

**ETHICS PROGRAM INSPECTION REPORT**

Agency: Defense Commissary Agency

Report No.: 17-051

Date: November 17, 2016

Period Covered by Review: January 1, 2015 – October 1, 2016

UNITED STATES OFFICE OF  
**GOVERNMENT ETHICS**

  
Preventing Conflicts of Interest  
in the Executive Branch

1.0 AGENCY DATA		
<b>EMPLOYEES</b> (as reported in the most recent Annual Ethics Program Questionnaire)		
1.1	Number of full-time agency employees	13,894
1.2	Number of agency special Government employees	0
1.3	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed	0
1.4	Number of non-PAS public financial disclosure reports required to be filed	5
1.5	Number of confidential financial disclosure reports required to be filed	73
<b>ETHICS PROGRAM</b>		
1.6	Title of Designated Agency Ethics Official (DAEO)	General Counsel
1.7	Grade level of DAEO	GS-15
1.8	Title of Alternate DAEO (ADAEO)	Principle Deputy General Counsel
1.9	Grade level of ADAEO	GS-15
1.10	Title of the primary, day-to-day ethics program administrator	Deputy General Counsel, Commercial Law
1.11	Grade level of the primary, day-to-day ethics program administrator	GS-15
1.12	Current number of full-time ethics officials	0
1.13	Current number of part-time ethics officials	4
1.14	Average full-time equivalent (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%.)	25%
1.15	Number of reporting levels between the DAEO and the agency head	1
<b>COMMENTS</b>		
None		

2.0 LEADERSHIP					
COMPLIANCE REQUIREMENT			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. § 2638.202(c).		<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. § 2638.202(c).		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>					
None					

3.0 ETHICS AGREEMENTS						
COMPLIANCE REQUIREMENT				Yes	No	N/A
3.1	During the period under review, all PAS officials complied with their ethics agreements. <i>See</i> 5 C.F.R. § 2634.804.			<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.2	During the period under review, all PAS officials complied with their ethics agreements in a timely fashion. <i>See</i> 5 C.F.R. § 2634.804.			<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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3.3	During the period under review, the agency notified OGE of ethics agreement compliance in a timely fashion. <i>See</i> DO-09-015.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3.5	For all officials currently in PAS positions, ethics agreements are maintained with their financial disclosure reports. <i>See</i> 5 C.F.R. § 2634.805.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>COMMENTS</b>				
(3.1 – 3.5) Defense Commissary Agency (DeCA) has no PAS officials.				

4.0 PUBLIC FINANCIAL DISCLOSURE (OGE Form 278, OGE Form 278-T)							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
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"/>	<input type="checkbox"/>
4.1.2	• Review/evaluation of public financial disclosure reports				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.1.3	• Public availability of public financial disclosure reports				<input checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.3	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.				<input checked="" type="checkbox"/>	<input 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"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>				<b>%</b>			
4.5	Percentage of sampled non-PAS new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).				N/A		
4.6	Percentage of sampled non-PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				100%		
4.7	Percentage of sampled non-PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				100%		
4.8	Percentage of sampled non-PAS public financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> PA-11-04.				100%		
4.9	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).				N/A		
4.10	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).				N/A		
4.11	Percentage of sampled PAS annual and termination reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. § 2634.605(a).				N/A		
<b>COMMENTS</b>							
<p>(4.1.3) At the time of the inspection, DeCA's written procedures did not address the availability of public financial disclosure reports (OGE Form 278) and periodic transaction reports (OGE Form 278-T). During the course of the inspection, DeCA updated its procedures, fully addressing the public availability of OGE Forms 278 and 278-T. Therefore, OGE is not issuing a recommendation for corrective action.</p> <p>(4.2) DeCA did not have any filers subject to the late filing fee during the period covered by the review.</p> <p>(4.5) DeCA did not have any non-PAS new entrant reports in during the period covered by the review.</p> <p>(4.9 – 4.11) DeCA has no PAS officials.</p>							

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5.0 CONFIDENTIAL FINANCIAL DISCLOSURE							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
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"/>	<input type="checkbox"/>
5.1.2	• Review/evaluation of confidential financial disclosure reports				<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.2	Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-2.				<input checked="" type="checkbox"/>	<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).				<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>				<b>%</b>			
5.5	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).				80%		
5.6	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).				100%		
5.7	Percentage of sampled confidential financial disclosure reports certified timely (within 60 days of receipt or later when additional information was being sought or remedial action was being taken). <i>See</i> 5 C.F.R. §§ 2634.605(a), 2634.909(a).				100%		
<b>COMMENTS</b>							
(5.3) DeCA does not have an alternative confidential financial disclosure system. (5.5) DeCA ethics officials collected 1 of the 5 confidential new entrant reports filed during the period covered by the review more than 30 days after the applicable due date.							

