

ETHICS PROGRAM INSPECTION REPORT

Agency: U.S. Agency for International Development

Report No.: 21-161

Date: April 5, 2021

Period Covered by Review: September 2019- December 2020

UNITED STATES OFFICE OF
GOVERNMENT ETHICS


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1.0 AGENCY DATA		
EMPLOYEES		
1.1	Number of full-time agency employees.	9,045
1.2	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed.	10
1.3	Number of non-PAS public financial disclosure reports required to be filed.	529
1.4	Number of confidential financial disclosure reports required to be filed.	3,561
ETHICS PROGRAM		
1.5	Title of Designated Agency Ethics Official (DAEO).	Assistant General Counsel for Ethics and Administration
1.6	Grade level of DAEO.	SES
1.7	Title of Alternate DAEO (ADAEO).	Attorney Advisor
1.8	Grade level of ADAEO.	GS-15
1.9	Title of the primary, day-to-day ethics program administrator.	Ethics Specialist
1.10	Grade level of the primary, day-to-day ethics program administrator.	GS-13
1.11	Current number of full-time ethics officials.	2
1.12	Current number of part-time ethics officials.	55
1.13	Number of reporting levels between the DAEO and the agency head.	2
COMMENTS		
The U.S. Agency for International Development (USAID) employs a significant number of Personal Services Contractors (PSC). USAID has made the determination that, under its hiring authority, PSCs are federal employees for purposes of the executive branch ethics program. The Office of Government Ethics will conduct a legal analysis to examine this determination and will communicate the results separate from this report.		

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					
None					

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 checked="" type="checkbox"/>	<input 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"/>	

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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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.5	Public financial disclosure reports are securely maintained. <i>See OGE/GOVT-1.</i>	<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 5 C.F.R. § 2634.603(g)(1).</i>	<input checked="" 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 5 C.F.R. § 2638.105(a)(1).</i>	<input checked="" type="checkbox"/>	<input 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 5 C.F.R. § 2638.105(a)(2).</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
3.9	Percentage of sampled non-PAS new entrant reports filed timely. <i>See 5 C.F.R. § 2634.201(b).</i>	56%		
3.10	Percentage of sampled non-PAS annual reports filed timely. <i>See 5 C.F.R. § 2634.201(a).</i>	91%		
3.11	Percentage of sampled non-PAS termination reports filed timely. <i>See 5 C.F.R. § 2634.201(e).</i>	67%		
3.12	Percentage of sampled non-PAS public financial disclosure reports reviewed within 60 days of receipt. <i>See 5 C.F.R. § 2634.605(a).</i>	91%		
3.13	Percentage of sampled non-PAS public financial disclosure reports certified within 60 days of receipt. <i>See 5 C.F.R. § 2634.605(a).</i>	84%		
3.14	Percentage of sampled PAS annual reports filed timely. <i>See 5 C.F.R. § 2634.201(a).</i>	100%		
3.15	Percentage of sampled PAS termination reports filed timely. <i>See 5 C.F.R. § 2634.201(e).</i>	100%		
3.16	Percentage of sampled PAS annual and termination reports reviewed within 60 days of receipt. <i>See 5 C.F.R. § 2634.605(a).</i>	100%		
3.17	Percentage of sampled PAS annual and termination reports certified within 60 days of receipt. <i>See 5 C.F.R. § 2634.605(a).</i>	100%		
COMMENTS				
<p>(3.9) OGE examined 50 non-PAS new entrant reports and found that 22 of them were filed after the applicable due date. Of those 22 reports, 15 were filed late because the filers were not identified timely. As a consequence, they were not advised that they were required to file reports. Additionally, 5 filers who were identified and advised of filing requirements timely did not file their reports until after the applicable due date. It was not clear why the remaining 2 reports were not filed timely.</p> <p>(3.11) OGE examined 30 non-PAS termination reports and found that 10 were filed after the applicable due date. Eight filers were not advised that they were required to file termination reports in time to submit their reports by the due date. Eight were notified late of the need to file termination report for the position they left, and 2 were late.</p>				

