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Description of document: Closing documents associated with ten specified United States Government Accountability Office (GAO) Inspector General (OIG) investigations, 2010-2014

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Source of document: Records Access Request
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O I G

Office of the Inspector General

United States Government Accountability Office

April 17, 2015

This letter is in response to your January 19, 2015 access request for materials from 10 Government Accountability Office (GAO), Office of Inspector General investigative files. We received your request on February 2, 2015.

We have processed your request under the procedures set forth in 4 C.F.R. Part 81, Public Availability of Government Accountability Office Records. This GAO regulation governs the processing of all requests for GAO documents.

The documents specified in your access request are enclosed. Some material is exempt from disclosure under 4 C.F.R. 81.6(a) and (f). Accordingly, you will see redactions of material exempt from disclosure pursuant to GAO's access regulation.

Further consideration of your request may be obtained by an appeal letter to the Inspector General, Adam R. Trzeciak, setting forth the basis for your appeal.

Sincerely,

A handwritten signature in black ink, reading "Cynthia A. Hogue". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Cynthia A. Hogue
Counsel to Inspector General

Enclosures

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O I G

Office of the Inspector General

United States Government Accountability Office

Memorandum

Date: April 29, 2014
To: Inspector General Adam Trzeciak
Thru: Assistant Inspector General for Investigations Marie Y. Ingol
From: Special Agent [REDACTED] 4 C.F.R. 81.6(f)
Subject: Closing Memorandum for Case Number: G-13-0001-P

On October 12, 2012, [REDACTED] 4 C.F.R. 81.6(f) GAO, notified the Office of Inspector General (OIG) of the unauthorized release of a draft GAO report concerning [REDACTED] 4 C.F.R. 81.6(a) A Hotline allegation was opened under the OIG's former case tracking system and then subsequently opened [REDACTED] 4 C.F.R. 81.6(c) on October 31, 2012.

The Government Accountability Office (GAO) Information Technology (IT) team received a Congressional request [REDACTED] 4 C.F.R. 81.6(a)

4 C.F.R. 81.6(a)

Between July and the end of August the [REDACTED] audit team produced a draft report and provided a hard copy draft to [REDACTED] 4 C.F.R. 81.6(f) for [REDACTED] review. On or about September 4, 2012, [REDACTED] 4 C.F.R. 81.6(f) returned the hard copy draft of the report that contained [REDACTED] hand written comments (the [REDACTED] "copy") to [REDACTED] 4 C.F.R. 81.6(f). On Tuesday, September 4, 2012, at 8:01 a.m., [REDACTED] 4 C.F.R. 81.6(f) (or someone on her behalf) scanned the [REDACTED] copy on a GAO-issued Xerox copier/scanner and emailed the scanned pdf version of the [REDACTED] copy to [REDACTED] GAO Outlook email account. At 8:15 a.m., [REDACTED] 4 C.F.R. 81.6(f) forwarded by Outlook email the scanned pdf of the [REDACTED] copy to the other members of the [REDACTED] audit team. On Tuesday, September 25, 2012, [REDACTED] 4 C.F.R. 81.6(f) [REDACTED] 4 C.F.R. 81.6(f) of online magazine *Wired* and [REDACTED] 4 C.F.R. 81.6(f) *Wired's* online blog, wrote: "Wanna read a leaked, draft GAO [sic] about how the govt sucks at sharing satellite data?" and attached a link to a pdf of the [REDACTED] copy.

On December 19, 2012, the OIG seized the GAO laptop computers assigned [REDACTED] 4 C.F.R. 81.6(f) and subsequently provided the laptops to the United States Postal Service, Office of Inspector General, Computer Crimes Unit (USPS OIG CCU) for forensic review. GAO OIG requested that the USPS OIG CCU conduct a forensic

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examination of the six hard drives and attempt to identify whether or not any of the [REDACTED] team members had accessed, printed, or forwarded an electronic version of the [REDACTED] copy at some date through September 25, 2012, when the draft was published by Wired.

On July 31, 2013, the USPS OIG CCU provided the Reporting Agent (RA) with their forensic analysis. The forensic examination did not identify any members of the [REDACTED] team as having accessed the [REDACTED] copy between September 4, 2012, and September 25, 2012. No team member was identified as having provided the draft [REDACTED] 4 C.F.R. 81.6(a) report to [REDACTED] 4 C.F.R. 81.6(f). However, one finding revealed that [REDACTED] audit team member [REDACTED] 4 C.F.R. 81.6(f) has a Twitter account and is "following" [REDACTED] 4 C.F.R. 81.6(f).

On October 23, 2013, the OIG issued a subpoena to Twitter, Inc., requesting all dates and times of all "Tweets" and direct messages sent by [REDACTED] to [REDACTED] 4 C.F.R. 81.6(f). On November 20, 2013, the OIG issued a subpoena to Verizon Wireless requesting the call and text detail records associated with the personal cell phone belonging to [REDACTED]. The period of the request to Verizon included all data from January 1, 2012 to November 20, 2013. Verizon responded to the subpoena on December 13, 2013. A review of the text and call detail records produced no identified contact between [REDACTED] and [REDACTED] 4 C.F.R. 81.6(f) through [REDACTED]'s personal cell phone. Twitter responded to the OIG subpoena on March 6, 2014. The response consisted of one page showing that [REDACTED] created the Twitter account on November 27, 2012, approximately two months after the unauthorized release of the [REDACTED] 4 C.F.R. 81.6(a) report. There were no communications between [REDACTED] and [REDACTED] 4 C.F.R. 81.6(f). Neither the Verizon data nor the Twitter data provided any additional leads for the investigation.