6.0 INITIAL ETHICS ORIENTATION							
COMPLIANCE REQUIREMENT				Yes	No	N/A	
6.1	All initial ethics orientation material contains: <i>See</i> 5 C.F.R. § 2638.703(a) and (b).						
6.1.1	• Current contact information of relevant ethics official(s)				<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.1.2	• 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 type="checkbox"/>	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>				<b>%</b>			
6.3	Percentage of new agency employees who received initial ethics orientation within 90 days. <i>See</i> 5 C.F.R. § 2638.703.				Unknown		
<b>COMMENTS</b>							
(6.1.1-6.1.2) These materials must be included in Initial Ethics Orientation (IEO) to meet regulatory requirements. (6.2-6.3) The majority of DeCA's employees serve at the agency's retail stores. Ethics officials relied on supervisors at the stores to ensure employees completed IEO, which is an item on the in-processing checklist for new employees. Once completed, in-processing checklists are maintained by Store Directors. Since employees had to wait until they received their Common Access Card to log into the automated system through which IEO is provided, new employees were sometimes allowed to log in with their supervisor's username and password to complete training. This practice negates the possibility of accurately tracking completion of IEO. DeCA is currently working towards resolving this issue.							

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<b>7.0 ANNUAL ETHICS TRAINING</b>						
<b>COMPLIANCE REQUIREMENT</b>			<b>Yes</b>	<b>No</b>	<b>N/A</b>	
7.1	All annual ethics training material contains: <i>See</i> 5 C.F.R. § 2638.704(b).					
7.1.1	• Current contact information of relevant ethics official(s)			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.2	• Review of the criminal conflict of interest statutes			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.1.3	• Review of the Standards of Ethical Conduct			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.4	• Review of the 14 Principles			<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.1.5	• Review of any agency supplemental standards			<input checked="" type="checkbox"/>	<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"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>			<b>%</b>			
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).			100%		
<b>COMMENTS</b>						
(7.1.2) Annual ethics training provided to DeCA employees did not address 18 U.S.C. §§ 203 or 205.						

<b>8.0 ETHICS ADVICE AND COUNSELING</b>						
<b>COMPLIANCE REQUIREMENT</b>			<b>Yes</b>	<b>No</b>	<b>N/A</b>	
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"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>						
None						

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### 9.0 RECOMMENDATIONS

#	Element	RECOMMENDATION	Compliance Due
1	6.1	<p><u>RECOMMENDATION:</u> Develop initial ethics orientation material containing current contact information for ethics officials and provide a copy of the Standards of Ethical Conduct and any agency supplemental standards for employees to keep or review or summaries of the Standards, any agency supplemental standards, and 14 Principles for employees to keep.</p> <p><u>AGENCY RESPONSE:</u> While DeCA currently has its ethics training imbedded in the current new employee orientation, a separate new employee ethics orientation training will be created which incorporates the current training, and includes the current contact information for ethics officials. The General Counsel's Office will also make a Standards of Conduct guide available to new employees through its website, which will include the 14 ethical principles.</p>	June 1, 2017
2	6.2	<p><u>RECOMMENDATION:</u> Provide employees at least one hour of official duty time to review the initial ethics orientation materials.</p> <p><u>AGENCY RESPONSE:</u> The General Counsel's Office and Human Resources are notifying all locations that new employees are to be provided no less than one hour of official duty time to review the ethics materials provided.</p>	June 1, 2017
3	6.3	<p><u>RECOMMENDATION:</u> Improve the process for tracking and ensuring that new employees receive initial ethics orientation within 90 days of beginning work.</p> <p><u>AGENCY RESPONSE:</u> DeCA instituted a tracking system immediately upon notification during the inspection that better tracking was needed. This tracking procedure will be followed when the new ethics training is completed and entered onto the on-line training system as well.</p>	June 1, 2017
4	7.1.2	<p><u>RECOMMENDATION:</u> Ensure annual ethics training includes reviews of all the criminal conflict of interest statutes, including 18 U.S.C. §§ 203 and 205.</p> <p><u>AGENCY RESPONSE:</u> DeCA inserted training on 18 U.S.C. §§ 203 and 205 in its annual ethics training for 2016 upon receipt of the draft inspection report.</p> <p><u>OGE RESPONSE:</u> DeCA updated its annual training, fully addressing all of the criminal conflict of interest statutes, including 18 U.S.C. §§ 203 and 205. Therefore, OGE closed the recommendation prior to issuing this final report.</p>	Closed