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4.0 CONFIDENTIAL FINANCIAL DISCLOSURE					
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).					
4.1	• Collection of confidential financial disclosure reports.	<input checked="" type="checkbox"/>	<input 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 checked="" 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).	50%			
4.8	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	97%			
4.9	Percentage of sampled reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	99%			
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).	99%			
COMMENTS					
(4.5) USAID does not have an OGE-approved alternative confidential financial disclosure system. (4.7) OGE examined a sample of 36 new entrant reports and found that 18 were filed after the applicable due date. Of the 18 reports that were filed after the applicable due date, 13 were filed late because the filer was not timely advised that they were required to file a report.					

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: <i>See</i> 5 C.F.R. § 2638.303.					
5.1	• A statement regarding the agency's commitment to government ethics.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.2	• Notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes as an employee.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.3	• Contact information for an appropriate agency ethics office or an explanation of how to obtain additional information on applicable ethics requirements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.4	• Where applicable, notice of the time frame for completing initial ethics training.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.5	• Where applicable, a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment.	<input checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

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COMMENTS	
None	

6.0 Notices to New Supervisors		Yes	No	N/A
COMPLIANCE REQUIREMENTS				
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.2	<ul style="list-style-type: none"> The text of 5 C.F.R. § 2638.103. 	<input checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.4	<ul style="list-style-type: none"> Other information the DAEO deems necessary. 	<input checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS				
None				

7.0 Initial Ethics Training		Yes	No	N/A
COMPLIANCE REQUIREMENTS				
Each new employee of the agency subject to the Standards of Conduct must complete initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.				
7.1	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 checked="" type="checkbox"/>	<input 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</i> 5 C.F.R. § 2638.304(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.3	The agency has established written procedures for initial ethics training. <i>See</i> 5 C.F.R. § 2638.304(f).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.4	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.304(f).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
7.5	Percentage of new employees who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.	100%		
7.6	Percentage of new employees who received initial ethics training within three months of appointment. <i>See</i> 5 C.F.R. § 2638.304(b).	100%		
COMMENTS				
None				

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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</i> 5 C.F.R. §§ 2638.307 and 2638.308.							
8.1	The training presentation(s) addressed concepts related to financial conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. §§ 2638.307(e)(1) and 2638.308(f)(1).				<input checked="" type="checkbox"/>	<input 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</i> 5 C.F.R. § 2638.304(e)(2).				<input checked="" type="checkbox"/>	<input 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</i> 5 C.F.R. §§ 2638.307(d) and 2638.308(e).				<input checked="" type="checkbox"/>	<input 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</i> 5 C.F.R. §§ 2638.307(f) and 2638.308(g).				<input checked="" type="checkbox"/>	<input 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</i> 5 C.F.R. § 2638.308(e)(2).				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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	<ul style="list-style-type: none"> • Executive Schedule Level I and Level II. <i>See</i> 5 C.F.R. § 2638.308(e)(1). 				100%	n/a	
8.7	<ul style="list-style-type: none"> • Other PAS and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(2). 				100%	n/a	
8.8	<ul style="list-style-type: none"> • SES and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(3). 				94%	n/a	
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	<ul style="list-style-type: none"> • Employees required to file an annual confidential financial disclosure report. <i>See</i> 5 C.F.R. § 2638.307(a)(1). 				97%	n/a	
8.10	<ul style="list-style-type: none"> • Employees appointed by the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2). 				100%	n/a	
8.11	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Contracting officers described in 41 U.S.C. § 2101. <i>See</i> 5 C.F.R. § 2638.307(a)(3). 				100%	n/a	
8.13	<ul style="list-style-type: none"> • Other employees designated by the head of the agency. <i>See</i> 5 C.F.R. § 2638.307(a)(4). 				100%	n/a	
COMMENTS							
<u>Model Practice Identified</u> (8.13) USAID ethics officials provided annual ethics training to all employees, not just those required by regulation to receive it.							