On the basis of the information above, the investigation is not able to identify the source of the unauthorized release of the draft GAO report, and as all leads have been exhausted, this investigation is closed.

APPROVED:

4 C.F.R. 81.6(f)

Adam R. Trzeciak, Inspector General

4/29/14
Date

cc: Deputy Inspector General Cathy L. Helm

Counsel to the Inspector General Cynthia Hogue

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O I G

Office of the Inspector General

United States Government Accountability Office

Memorandum

Date: May 3, 2013

To: Inspector General Adam Trzeciak

From: Assistant Inspector General for Investigations 4 C.F.R. 81.6(f)

Subject: Closing memorandum- Possible Government Accountability Employee (GAO) Employee Misconduct – 4 C.F.R. 81.6(f) office

Case Number: G-12-0004-P

This memorandum presents the findings of my investigation. No further actions or referrals are necessary to close this matter.

On November 18, 2011, this case was initiated based on an email that was forwarded to our office from GAO's FraudNet. The email stated, in part, the 4 C.F.R. 81.6(f) had until recently paid to have secretly arranged gay sex with two boys under the age of 16. Reportedly the boys formerly resided in Washington, DC and relocated to New Jersey. The author of the email claimed to be Emanuel S. Fish, and stated in the email that if GAO paid him \$200,000, he would destroy letters that were written by 4 C.F.R. 81.6(f) and sex video evidence that he had in his possession.

On November 18, 2011, Frances Garcia, (Former) GAO Inspector General, Cathy Helm (Helm), Deputy Inspector General (DIG) and, Thomas Predmore (Predmore), (Former) Director of Security, met with 4 C.F.R. 81.6(f) Assistant United States Attorney (AUSA) and 4 C.F.R. 81.6(f), AUSA, U.S. Attorney's Office for the District of Columbia, to report the matter. AUSA 4 C.F.R. 81.6(f) facilitated contact between GAO OIG and the FBI Washington Field Office for further investigation of the matter. During the meeting Predmore provided data to the FBI regarding the email IP address, which preliminarily indicated the email originated from a Google account.

Subsequently, 4 C.F.R. 81.6(f) Special Agent, FBI Washington Field Office, was assigned to jointly work the case with GAO OIG.

On December 14, 2011, SA 4 C.F.R. 81.6(f) sent DIG Helm an email informing her that he received a return from Google. The email account was created in Toronto, Canada and the account was accessed from several Canadian provinces. SA 4 C.F.R. 81.6(f) informed DIG Helm that he may also send a lead and request to the FBI Newark Division to interview Emanuel Fish. However, it looked like a possible Nigerian scam.

On January 25, 2012, SA [REDACTED] contacted DIG Helm to provide an update on the case. He confirmed that it was an email scam and it was more widespread than he initially believed. In addition to 4 C.F.R. 81.6(f) several Newark, New Jersey politicians and the CEO of [REDACTED] had received similar emails, which are aimed at causing embarrassment.

SA [REDACTED] spoke to a prosecutor, who agreed to open a Grand Jury investigation, which was needed to gather additional information/intelligence from Canada. The emails originated in Canada and Canadian officials had provided the FBI with names of two individuals in Canada: one has an African (possibly Nigerian) name and another individual who had returned to India.

On February 6, 2012, [REDACTED] 4 C.F.R. 81.6(f)
[REDACTED] 4 C.F.R. 81.6(f) GAO OIG, was assigned as the case agent for GAO OIG.

On February 24, 2012, SA [REDACTED] informed 4 C.F.R. 81.6(f) that he had to transfer the case from the FBI Washington field office to the FBI New Jersey field office. The new FBI Case Agent was Special Agent, 4 C.F.R. 81.6(f) SA [REDACTED] had an ongoing investigation into a similar matter and would be able to assist our office in investigating this matter further.

On February 27, 2012, 4 C.F.R. 81.6(f) contacted SA [REDACTED] via telephone. SA [REDACTED] relayed that she was working with an AUSA in the District of New Jersey, pursuing possible violations of threat by wire, hate crimes and use of a computer in furtherance of a crime. She stated she had not identified the subject but due to the information she had gathered she believed the subject might be located in Canada. SA [REDACTED] did not believe any other Federal Agencies were involved. 4 C.F.R. 81.6(f) informed SA [REDACTED] that she could assist in any way necessary to include conducting interviews and performing document reviews.

On April 16, 2012, 4 C.F.R. 81.6(f) spoke with SA [REDACTED] who relayed that the individual recently sent another email of the same nature to a person who already received one email. She stated that [REDACTED] 4 C.F.R. 81.6(g) that she had identified for her subject. SA [REDACTED] relayed that the IP address was registered in Canada and that she was aware the subject had one other alias. SA [REDACTED] stated that she did not know the true identity of the responsible individual.

On November 15, 2012, 4 C.F.R. 81.6(f) contacted SA [REDACTED] who relayed that she believed the suspect is 4 C.F.R. 81.6(f) who currently resides in Canada. SA [REDACTED] stated that she had been in discussions with the attorney assigned to the matter to have a mutual legal assistance treaty (MLAT) established to request extradition of 4 C.F.R. 81.6(f) for charges of threat by wire and intimidation by wire. SA [REDACTED] stated the process could take up to 6 months for her to learn if DOJ would decide to send the MLAT.

