

## ETHICS PROGRAM INSPECTION RESULTS

Agency:	Harry S. Truman Scholarship Foundation		
Report No:	15-07I	Date:	November 21, 2014
Review Period:	January through December 2013		

1.0 AGENCY DATA		
	EMPLOYEES	Data
1.1	Number of full-time agency employees, as reported in the most recent Annual Questionnaire	5
1.2	Number of agency SGEs, as reported in the most recent Annual Questionnaire	0
1.3	Number of PAS public financial disclosure reports required to be filed, as reported in the most recent Annual Questionnaire	0
1.4	Number of non-PAS public financial disclosure reports required to be filed, as reported in the most recent Annual Questionnaire	1
1.5	Number of confidential financial disclosure reports required to be filed by employees, as reported in the most recent Annual Questionnaire	0
	ETHICS PROGRAM	Data
1.6	Name of DAEO	Andrew Rich
1.7	Title of DAEO	Executive Secretary
1.8	Grade level of DAEO	SES
1.9	Name of ADAEO	Tara Yglesias
1.10	Title of ADAEO	Deputy Executive Secretary
1.11	Grade level of ADAEO	GS-15
1.12	Name of the primary, day-to-day ethics program administrator	Tara Yglesias
1.13	Title of the primary, day-to-day ethics program administrator	Deputy Executive Secretary
1.14	Grade level of the primary, day-to-day ethics program administrator	GS-15
1.15	Current number of full-time ethics officials	0
1.16	Current number of part-time ethics officials	2
1.17	Average FTE value of a part-time ethics official(s) (For example, if part-time ethics officials at the agency generally devote 10 hours per week to ethics work, the average FTE value is 25%.)	5% (Collateral Duty)
1.18	Number of reporting levels between the ethics office/program and the agency head	0

2.0 LEADERSHIP			
	COMPLIANCE REQUIREMENT	Yes	No
2.1	OGE has received an up-to-date designation from the agency head naming the DAEO. <i>See</i> 5 C.F.R. § 2638.202(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.2	OGE has received an up-to-date designation from the agency head naming the ADAEO. <i>See</i> 5 C.F.R. § 2638.202(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>

3.0 ETHICS AGREEMENTS			
	COMPLIANCE REQUIREMENT	Yes	No
3.1	All officials currently in PAS positions have complied with their ethics agreements. <i>See</i> 5 C.F.R. § 2634.804. (☒ Not Applicable: see OGE comment section below)	<input type="checkbox"/>	<input type="checkbox"/>
3.2	All officials currently in PAS positions complied with their ethics agreements in a timely fashion. <i>See</i> 5 C.F.R. § 2634.804. (☒ Not Applicable: see OGE comment section below)	<input type="checkbox"/>	<input type="checkbox"/>
3.3	For all officials currently in PAS positions, the agency notified OGE of ethics agreement compliance in a timely fashion. <i>See</i> DO-09-015. (☒ Not Applicable: see OGE comment section below)	<input type="checkbox"/>	<input type="checkbox"/>

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3.4	For all officials currently in PAS positions, the agency maintains documentation of actions taken to comply with ethics agreements. <i>See</i> 5 C.F.R. § 2634.804. (☒ Not Applicable: see OGE comment section below)	<input type="checkbox"/>	<input type="checkbox"/>
3.5	All PAS officials' ethics agreements are maintained with their financial disclosure reports. <i>See</i> 5 C.F.R. § 2634.805. (☒ Not Applicable: see OGE comment section below)	<input type="checkbox"/>	<input type="checkbox"/>

4.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278, OGE Form 278-T)					
COMPLIANCE REQUIREMENT			Yes	No	
4.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C app. IV, § 402(d)(1).				
4.1.1	• Collection of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
4.1.2	• Review/evaluation of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
4.1.3	• Public availability of public financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
4.2	The agency can demonstrate that late filing fees are collected or, where appropriate, waivers are issued when public filers do not timely file financial disclosure reports.			<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.3	Public financial disclosure records are securely maintained. <i>See</i> OGE/GOVT-1.			<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.4	Public financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.603(g)(1).			<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.5	Agency ethics officials respond promptly to requests by OGE for additional information regarding PAS annual and termination public financial disclosure reports. <i>See</i> 5 U.S.C app. IV, § 402(d)(1). <i>See</i> 5 C.F.R. § 2638.203(b)(14). (☒ Not Applicable: see OGE comment section below)			<input type="checkbox"/>	<input type="checkbox"/>
	<b>DATA ANALYSIS</b>			<b>%</b>	
4.6	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).			N/A	
4.7	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).			100%	
4.8	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).			N/A	
4.9	Percentage of sampled non-PAS public financial disclosure reports certified within 60 days of receipt (unless additional information was being sought or remedial action was being taken). <i>See</i> PA-11-04.			100%	
4.10	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).			N/A	
4.11	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).			N/A	
4.12	Percentage of sampled PAS annual and termination reports certified within 60 days of receipt (unless additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. § 2634.605(a).			N/A	