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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. See 5 C.F.R. § 2638.104(c)(4).			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
COMMENTS						
None						

ISSUES IDENTIFIED AND RESOLVED DURING THE INSPECTION	
Element	ISSUE
2.2	<p><u>ISSUE:</u> Prior to OGE’s inspection, USAID did not have an up-to-date designation letter from the agency head designating the ADAEO. See 5 C.F.R. § 2638.107(a).</p> <p><u>AGENCY RESPONSE:</u> USAID provided an up-to-date ADAEO designation letter during the course of the inspection.</p>
5.7, 6.6, 7.4	<p><u>ISSUE:</u> Prior to OGE’s inspection, USAID’s written procedures regarding the required notices to prospective employees and new supervisors and initial ethics training did not document that the DAEO reviews the procedures annually. USAID updated its procedures during the course of the inspection.</p> <p><u>AGENCY RESPONSE:</u> USAID updated its procedures during the course of the inspection to document the Agency’s practice of DAEO review of the procedures by which employees are notified of their ethics obligations.</p>

RECOMMENDATIONS			
#	Element	RECOMMENDATION	Compliance Due
1	3.9	<p><u>RECOMMENDATION:</u> Ensure that all new entrant non-PAS public financial disclosure reports are filed timely.</p> <p><u>AGENCY RESPONSE:</u> The fluidity with which current Agency employees particularly Foreign Service employees serving overseas move into and out of positions/duties that require them to file new entrant non-PAS public financial disclosure forms overseas, particularly where the employees are moving in and out of filing positions for 60 non-consecutive days during the calendar year, without any centralized management or visibility has created gaps in the implementation of Agency policy regarding new entrant, non-PAS public financial disclosure filing policy. The DAEO is conducting a complete review of how to address the unique employment fluidity problem within USAID to create systemic redundancies that will ensure that new entrant, non-PAS public financial disclosure filers are identified in a more timely fashion.</p>	October 2021
2	3.11	<p><u>RECOMMENDATION:</u> Ensure that all non-PAS termination public financial disclosure reports are filed timely.</p> <p><u>AGENCY RESPONSE:</u> The fluidity with which current Agency employees particularly Foreign Service employees serving overseas move into and out of positions/duties that require them to file non-PAS public financial disclosure termination forms overseas, particularly where the employees are moving in and out of filing positions throughout an assignment and do not know when they will stop potentially “backfilling” in the filing position until they leave the assignment, without any centralized management or</p>	October 2021

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		visibility, has created gaps in the implementation of Agency policy regarding the filing of non-PAS public financial disclosure termination reports. The DAEO is conducting a complete review of how to address the unique employment fluidity problem within USAID to create systemic redundancies that will ensure that non-PAS public financial disclosure termination reports are filed in a more timely fashion.	
3	4.7	<p><u>RECOMMENDATION:</u> Ensure that all new entrant confidential financial disclosure reports are filed timely.</p> <p><u>AGENCY RESPONSE:</u> The fluidity with which current Agency employees particularly Foreign Service employees serving overseas move into and out of positions/duties that require them to file new entrant confidential financial disclosure forms oversea, without any centralized management or visibility has created gaps in the implementation of Agency policy regarding new entrant, confidential financial disclosure filings. The DAEO is conducting a complete review of how to address the unique employment fluidity problem within USAID to create systemic redundancies that will ensure that new entrant, confidential financial disclosure filers are identified in a more timely fashion.</p>	October 2021
4	31 U.S.C. § 1353	<p><u>RECOMMENDATION:</u> Submit the Semiannual Report of Payments Accepted from a Non-federal Sources for the period April 1, 2020 through September 30, 2020, which was due on November 30, 2020.</p> <p><u>AGENCY RESPONSE:</u> The ethics office is currently working with the Agency's Travel and Transportation Division to compile the necessary information in order to submit the above Report and is also evaluating its processes and procedures with respect to the non-Federally sponsored travel reports in order to ensure timely compliance going forward, despite any unexpected turnover in either office as was the cause here.</p>	October 2021