If the attorney assigned to the matter declined to send the MLAT, SA [REDACTED] stated her case would be closed because she would have no recourse to arrest or extradite [REDACTED] 4 C.F.R. 81.6(f) SA [REDACTED] also relayed that [REDACTED] 4 C.F.R. 81.6(f) previously resided in the United States for ten years prior to being deported to Lagos, Nigeria, for committing similar crimes against a federal and state judge.

On April 8, 2013, SA [REDACTED] telephonically informed [REDACTED] 4 C.F.R. 81.6(f) that based on the content of the email message that was sent to GAO; it is believed to have been authored by [REDACTED] 4 C.F.R. 81.6(f) As such [REDACTED] 4 C.F.R. 81.6(f) is not considered to be a subject of her investigation. SA [REDACTED] also provided a brief summary of her investigative findings for our file.

As a result of the findings discussed in this memorandum, this case has been closed. This matter does not require any further investigation or action.

4 C.F.R. 81.6(f)

Approved by [REDACTED]

Adam Trzeciak

5/3/13
Date



O I G

Office of Inspector General

United States Government Accountability Office

441 G Street NW, Room 1808
Washington, DC 20548

September 30, 2014

4 C.F.R. 81.6(f)Deputy Associate Director for Merit System
Accountability and Compliance
Room 6484-Q
1900 E Street, N.W.
Washington, DC 20415**4 C.F.R. 81.6(f)** Esq.Chief, Washington Field Office
Investigation and Prosecution Division
Office of Special Counsel
1730 M Street, N.W., Suite 218
Washington, DC 20036Re: Referral of GAO Office of Inspector General Investigative FindingsDear **4 C.F.R. 81.6(f)** and **4 C.F.R. 81.6(f)**:

On February 15, 2012, the Office of Inspector General, Government Accountability Office, received several allegations regarding personnel abuses within the U.S. Commission on Civil Rights (Commission or USCCR).¹ One allegation involved successive personnel actions involving a Schedule C employee that allegedly violated federal personnel regulations. This letter refers to your office our investigative findings that relate to personnel practices occurring within the Commission during December 2010 – January 2011. Because the personnel practices fall within the jurisdiction of your respective agencies, I am referring these findings to you for further action, as appropriate. Following our investigation, there remain three concerns that I am now referring to you: (1) whether the Schedule C employee performed any work during the 31-day period at issue; (2) whether the Associate Deputy Staff Director was an SES employee during the period in which she supervised the Schedule C employee; and (3) whether the Acting Assistant Staff Director for Civil Rights Evaluation had authority to direct the hiring of the former Schedule C employee on a Schedule A "Critical Need" appointment.

Our investigation focused on the 31-day period (December 14, 2010 – January 15, 2011) during which three USCCR employees undertook efforts to retain Schedule C employee, **4 C.F.R. 81.6(f)** on the agency payroll. **4 C.F.R. 81.6(f)** was hired by the Commission in June 2009 to work as a Schedule C confidential Special Assistant to a political appointee Commissioner.

¹ The Consolidated and Further Continuing appropriations act of 2012 designated the Inspector General of the Government Accountability Office to serve as the Inspector General of the U.S. Commission on Civil Rights. Pub. L. No. 112-55, 125 Stat. 552, 628 (Nov. 18, 2011). This authority ended on September 30, 2014. Pub. Law No. 113-76, 128 Stat. 5 (2014).

In December 2010, [4 C.F.R. 81.6(f)] was working for Commissioner [4 C.F.R. 81.6(f)]. The personnel actions that occurred in December 2010 and January 2011 transpired after [4 C.F.R. 81.6(f)] no longer worked as a Special Assistant to Commissioner [4 C.F.R. 81.6(f)].² Contemporaneous email indicates that [4 C.F.R. 81.6(f)] was retained as part of a political bargain negotiated between two high level officials: [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] (Attachment 1).³ During the 31 day period in which [4 C.F.R. 81.6(f)] was assigned to the USCCR Office [4 C.F.R. 81.6(f)] remained in [4 C.F.R. 81.6(f)] (his duty station).⁴

February 2012 Allegation

The complainant (an unnamed Commission employee)⁵ alleged that, during a period when [4 C.F.R. 81.6(f)] was not serving as a Schedule C confidential Special Assistant to a Commissioner, [4 C.F.R. 81.6(f)] was nonetheless improperly retained on the agency payroll and assigned to the agency's [4 C.F.R. 81.6(f)]. During the period in which [4 C.F.R. 81.6(f)] was assigned as a Schedule C employee within the [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] allegedly worked under the direct supervision of a career employee, [4 C.F.R. 81.6(f)]. The complainant alleged that Office of Personnel Management regulations require a Schedule C employee to be supervised only by another Schedule C employee or an SES employee. While working as a Schedule C employee within the [4 C.F.R. 81.6(f)] directly reported to a career non-SES employee (then [4 C.F.R. 81.6(f)]). The complainant alleged that the two agency employees who allegedly retained [4 C.F.R. 81.6(f)] on the agency payroll were [4 C.F.R. 81.6(f)] (then USCCR [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)]).

Some of the factual assumptions made by the complainant were inaccurate. The following discussion outlines the facts uncovered during the investigation into the alleged personnel actions.