5.0 CONFIDENTIAL FINANCIAL DISCLOSURE					
COMPLIANCE REQUIREMENT			Yes	No	
5.1	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C app. IV, § 402(d)(1).				
5.1.1	• Collection of confidential financial disclosure reports (☒ Not Applicable: see OGE comment section below)	<input type="checkbox"/>	<input type="checkbox"/>		
5.1.2	• Review/evaluation of confidential financial disclosure reports (☒ Not Applicable: see OGE comment section below)	<input type="checkbox"/>	<input type="checkbox"/>		
5.2	Confidential financial disclosure records are securely maintained. <i>See</i> OGE/GOVT-2. (☒ Not Applicable: see OGE comment section below)			<input type="checkbox"/>	<input type="checkbox"/>
5.3	The agency's OGE-approved alternative confidential financial disclosure system complies with plans approved by OGE. <i>See</i> 5 C.F.R. § 2634.905(a). (☒ Not Applicable: see OGE comment section below)			<input type="checkbox"/>	<input type="checkbox"/>
5.4	Confidential financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.604. (☒ Not Applicable: see OGE comment section below)			<input type="checkbox"/>	<input type="checkbox"/>

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	DATA ANALYSIS	%
5.5	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	N/A
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	N/A
5.7	Percentage of sampled confidential financial disclosure reports certified within 60 days of receipt (unless additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. §§ 2634.605(a), 2634.909(a).	N/A

6.0 INITIAL ETHICS ORIENTATION			
	COMPLIANCE REQUIREMENT	Yes	No
6.1	All initial ethics orientation material contains: <i>See</i> 5 C.F.R. § 2638.703(a) and (b).		
6.1.1	<ul style="list-style-type: none"> <li>Current contact information of relevant ethics official(s)</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.1.2	<ul style="list-style-type: none"> <li>Copy of the Standards of Ethical Conduct and any agency supplemental standards to keep or review; or</li> <li>Summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.2	The agency can demonstrate that it has an effective process to ensure that new employees receive initial ethics orientations. <i>See</i> 5 C.F.R. § 2638.703(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	DATA ANALYSIS	%	
6.3	Percentage of new agency employees who received initial ethics orientation within 90 days. <i>See</i> 5 C.F.R. § 2638.703.	100%	

7.0 ANNUAL ETHICS TRAINING			
	COMPLIANCE REQUIREMENT	Yes	No
7.1	All annual ethics training material contains: <i>See</i> 5 C.F.R. § 2638.704(b).		
7.1.1	<ul style="list-style-type: none"> <li>Current contact information of relevant ethics official(s)</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.2	<ul style="list-style-type: none"> <li>Review of the criminal conflict of interest statutes</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.3	<ul style="list-style-type: none"> <li>Review of the Standards of Ethical Conduct</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.4	<ul style="list-style-type: none"> <li>Review of the 14 Principles</li> </ul>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.5	<ul style="list-style-type: none"> <li>Review of any agency supplemental standards ( <input checked="" type="checkbox"/> Not Applicable: see OGE comment section below)</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
7.2	The agency can demonstrate that it has an effective process to ensure that covered employees receive annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(c) and 705(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	DATA ANALYSIS	%	
7.3	Public financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.704(a).	100%	
7.4	Confidential financial disclosure filers who completed annual ethics training. <i>See</i> 5 C.F.R. § 2638.705(a)(3).	N/A	

8.0 ETHICS ADVICE AND COUNSEL			
	COMPLIANCE REQUIREMENT	Yes	No
8.1	Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations. ( <input checked="" type="checkbox"/> Not Applicable: see OGE comment section below)	<input type="checkbox"/>	<input type="checkbox"/>

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## COMMENTS

### OGE Comments

(2.1) At the time of OGE's onsite inspection, the Harry S. Truman Scholarship Foundation (Foundation) did not have a current DAEO designation letter on file with OGE. During the inspection, the Foundation provided a current designation letter to OGE.

(3.1– 3.5) The Foundation's statute (Public Law 93-642) provides for a thirteen member Board of Trustees. 20 U.S.C. 2004 (b). This board consists of eight members, not more than four of whom are appointed from the same political party, that are appointed by the President with the advice and consent of the Senate;<sup>1</sup> two members, one from each political party, that are appointed by the President of the Senate; two members of the House of Representatives, one from each political party, that are appointed by the Speaker; and the Secretary of Education or designee, who serves as an ex officio member of the board, but is not eligible to serve as Chairman.

