and is published in title 5 of the Code of Federal Regulations.

DOE's supplemental standards of conduct regulation requires that an employee, other than a special government employee, obtain written approval from the employee's supervisor and ethics counselor prior to engaging in certain outside employment.<sup>21</sup> Employees do not need approval to participate in the activities of a nonprofit, charitable, religious, public service or civic organization, unless such activities involve the provision of professional services or are for compensation. The regulation also specifies that the agency must grant approval unless there is a determination that the outside employment is expected to involve conduct prohibited by statute or federal regulation.

To evaluate employees' compliance with DOE's prior approval requirement, OGE reviewed the outside activities reported on the public financial disclosure reports that OGE examined during the evaluation of the DOE financial disclosure systems and a sample of outside activity requests provided by DOE. OGE confirmed that the employees reporting outside positions either had received the required approval or did not require prior approval.

## Conflict Remedies

The primary criminal conflict of interest law prohibits an employee from participating in an official capacity in a particular matter in which he or she has a financial interest.<sup>22</sup> Congress included two provisions that permit an agency to issue a waiver of this prohibition in individual cases. Agencies must consult with OGE, where practicable, prior to issuing such a waiver.<sup>23</sup> OGE's review found that DOE issued 10 such waivers in 2020 and consulted with OGE prior to the issuance of each of the 10.

Additionally, PAS nominees are required to address their actual or apparent conflicts of interest by documenting the specific actions they are required to take to alleviate their conflicts of interest.<sup>24</sup> This written notice is commonly known as an "ethics agreement." Once confirmed, PAS appointees must fulfill all of their written ethics commitments. OGE's review found that the only PAS official confirmed in 2020 timely complied with the terms of his ethics agreement.

<sup>20</sup> See Executive Order 12674 and 5 C.F.R. § 2635.105.

<sup>21</sup> See 5 C.F.R. part 3301.

<sup>22</sup> See 18 U.S.C. § 208.

<sup>23</sup> See Executive Order 12674.

<sup>24</sup> See 5 U.S.C. app. § 110.

## Enforcement

Executive branch offices are required to notify OGE when they refer a potential violation of a criminal conflict of interest law to the Department of Justice (DOJ).<sup>25</sup> OGE's review found that DOE made one such referral in 2020 and notified OGE, as required.

Additionally, OGE's review found that in 2020 there was one disciplinary action taken based wholly or in part upon violations of the criminal conflict of interest laws and one disciplinary action taken based wholly or in part upon violations of the Standards of Conduct.

## Special Government Employees

A special government employee (SGE) is an officer or employee of the executive or legislative branch retained, designated, appointed, or employed to perform official duties, full-time or intermittently, for not more than 130 days in any 365-day period.<sup>26</sup> SGEs are required to file financial disclosure reports and receive ethics training.

### Advisory Committee SGEs

#### Financial Disclosure

Each advisory committee SGE is required to file a new entrant report upon appointment and then each year thereafter upon their re-appointment or re-designation as an SGE. These SGEs must file their reports before the first committee meeting of the year.<sup>27</sup>

DOE maintains 18 active Federal Advisory Committee Act (FACA) committees, many of the members of which are SGEs. To evaluate the ethics program services rendered to DOE advisory committees SGEs, OGE selected the Environmental Management Advisory Board (EMAB) for review.

EMAB conducted one meeting in 2020. Eleven SGE EMAB members attended the meeting. All 11 members were required to submit a confidential financial disclosure report before attending the meeting. However, only 9 of the 11 confidential financial disclosure reports required to be filed by the attendees were made available to OGE for examination. Table 3 below presents the results of OGE's review of these nine reports.

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<sup>25</sup> See 5 C.F.R. § 2638.206.

<sup>26</sup> See 18 U.S.C. § 202(a).

<sup>27</sup> As allowed by 5 C.F.R. § 2634.905(a), DOE SGEs who serve on advisory committees file OGE-approved alternative confidential financial disclosure forms. The alternative form requires disclosure only of interests with the potential to be affected by policy deliberations likely to come before an SGE's advisory committee.

**Table 3. Examination of EMAB SGE Confidential Financial Disclosure Reports**

<b>Confidential Reports Examined</b>	9	
<b>Filed Timely</b>	6	(67%)
<b>Reviewed Timely</b>	8	(89%)
<b>Certified within 60 Days of Receipt</b>	8	(89%)

As shown in Table 3, six members filed their reports timely--before participating in the committee meeting. Three members filed their reports a month after the meeting. In addition, OGE found that ethics officials reviewed five of the nine reports before or on the date of the committee meeting. Eight reports were certified within 60 days of being submitted.

DOE ethics officials explained that one Board member's term expired in the same month the committee met and although she attended the meeting they concluded that she was not required to file a report. However, because the member attended the meeting she was required to file a report.

According to ethics officials records the remaining member who attended the meeting filed his report timely. However, ethics officials were unable to provide the report to OGE for examination. OGE notes that it is vital that agency officials have the opportunity to review financial disclosure reports filed by SGE advisory committee members prior to committee meetings to ensure that the SGEs do not have a financial interest that may conflict with any matters to be discussed during the meetings. Additionally, ethics officials must securely maintain all financial disclosure reports in accordance with retention requirements.

#### Recommendation

2. Ensure that all SGEs file their confidential financial disclosure reports by the agency established deadline, or in no event later than the first committee meeting, as required by 5 C.F.R. § 2634.903(b)(3).

#### Ethics Training

OGE examined the training materials used by DOE ethics officials to provide ethics training to SGEs and determined the materials met applicable content requirements. OGE also examined DOE training records and found that DOE provided ethics training to 10 of the 11 EMAB members who attended the committee meeting in 2020. The remaining member separated from the agency in 2020 before receiving the training.