Factual Background

During the August 30, 2013 OIG interview of [4 C.F.R. 81.6(f)] held in [4 C.F.R. 81.6(f)] Commission office, the OIG obtained documents from [4 C.F.R. 81.6(f)] Official Personnel File

² At the conclusion of Commissioner [4 C.F.R. 81.6(f)]'s six-year term, there was speculation that [4 C.F.R. 81.6(f)] would be reappointed to USCCR. The personnel actions to keep Mr. Duell on the payroll were purportedly intended to keep him as a salaried employee during the period when [4 C.F.R. 81.6(f)]'s reappointment was uncertain as to both congressional action and timing. [4 C.F.R. 81.6(f)] was reappointed to the USCCR in [4 C.F.R. 81.6(f)] (congressional appointment).

³ See Email from [4 C.F.R. 81.6(f)] to [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)] (Dec. 21, 2010) (stating, "[4 C.F.R. 81.6(f)] did [4 C.F.R. 81.6(f)] (and [4 C.F.R. 81.6(f)] the courtesy of getting [4 C.F.R. 81.6(f)] a temporary, paid detail to [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] did that on the understanding that we would try to keep the WH [White House] from firing him too soon."). [4 C.F.R. 81.6(f)] was the Special Assistant to Commission [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)]. His characterization of the agreement to assign [4 C.F.R. 81.6(f)] to the Commission's [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] is therefore highly credible.

⁴ [4 C.F.R. 81.6(f)] served as a confidential Special Assistant to different USCCR Commissioners while maintaining [4 C.F.R. 81.6(f)] as his duty station. This arrangement continued in December 2010 and January 2011 when he was assigned to work for individuals in the [4 C.F.R. 81.6(f)].

⁵ The Inspector General Act of 1978, as amended, prevents unnecessary disclosure of the identity of agency employees who provide information or complaint allegations to the Inspector General. See 5 U.S.C. app. 2, § 7(b).

(OPF). No agency staff, including [4 C.F.R. 81.6(f)], had an opportunity to remove documents from the OPF prior to our unanticipated file review.

As [4 C.F.R. 81.6(f)] (in addition to serving as USCCR [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)]), [4 C.F.R. 81.6(f)] was aware that [4 C.F.R. 81.6(f)] was being retained on the agency payroll. [4 C.F.R. 81.6(f)] was adamant that each of the personnel actions that are outlined below were in accordance with federal personnel regulations governing appointments of Schedule C and Schedule A employees. The OIG investigation did not substantiate any violation of federal personnel regulations, based on facts ascertained from [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)]'s OPF. Although the complainant had alleged that [4 C.F.R. 81.6(f)] was supervised by a non-SES career employee ([4 C.F.R. 81.6(f)]), [4 C.F.R. 81.6(f)] stated in [4 C.F.R. 81.6(f)] September 29, 2014 OIG interview that [4 C.F.R. 81.6(f)] was an SES (career) employee. Thus, during the time [4 C.F.R. 81.6(f)] was assigned to [4 C.F.R. 81.6(f)] he was supervised by two successive SES employees: [4 C.F.R. 81.6(f)] (a non-career SES employee) and [4 C.F.R. 81.6(f)] (a career SES employee). This was permissible under OPM regulations.

Chronology of Personnel Actions Involving [4 C.F.R. 81.6(f)]

Documents contained in [4 C.F.R. 81.6(f)]'s OPF and additional documents provided to the OIG by our complainant document the following personnel actions and contemporaneous events in connection with [4 C.F.R. 81.6(f)]'s retention on the Commission's payroll after [4 C.F.R. 81.6(f)] stopped working as a Special Assistant to Commissioner [4 C.F.R. 81.6(f)]:

- [4 C.F.R. 81.6(f)] hired by USCCR as Schedule C "Special Assistant" to a USCCR Commissioner, [4 C.F.R. 81.6(f)] (Attachment 2);
- Early [4 C.F.R. 81.6(f)] 2014, [4 C.F.R. 81.6(f)] works as staff assistant for Commissioner [4 C.F.R. 81.6(f)] (a Schedule C appointee);
- [4 C.F.R. 81.6(f)] USCCR [4 C.F.R. 81.6(f)] initiated Request for Schedule C Appointing Authority (OPM Form 1019), December 14, 2010, to assign [4 C.F.R. 81.6(f)] to work as "[4 C.F.R. 81.6(f)]" under supervision of [4 C.F.R. 81.6(f)] (who was a non-career SES employee) (Attachment 3);
- On [4 C.F.R. 81.6(f)] 2011, [4 C.F.R. 81.6(f)] sends email to USCCR Headquarters Staff announcing [4 C.F.R. 81.6(f)] effective [4 C.F.R. 81.6(f)] 2011 (Attachment 1, page 3);
- On [4 C.F.R. 81.6(f)] 2011, three days after announcing [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] initiated Request for Schedule C Appointment Authority, to assign [4 C.F.R. 81.6(f)] to work for [4 C.F.R. 81.6(f)] (career SES employee according to [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)]⁶ (Attachment 4);
- On Friday, January 7, 2011, [4 C.F.R. 81.6(f)] speaks to [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] states in a January 10, 2011 email to Special Assistant [4 C.F.R. 81.6(f)] "I will likely get booted off payroll in the coming hours or days until [4 C.F.R. 81.6(f)] is re-apptd [reappointed] and can re-hire me." (Attachment 1, page 4);

⁶ The OIG has not independently verified that [4 C.F.R. 81.6(f)] was a member of the Senior Executive Service.

