

ETHICS PROGRAM INSPECTION RESULTS



Agency:	Federal Energy Regulatory Commission		
Report No:	15-25I	Date:	March 26, 2015
Review Scope:	January – December 2013		

1.0 AGENCY DATA		
	EMPLOYEES	Data
1.1	Number of full-time agency employees, as reported in the most recent Annual Questionnaire	1424
1.2	Number of agency SGEs, as reported in the most recent Annual Questionnaire	2
1.3	Number of PAS public financial disclosure reports required to be filed, as reported in the most recent Annual Questionnaire	5
1.4	Number of non-PAS public financial disclosure reports required to be filed, as reported in the most recent Annual Questionnaire	86
1.5	Number of confidential financial disclosure reports required to be filed by employees, as reported in the most recent Annual Questionnaire	740
	ETHICS PROGRAM	Data
1.6	Name of DAEO	Charles A. Beamon
1.7	Title of DAEO	Associate General Counsel
1.8	Grade level of DAEO	SES
1.9	Name of ADAEO	Wilbur Miller
1.10	Title of ADAEO	Acting Deputy Associate General Counsel
1.11	Grade level of ADAEO	GS-15
1.12	Name of the primary, day-to-day ethics program administrator	Charles A. Beamon
1.13	Title of the primary, day-to-day ethics program administrator	DAEO/Associate General Counsel
1.14	Grade level of the primary, day-to-day ethics program administrator	SES
1.15	Current number of full-time ethics officials	0
1.16	Current number of part-time ethics officials	12
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%.)	40%
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. (<input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" 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. (<input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" 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. (<input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

ETHICS PROGRAM INSPECTION RESULTS

Agency:	Federal Energy Regulatory Commission		
Report No:	15-251	Date:	March 26, 2015
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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. (<input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" 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. (<input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" 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). (<input type="checkbox"/> Not Applicable: see OGE comment section below)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
DATA ANALYSIS			%	
4.6	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	100%		
4.7	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	92%		
4.8	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	100%		
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.	69%		
4.10	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	100%		
4.11	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	100%		
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).	100%		

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	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5.1.2	• Review/evaluation of confidential financial disclosure reports	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5.2	Confidential financial disclosure records are securely maintained. <i>See</i> OGE/GOVT-2.	<input checked="" 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). (<input checked="" type="checkbox"/> 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.	<input checked="" 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).	52%
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	96%
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).	98%

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). (☒ Not Applicable: see OGE comment section)		
6.1.1	<ul style="list-style-type: none"> Current contact information of relevant ethics official(s) 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.1.2	<ul style="list-style-type: none"> Copy of the Standards of Ethical Conduct and any agency supplemental standards to keep or review; or Summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.2	<ul style="list-style-type: none"> 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"> Current contact information of relevant ethics official(s) 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.2	<ul style="list-style-type: none"> Review of the criminal conflict of interest statutes 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.3	<ul style="list-style-type: none"> Review of the Standards of Ethical Conduct 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.4	<ul style="list-style-type: none"> Review of the 14 Principles 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.5	<ul style="list-style-type: none"> Review of any agency supplemental standards (☐ Not Applicable: see OGE comment section below) 	<input checked="" 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).	91%	

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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 type="checkbox"/> Not Applicable: see OGE comment section below)		<input checked="" type="checkbox"/>	<input type="checkbox"/>