## Expert and Consultant SGEs

In order to evaluate the ethics services provided to non-FACA committee SGE experts and consultants, OGE reviewed the financial disclosure and ethics training services provided to the eight SGEs serving as experts and consultants in 2020.

### Financial Disclosure

Five expert and consultant SGEs were required to file public financial disclosure reports in 2020, including one individual that filed both an annual and a termination report. Table 4 presents the results of OGE's examination of their reports.

**Table 4. Examination of DOE's SGE Public Financial Disclosure Reports**

	New Entrant	Annual	Termination	Total
<b>Reports Examined</b>	3	2	1	6
<b>Filed Timely</b>	2 (67%)	2 (100%)	1 (100%)	5 (83%)
<b>Certified within 60 Days of Receipt</b>	3 (100%)	2 (100%)	1 (100%)	6 (100%)

As illustrated in Table 4 above, OGE found that all but one of the DOE SGE public financial disclosure reports were filed timely and all were certified timely.

Three expert and consultant SGEs were required to file confidential reports in 2020. However, two of these reports were not available for OGE's examination because they were filed using paper forms and were inaccessible to ethics officials due to COVID-19 related restrictions. OGE examined the remaining confidential report and found that it was filed and certified timely.

### Training

OGE examined the training materials used by DOE ethics officials to provide ethics training to expert and consultant SGEs and determined the materials met applicable content requirements. According to ethics officials, of the three SGEs required to receive annual ethics training, all completed the training as required in 2020. Of the five SGEs required to receive initial ethics training, two failed to complete the ethics training despite being directed to do so, and three completed the training as required in 2020.

### Recommendation

3. Ensure that expert and consultant SGEs complete ethics training each year as required.

### **Agency Comments**

OGE invites agency comments on its ethics program review reports. DOE's comments

were provided in the attached letter.



## Department of Energy

Washington, DC 20585

The Honorable Emory A. Rounds, III  
Director  
Office of Government Ethics  
1201 New York Ave., N.W.  
Suite 500  
Washington, D.C. 20005

Dear Mr. Rounds,

The Department of Energy (DOE) is firmly committed to maintaining a strong culture of ethics, and we have a dedicated, talented ethics team that leads this effort with the support of DOE senior leadership. We are proud of the work that the ethics team performs to ensure the integrity of DOE's programs. DOE appreciates the opportunity to review and comment on the U.S. Office of Government Ethics (OGE) Ethics Program Review (hereinafter "Report") covering calendar year 2020 and the time your team dedicated to this Report. We have taken measures to implement the recommendations in the Report.

As the Report notes, in calendar year 2020 DOE faced some challenges with respect to timely filing of termination public financial disclosure reports. We are including language in our notifications to separating employees that they may file their termination reports up to 15 days before their termination date, if they agree to update the report in the event that there are changes to reportable information before or on their termination dates.

The 2020 transition to a maximum telework status due to the global pandemic necessitated some ad hoc technological modifications to the DOE 2020 new entrant confidential disclosure report process that did not always progress smoothly. Fortunately, however, as the Report notes, DOE transitioned to an all-electronic confidential financial disclosure report system in December 2020. DOE required all confidential financial disclosure report filers to use this system for the 2021 filing season. In addition to providing an efficient and accessible digital platform for filers and reviewers regardless of whether they are currently in the office or teleworking, the system also provides real time data regarding the status of employee filings and the review progress of our ethics teams at both Headquarters and in the field. The ethics leadership team maintains a comprehensive dashboard of our metrics concerning financial disclosure reports and ethics training completion, which we discuss weekly, and our preliminary data for the 2021 filing season show a substantial increase in the number of timely filed reports and the number of reports reviewed and certified within 60 days.

The Report discusses confidential financial disclosure reports for special government employees (SGEs) serving on advisory committees. The ethics team will continue to work with Designated Federal Officers (DFOs) to obtain timely confidential financial disclosure reports from SGEs on our advisory committees prior to committee meetings in order to ensure the integrity of the conflicts analysis process. The Report notes that DOE produced nine of 11 confidential financial disclosure reports for SGEs serving on DOE's Environmental Management Advisory Board (EMAB). Regarding one of the reports that was unfortunately unavailable due to our current maximum telework status, we can confirm to OGE that this report was filed timely and initial review was completed prior to the advisory committee meeting. Additionally, DOE is utilizing

new information technology resources to securely maintain all financial disclosure reports in an electronically available format in accordance with all applicable federal records retention requirements.

Lastly, the Report recommends that DOE should ensure that expert and consultant SGEs complete ethics training each year as required, due to the fact that in 2020, two of the five SGEs who were required to complete initial ethics training did not complete the training despite being directed to do so on numerous occasions. Happily, all SGEs who were required to receive annual ethics training completed the training as required in 2020. The Report notes, the only PAS official appointed in 2020 received a timely ethics briefing, 90% of DOE headquarters employees hired in 2020 received initial ethics training within three months of appointment, and 95% of all public filers and 99% of all confidential filers received annual ethics training in 2020. At DOE, we place strong importance and emphasis on training, as is demonstrated in the data reflected in the Report. The ethics team will continue to work with employees and management to emphasize the importance of new entrant and annual ethics training.

As noted, we have already begun implementation of the Report's recommendations and we are using this Report as an opportunity to focus on the continued growth and strengthening of DOE's ethics program. We appreciate OGE's commitment to supporting DOE's ethics program.

Sincerely,

Susan Beard  
Designated Agency Ethics Official  
Deputy General Counsel for Agency Operations