- [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] left USCCR, [4 C.F.R. 81.6(f)] 2011;
- On Monday, January 10, 2011 (3:35 p.m.), [4 C.F.R. 81.6(f)] writes in an email to [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)] Special Assistants to other Commissioners, "BTW, I'm on payroll for the week, thanks to [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)] Great news!" (Attachment 1, p.5);
- [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] left USCCR, [4 C.F.R. 81.6(f)] 2014 (Attachment 1, p.6);
- [4 C.F.R. 81.6(f)] resigned effective January 15, 2011 (Attachment 5);
- [4 C.F.R. 81.6(f)] approved [4 C.F.R. 81.6(f)]'s Schedule A Executive Appointment not to exceed 30 days; the note states that the reason for the temporary appointment: "Critical Hire;" the cited legal authority for the personnel action is 5 C.F.R. 213.3102(i)(2) (Attachment 6);
- The internal document, "Request for Personnel Action," (SF-52) listed [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] as the authorizing official for the action to hire [4 C.F.R. 81.6(f)] as a Schedule A Critical Hire employee; notably, the SF-52 contains handwriting that crosses out the word "Acting" ("Acting [4 C.F.R. 81.6(f)]") because [4 C.F.R. 81.6(f)] would not have had authority to authorize hiring [4 C.F.R. 81.6(f)] if he were Acting Staff Director; the handwriting alongside box 6 on the form states, "Delegated by the authority of [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)]" (Attachment 7);
- [4 C.F.R. 81.6(f)] was assigned to work for USCCR [4 C.F.R. 81.6(f)] from [4 C.F.R. 81.6(f)] 2011 through [4 C.F.R. 81.6(f)] 2011, when he was transferred to the staff of newly-appointed Commissioner [4 C.F.R. 81.6(f)] (to serve as a confidential Staff Assistant to the Commissioner) (Attachments 8 and 9); and
- [4 C.F.R. 81.6(f)]'s OPF contained a yellow post-it note that contained the following text (in two different handwriting styles), "Critical 30 day Appt w/ provision, w/ benefits [4 C.F.R. 81.6(f)]- or see if a conversion is possible" then in a different handwriting style, the following response, "120 days – he must have no broken service or with a break of 3 days or less for a conversion."⁸ (Attachment 10).

⁷ There remains some uncertainty regarding whether [4 C.F.R. 81.6(f)] had legal authority to authorize the hiring of [4 C.F.R. 81.6(f)] as a Schedule A Critical Hire employee. Referral of this matter to OPM and OSC should resolve any uncertainty. During [4 C.F.R. 81.6(f)] September 29, 2014 interview, [4 C.F.R. 81.6(f)] stated that the word "Acting" was crossed out in Box 6 of the SF-52 and the delegation language was handwritten onto the form. If [4 C.F.R. 81.6(f)] was not the Acting Staff Director, the form fails to identify the individual with legal authority to appoint [4 C.F.R. 81.6(f)] to the Schedule A Critical Hire position. Our inquiry revealed that [4 C.F.R. 81.6(f)] was the Acting Assistant Staff Director for Civil Rights Evaluation at the time [4 C.F.R. 81.6(f)] was re-hired. Whether he held authority to hire [4 C.F.R. 81.6(f)] as a Schedule A Critical Hire is a matter to be determined by OPM and/or OSC.

⁸ During [4 C.F.R. 81.6(f)] September 29, 2014 OIG interview, [4 C.F.R. 81.6(f)] stated that she was unsure about whose handwriting was reflected on the post-it note or the context of the information contained on the note. In contrast, USCCR employee [4 C.F.R. 81.6(f)] an HR Specialist who works closely with [4 C.F.R. 81.6(f)], readily acknowledged that the handwriting at the bottom of the post-it note (cursive handwriting that answered the question posed at the top of the post-it note) was her own. She could not recall the specific context of the note or whose handwriting was reflected on the top portion of the note. We found [4 C.F.R. 81.6(f)] statement that she did not recognize any of the handwriting on the note to be likely deceptive. [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)] work very closely. There were only three

Legal Analysis

Based on information provided to the OIG by USCCR [4 C.F.R. 81.6(f)] the Schedule C appointments that assigned [4 C.F.R. 81.6(f)] to [4 C.F.R. 81.6(f)] did not violate federal personnel regulations because [4 C.F.R. 81.6(f)] was always a direct report to an SES employee. Both [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)] were SES employees according to [4 C.F.R. 81.6(f)].

Despite the permissibility of the appointments of [4 C.F.R. 81.6(f)] to [4 C.F.R. 81.6(f)] there remains a factual uncertainty regarding whether [4 C.F.R. 81.6(f)] performed any substantive work for the USCCR while he was assigned to [4 C.F.R. 81.6(f)]. [4 C.F.R. 81.6(f)] stated in her August 30, 2013 and September 29, 2014 OIG interviews that she had no information regarding whether [4 C.F.R. 81.6(f)] performed work during this period.⁹ Because [4 C.F.R. 81.6(f)]'s duty station is located in [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] he uses his personal computer to connect to the Commission network (via www.gotomypc.com), according to [4 C.F.R. 81.6(f)]. That Information Technology (IT) arrangement creates an obstacle that prevented the OIG from obtaining digital forensic evidence in our effort to determine whether [4 C.F.R. 81.6(f)] performed substantive work during the 31 day period he was assigned to [4 C.F.R. 81.6(f)]. Constitutional Fourth Amendment protections prevent the OIG from obtaining a forensic image of [4 C.F.R. 81.6(f)]'s personal computer hard drive, despite the fact that it may contain USCCR work product. He has a reasonable expectation of privacy in his personal computer. That requires the OIG to obtain a search warrant before gaining access to the content of the hard drive. We would not be able to obtain a search warrant for the computer hard drive, based on available information.¹⁰

Conclusion

Our investigation did not substantiate the allegation that [4 C.F.R. 81.6(f)]'s assignments to [4 C.F.R. 81.6(f)] violated OPM regulations. Although we uncovered no evidence to prove that [4 C.F.R. 81.6(f)]'s

permanent USCCR employees who had access to the OPF ([4 C.F.R. 81.6(f)] and another [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)]). During the September 29, 2014 OIG interview, [4 C.F.R. 81.6(f)] abruptly terminated the voluntary interview during questioning about the post-it note.