According to the ADAEO, all board members are designated to serve as representatives of a certain group of people (e.g., "Representative of Higher Education") and provide that viewpoint during board meetings. Since the Foundation's inception, the eight members that are appointed by the President with the advice and consent of the Senate have been considered representatives and not special Government employees (SGEs). According to the ADAEO, the rationale for this designation is based on the following:

1. *Receipt of compensation.* Board members are not compensated, other than to have travel expenses reimbursed. While this factor is not determinative, it does support the assertion that these employees are not SGEs.
2. *Using outside recommendations.* Suggestions for members to the Board originate either in the White House Presidential Personnel Office or from party leadership in Congress (the Board is non-partisan). Foundation staff members rarely have a voice in either the selection or appointment of board members. The use of outside recommendations can often suggest that a member's service is in a representative capacity. *See generally*, OGE Informal Advisory Memorandum, 82 x 22 and OGE DO-05-012.
3. *Acting as a spokesperson.* Board members are expected to serve as a spokesperson for nongovernmental groups and stakeholders involved in the Truman process. Members of the board represent both the source of applicants (representative of higher education, Secretary of Education, members of the general public) as well as the likely career paths of its Scholars (members of Congress, members of the judiciary, state & local government officials). The Foundation encourages board members to speak from their experiences and, frankly, biases as representatives of these groups.
4. *Use of the term "Represent" in authorizing legislation and enabling documents.* The language in the agency's enabling legislation indicates "the Foundation will be subject to the supervision and direction of a Board of Trustees." 20 U.S.C. 2004 (b)(1). No additional guidance on the duties or roles are provided. Functionally, the board has provided suggestions and direction on major Foundation initiatives, but does not supervise the daily work of the agency. When discussing these initiatives, the Foundation has relied on the viewpoints of board members speaking on behalf of their constituencies.
5. *Terminating, reviewing and reestablishing advisory committees.* Both enabling language and the by-laws of the Foundation indicate that the board is meant to continue so long as the Foundation is operational. While these documents have not changed over the years, the duties of board members have changed substantially. Early members of the board were very involved in the creation and initial vision for the Foundation – primarily because the first Board of Trustees contained family members and former colleagues of President Truman. As these first members cycled off the Board and the Foundation became more established, the Board became more of an advisory body that provided viewpoints otherwise not represented by Foundation staff. The issue of whether these members were SGEs was revisited several times since this designation came into being as well as after the passage of the Federal Advisory Committee Act in 1992. The Foundation's legal counsel's opinion has always been that these members serve in a representative capacity.

When Board members are appointed, they are required to file an OGE confidential financial disclosure report with the White House Presidential Personnel Office as well as Senate confirmation documents. These are reviewed by Foundation ethics officials and any conflicts noted. According to the ADAEO, it is almost impossible for a Board member to hold a financial conflict of interest since the Foundation has very few contracts of any great size and Board members are not involved in procurement decisions). However, institutional affiliations (e.g., service on a school's Board of Trustees or involvement in alumni groups) are noted.

<sup>1</sup> Of the eight board members, one is a chief executive officer of a State, one is a chief executive officer of a city or county, one is a member of a Federal court, one is a member of a State court, one is a person active in postsecondary education, and three are representatives of the general public.

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(4.1) The Executive Secretary/DAEO is the Foundation's only public filer. Although the Foundation's written procedures provided the overall framework for how the agency administers the public financial disclosure system for the agency's one public filer, OGE identified areas where they could be strengthened. For example, OGE noted that the procedures did not address the process for requesting and granting a filing extension, the process for collecting the \$200 late filing fee or how to request a waiver of the \$200 late filing fee, or the process for making reports publicly available. As a result, OGE provided the ADAEO with sample procedures. During the inspection, the Foundation modified its procedures to comply with the relevant requirements of 5 U.S.C app. IV, § 402(d)(1).

(4.5) OGE does not review the financial disclosure reports filed by the eight board members who are appointed by the President with the advice and consent of the Senate. When appointed to the position, these new board members file an initial (confidential) financial disclosure report with the White House Office of Presidential Personnel.

(4.6) No non-PAS new entrant reports were filed in CY2013.

(4.7) As previously noted, the Executive Secretary/DAEO is the Foundation's only public filer. During the inspection, OGE examined the DAEO's annual report filed in CY2013.

(4.8) No non-PAS termination reports were filed in CY2013.

(4.10 – 4.12) As previously noted, OGE does not review the financial disclosure reports filed by the eight board members who are appointed by the President with the advice and consent of the Senate.

(5.1.1 – 5.1.2) The Foundation has historically had no employees who have been required to file a confidential financial disclosure report. As a result, written procedures governing the confidential financial disclosure system have not been needed. However, should this change in the future, Foundation ethics officials are aware of the need to develop such procedures.

(5.2) The Foundation has historically had no employees who are required to file a confidential financial disclosure report. The Foundation had no confidential filers in CY2013.

(5.3) The Foundation does not have an alternative confidential financial disclosure system.

(5.4 – 5.7) The Foundation had no confidential filers in CY2013.

(7.1.2) The inspection identified that the criminal conflict of interest statutes were not addressed during annual ethics training in CY2013, as required. During the inspection, the ADAEO emailed the entire staff web links to the criminal conflict of interest statutes for review. OGE was also assured by the ADAEO that a review of the criminal conflict of interest statutes would become a standard practice during future annual ethics trainings.

(7.1.5) The Foundation does not have an agency supplemental regulation.

(7.4) The Foundation had no confidential filers in CY2013.

(8.1) Foundation ethics officials were not asked to provide ethics advice in CY2013.

### Agency Response

The Truman Foundation thanks the Office of Government Ethics for the opportunity to discuss and improve our ethics practice. We consider ethical behavior a cornerstone of our work with future public servants and appreciated sharing that mission with OGE. We concur in the findings of the report.