RECOMMENDATIONS

#	Element	RECOMMENDATION	Compliance Due
1	4.9	<p><u>CONCERN:</u> Only 69% of sampled non-PAS public financial disclosure reports were certified within 60 days of receipt.</p> <p><u>RECOMMENDATION:</u> Certify financial disclosure reports timely.</p> <p><u>AGENCY RESPONSE:</u> The Final Inspection Report found that 69% of the sampled non-PAS public financial disclosure reports were certified within 60 days of receipt. [FERC] appreciates your recognition that some forms required additional information or remedial action in accordance with PA11-04. As mentioned in [FERC's] earlier comments, FERC employees are barred by supplemental regulation from holding interests in prohibited energy-related securities, which adds a degree of complexity to the review of our forms. <i>See</i> 5 C.F.R. 3401.102. Ensuring compliance with this regulation, together with FERC staff's emphasis on accuracy, consistency, and thoroughness of review, have in some instances led to certification of the form after expiration of the 60-day time frame. [FERC] would like to stress that we timely initiated review of every form, and that we thoroughly resolved all conflicts and potential conflicts, even though we regrettably exceeded the 60-day time period in some instances. In response to the draft and final Inspection Reports, we have put in place measures to expedite remedial action and any required follow-ups with our filers. [FERC] appreciates [OGE's] clarification by phone that DAEOs are not expected to certify forms that are incomplete or that have unresolved conflicts.</p>	7/15/15
2	5.5	<p><u>CONCERN:</u> Only 52% of new entrant confidential financial disclosure reports were filed timely.</p> <p><u>RECOMMENDATION:</u> Ensure confidential financial disclosure reports are filed timely.</p> <p><u>AGENCY RESPONSE:</u> The stated concern was that only 52% of sampled new entrant (new hire or promotion) confidential financial disclosure reports were filed timely. [FERC] worked with our Human Resources staff to create a better system of notifying Ethics Staff of any new hires or promotions to positions requiring Form 450. In response to concerns expressed in the draft and final Inspection Reports, upon Ethics Staff's receipt of notification through the improved system, each new Form 450 filer is given a blank Form 450 with a red cover sheet prominently displaying the deadline for filing the Form 450 and the potential consequences of non-compliance.</p>	7/15/15

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COMMENTS

OGE Comments:

1.9 Wilbur Miller is the Acting ADAEO/Associate General Counsel.
1.18 The DAEO reports directly to FERC's Chairman.

4.9 FERC must ensure that financial disclosure reports are certified timely. OGE has observed model practices at other agencies that may help meet this requirement. Conducting a triage of reports and prioritizing them by level of complexity will allow the most complex reports to be reviewed first. This allows more time to resolve issues. If filers are not timely in their response to reviewers' questions, the matter can be escalated to the filers' supervisors.

5.3 FERC does not have an OGE approved confidential financial disclosure system.

5.5 Ethics officials explained that, prior to OGE's inspection, the Human Resources office was not providing notification when new employees were hired. This made it difficult to identify new entrant filers. Ethics officials have since coordinated with the Human Resources office and are now notified of all relevant personnel actions. OGE will review the results of this new process during its follow-up review to ensure that new entrant reports are timely filed.

7.3-7.4 FERC's policy is that all employees receive annual ethics training. In 2013, required annual ethics training was provided to all 86 public filers and 672 (91%) of FERC's confidential filers.

8.1 OGE reviewed a sample of advice FERC's ethics officials provided to employees regarding 18 U.S.C. § 208 and material that they would use if they needed to provide advice regarding 18 U.S.C. § 207.

Agency Comments:

Confidential Financial Disclosure – Data Analysis Element 5.3

[FERC] remains concerned about the potential for misunderstanding in the following statement: "FERC does not have an OGE approved confidential financial disclosure system." As [FERC] explained earlier, such language could be interpreted as implying that FERC is not complying with OGE requirements. For that reason, FERC reiterates its request that the language be changed to reflect that FERC does not have any alternative confidential financial disclosure system. [FERC] would again like to thank you for the constructive feedback and for the opportunity to comment on the draft and final inspection reports. We look forward to continuing our collaboration with OGE as we strive for excellence in all areas of the agency's ethics program.

OGE Response:

In recognition of FERC's concerns regarding the statement, "FERC does not have an OGE approved confidential financial disclosure system," OGE acknowledges that this is not intended to convey that FERC is not in compliance with OGE requirements with respect to alternative financial disclosure systems. The statement is intended only to convey that FERC does not have an alternative financial disclosure system.