⁹ [4 C.F.R. 81.6(f)] stated that only the supervisors would know whether [4 C.F.R. 81.6(f)] performed work during the assignments to OSD. We did not attempt to interview the former [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] because we would expect that their statements would be self-serving (i.e., that in an effort to justify their personnel actions, they would state that [4 C.F.R. 81.6(f)] performed substantive work for them from his remote location in [4 C.F.R. 81.6(f)]). Until forensic evidence is made available to the OIG, such interviews would not be expected to yield reliable information.

¹⁰ We did not request access to the data contained on the USCCR shared network drive that is assigned to [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)]. In the event there was no work product during the relevant 31 day period, we would still have need for the local hard drive used by [4 C.F.R. 81.6(f)] from his residence in [4 C.F.R. 81.6(f)].

assignments to [REDACTED] were solely the result of [REDACTED] and [REDACTED]'s efforts to retain [REDACTED] on the agency payroll – regardless of whether he was needed to perform work within [REDACTED] – we are uncertain whether [REDACTED] performed any work during the 31 day period in which he was assigned to 4 C.F.R. 81.6(f) and [REDACTED]. We refer these investigative findings to each of your offices for further action, as appropriate. Please contact me if I may provide additional details obtained during our investigation into the foregoing allegations.

Sincerely,

[REDACTED]

4 C.F.R. 81.6(f)

Adam R. Trzeciak
Inspector General

ATTACHMENT 1

Gmail 4 C.F.R. 81.6(f)

Page 1 of 1



4 C.F.R. 81.6(f)@gmail.com>

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f)

Tue, Dec 21, 2010 at 12:31 PM

Reply-To: 4 C.F.R. 81.6(f)

To: 4 C.F.R. 81.6(f)@gmail.com>, 4 C.F.R. 81.6(f)@gmail.com>

I'll wait a little while longer to see which way [REDACTED] ends up going regarding [REDACTED]'s authority to reschedule the Jan. 14 meeting and briefing.

[REDACTED] (or was it [REDACTED]?) Regarding your comment about the WH firing [REDACTED] sooner rather than later:

I'm not altogether sure 4 C.F.R. 81.6(f) is the man we want as "acting". Not only am I not sure that he can command the career staff but he is at least as much in the thrall of 4 C.F.R. 81.6(f) as [REDACTED] is. Maybe more.

In the meantime, he did [REDACTED] (and [REDACTED] the courtesy of getting [REDACTED] a temporary, paid detail to [REDACTED] (Which, incidentally, REALLY made the veins pop out in mini-me's big head!) [REDACTED] did that on the understanding that we would try to keep the WH from firing him too soon. ←

And when [REDACTED] made her decision to hire you, [REDACTED] gave the order to [REDACTED] immediately.

As an aside, and privately, 4 C.F.R. 81.6(f) thinks that I may be underestimating [REDACTED]'s ability to do the right thing regarding acting on [REDACTED]'s authority. (The right thing is defined by 4 C.F.R. 81.6(f) as [REDACTED] clearly has the authority.)

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f)

Documentation supporting 4 C.F.R. 81.6(f)'s decision regarding "finding" a position for 4 C.F.R. 81.6(f) when he no longer also works as a Special Agent.



4 C.F.R. 81.6(f) @gmail.com>

Jan. 14 Briefing Issues

4 C.F.R. 81.6(f) @gmail.com>

Wed, Dec 29, 2010 at 7:56 PM

To: 4 C.F.R. 81.6(f)

Cc: 4 C.F.R. 81.6(f) @gmail.com>

hello Gentlemen --

I'm leaving for 4 C.F.R. 81.6(f) tomorrow morning, Th. 12/30, and I will be back home on the evening of Tues., 1/4.
I'll have email access but not cell phone access.

Happy New Year to both of you -- talk soon --

[Quoted text hidden]

4 C.F.R. 81.6(f)

From: 4 C.F.R. 81.6(f)
Sent: Tuesday, January 04, 2011 2:58 PM
To: HeadquartersAllStaff, RegionalOffices
Subject: Transition News

USCCR Staff:

I have accepted an offer to serve on the 4 C.F.R. 81.6(f) Committee and will begin that new assignment on Monday, 4 C.F.R. 81.6(f). I will be a 4 C.F.R. 81.6(f) and will be working with coalitions.

I have appreciated the opportunity to work with you over the past 4 C.F.R. 81.6(f) years and wish you and the Commission great success in the coming years. I expect to be in the headquarters' neighborhood from time to time, so will plan to stop by and visit. It's also possible that my travels will take me to some regional cities and I'll be able to visit some of you there.

Please feel free to contact me at 4 C.F.R. 81.6(f)@verizon.net or stop by the Committee if you happen to be on Capitol Hill.

Best regards,

[Redacted Signature]

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9/16

Gmail - Any news?

Page 1 of 1



4 C.F.R. 81.6(f) @gmail.com>

Any news?

4 C.F.R. 81.6(f) @gmail.com>
To: 4 C.F.R. 81.6(f) @gmail.com>

Mon, Jan 10, 2011 at 12:38 PM

hello --

Happy New Year to you as well! I had a terrific time in [REDACTED] with [REDACTED] and a bunch of friends over New Year's. It was a great break from the stupid stress which has been plaguing me for months.

I talked to [REDACTED] on Fri. Long story short and barring unanticipated immediate assistance from OPM, I will likely get booted off payroll in the coming hours or days until [REDACTED] is re-apptd and can re-hire me. He expects to be re-apptd this week (although I don't know if the change in the Hill's schedule in light of the tragedy in Tucson will delay that). Taking it one day at a time. I do need to check with him about the 2 upcoming 1/19 filing deadlines, to see if I need to be prepared with something in case he is back on by then.

How is your new job coming? And how are you otherwise?

BTW, my dogs ate my cell on Friday. I am trying to get out to replace it today. Until I do so, please call me at 716-694-1114 if you are looking for me by phone.

I hope you are well -- [REDACTED]

On Mon, Jan 10, 2011 at 12:18 PM, 4 C.F.R. 81.6(f) @gmail.com> wrote:
It's been awhile since I heard from you. What's going on?

Happy New Year,
[REDACTED]

Ⓜ Reference 4 C.F.R. 81.6(f) is to Commissioner 4 C.F.R. 81.6(f)
[REDACTED]



4 C.F.R. 81.6(f) @gmail.com>

4 C.F.R. 81.6(f) giving 4 C.F.R. 81.6(f) a soap box on which to harangue
4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f) @gmail.com>
To: 4 C.F.R. 81.6(f) @gmail.com>
Cc: 4 C.F.R. 81.6(f)

Mon, Jan 10, 2011 at 3:35 PM

Many thanks for the link. BTW, I'm on payroll for the week, thanks to 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f) Great news!

On Mon, Jan 10, 2011 at 3:24 PM, 4 C.F.R. 81.6(f) @gmail.com> wrote:

"This is not simply incoherent and irresponsible, but a monument to self-contradiction.

He states '[we] don't know for sure what the motives of this particular madman were,' but then declares that the victims were 'martyrs to a culture of hate speech' and that extremists on cable news shows and radio are somehow responsible. Never let the facts (or lack thereof) get in the way of a preferred narrative."

http://voices.washingtonpost.com/right-turn/2011/01/a_civil_rights_official_disgra.html

4 C.F.R. 81.6(f)

From:

4 C.F.R. 81.6(f)

Sent:

Friday, January 14, 2011 1:48 PM

To:

4 C.F.R. 81.6(f)

Subject:

Farewell gathering in honor of 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f)

Please come to the 5th floor conference room at 2:30 to wish 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f) well and thank them for their service here.

Regards,

4 C.F.R. 81.6(f)

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12
46



4 C.F.R. 81.6(f) @gmail.com>

Non Briefing on Jan. 14 (today)

4 C.F.R. 81.6(f)
Reply-To: 4 C.F.R. 81.6(f)
To: 4 C.F.R. 81.6(f) @gmail.com>
Cc: 4 C.F.R. 81.6(f) @gmail.com>

Fri, Jan 14, 2011 at 7:42 PM

[REDACTED]

Yes, I expected that you would be "separated" as soon as [REDACTED] and [REDACTED] left.

I sincerely hope that you are correct that [REDACTED] will be reappointed in a matter of days. As well as the WH appointees.

The ganglet of three will find that their petty, vindictive agenda against their "enemies of the state" ([REDACTED]) will be frustrated and short-circuited by the new commission.

They will not like it one bit when the new commissioners are seated.

Be well!

[REDACTED]

----- Original message -----

> Date: Fri, 14 Jan 2011 18:36:18 -0500
> From: 4 C.F.R. 81.6(f) @gmail.com>
> Subject: Re: Non Briefing on Jan. 14 (today)
> To: 4 C.F.R. 81.6(f)
> Cc: 4 C.F.R. 81.6(f) @gmail.com>
>
> And in other late-breaking USCCR news, I am off the
> rolls until [REDACTED] is reappointed and can initiate
> a re-hiring process. I am not anticipating a
> problem. ←
>
> Sorry to hear that [REDACTED] is being mistreated...
> certain folks' lack of professionalism apparently
> knows no bottom
>
> On Fri, Jan 14, 2011 at 6:19 PM, 4 C.F.R. 81.6(f)
> 4 C.F.R. 81.6(f) wrote:
>
> [REDACTED] and [REDACTED]
>
> It was a very uneventful day at the commission.
>
> [REDACTED] and [REDACTED] never entered the building;
> 4 C.F.R. 81.6(f) and [REDACTED] left the building around
> 11:30 AM and didn't return til 3:30 PM so the gang
> was obviously meeting off-site somewhere.
> 4 C.F.R. 81.6(f) never came in at all.
>
> Undoubtedly [REDACTED], [REDACTED] and Mini-Me spent the
> day trying to find a way to impeach [REDACTED]

- >
- > In other news, [REDACTED] and I will finalize the agenda
- > for the Jan. 28 telephone meeting over the
- > weekend. If you have agenda suggestions please
- > send them to me.
- >
- > I said good bye to [REDACTED] tonight. We had a little
- > office party at the commission, then the two OGC
- > attorneys (4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f)) and I
- > took [REDACTED] out for drinks. We will all miss him
- > terribly.
- >
- > He is being pilloried by his own conservative
- > commissioners [REDACTED] [REDACTED] who are trying to
- > keep him from finding a job because he interpreted
- > the commission's statutes and regulations in an
- > objective fashion.
- >
- > 4 C.F.R. 81.6(f) may be a Republican, but to
- > [REDACTED] he is worthless scum because he did
- > not give them the legal opinions they wanted
- > regarding [REDACTED]'s authority as 4 C.F.R. 81.6(f)
- >
- > Shameless.

4 C.F.R. 81.6(f)

From: 4 C.F.R. 81.6(f) @gmail.com]
Sent: Tuesday, June 21, 2011 9:37 AM
To: 4 C.F.R. 81.6(f)
Cc: 4 C.F.R. 81.6(f)
Subject: Re: draft School Discipline Commissioner Comments for discussion and editing

is correct. Just one round of Commissioner comments for briefing reports such as this one. --

On Tue, Jun 21, 2011 at 9:28 AM, 4 C.F.R. 81.6(f) @gmail.com> wrote:
I'll check with . Thanks for the information. --

On Tue, Jun 21, 2011 at 9:22 AM, 4 C.F.R. 81.6(f) @uscet.gov> wrote:

What authority are you relying on to claim that there are two rounds of Commissioner comments for briefing report drafts? It's my understanding that there's only one (based on Appendix 4 of AI 1-6, the checklist for briefing reports).

Thanks,

From: 4 C.F.R. 81.6(f) @gmail.com]
Sent: Monday, June 20, 2011 8:59 PM
To: 4 C.F.R. 81.6(f)
Subject: draft School Discipline Commissioner Comments for discussion and editing

hello All --

The Comments are due this Friday, June 24. I have used block quotes very liberally in an attempt to put the most critical information right in front of the author(s) of the next draft. I have also avoided using "Id." in my footnotes so that our submission is as "copy and paste-able" as possible to ease and encourage wholesale incorporation of our text into the next draft.

Please remember that, if we follow our normal production template for this report (unlike we are doing for the 2011 Statutory Report), we will have the opportunity to offer another round of comments in response to the second draft. The draft that would then be presented to the Commission for vote would be a third draft.

Thanks in advance for your input. --

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4 C.F.R. 81.6(f)

From: 4 C.F.R. 81.6(f)
Sent: Thursday, January 26, 2012 9:35 AM
To: 4 C.F.R. 81.6(f)
Subject: "Control of the Commission: Composition of the USCCR"

██████████ & ██████████

The section of the retreat memo discussing Commissioner appointments presents an inaccurate description of the history and practice of Congressional appointments to the Commission.

The memo claims that ██████████ was the House majority appointee. ██████████ was appointed (belatedly) in 4 C.F.R. 81.6(f), when the Democrats were in control of the House. The Congressional Record announcement of his appointment notes that he was recommended by the minority leader. All the same, this inaccuracy is immaterial since both Chambers of Congress do not consider their USCCR seats to be designated majority or minority seats. Rather, the seats are seen as Democratic or Republican seats. This view is reflected in the fact that 4 C.F.R. 81.6(f) was also recommended by the Minority Leader of the House, first in ██████████ and then ██████████. It's also reflected in ██████████'s two appointment notices which list her as having been recommended by "the Republican Leader" (see also, 4 C.F.R. 81.6(f)'s notice which lists him as recommended by "the Democratic Leader").

A change in Party control of either Chamber will have no effect on the reappointments of ██████████ or ██████████ unless a new Speaker/President pro tempore decides to break the informal agreement that has governed the Commission appointment practice. Considering that then-Speaker Pelosi did not reappoint ██████████ when then-Majority Leader Hoyer refused to recommend him for reappointment and then submitted the recommendation herself once Boehner was Speaker, I think it unlikely that presumptive-Speaker Pelosi will refuse to reappoint ██████████ upon the recommendation of presumptive-Minority Leader Boehner/Cantor (although perhaps his reappointment might be delayed as was ██████████'s). It's even less probable that a President pro tem Lugar/Hatch would ask Minority Leader Reid to recommend an additional Commissioner.

I was frankly surprised to see the appointment process mischaracterized in the retreat memo since the three of us (along with ██████████) had discussed the Congressional appointments at length last year when ██████████'s appointment was in limbo. I hope this email clarifies matters and saves you time at your retreat.

Best wishes,

██████████

4 C.F.R. 81.6(f)



Request for Schedule C Appointing Authority**Agency Name:** COMMISSION ON CIVIL RIGHTS**Print Date:** DEC-14-2010**POC:** 4 C.F.R. 81.6(f)**Phone:** 202-378- [REDACTED]**Fax:** 202-378- [REDACTED]**Request No.:** CC110001**Request Type:** APPOINTMENT**Position:** REGULAR C**Candidate:** 4 C.F.R. 81.6(f)**Grade/Step:** GS14/1**Salary:** \$99079**Position No.:** CCGS00032 **Title:** SPECIAL ASSISTANT TO STAFF DIRECTOR**Series:** 00301**Desc:** MISCELLANEOUS ADMINISTRATION AND PROGRAM**Date PD certified as Schedule C per 5 CFR 213.3301(a):** DEC-14-2010**Organization ID:** 200**Org. Name:** STAFF MEMBERS**Supervisor No:** CCE000012**Supv. Title:** STAFF DIRECTOR**Supervisor Name:** 4 C.F.R. 81.6(f)**Supv. Position Type:** NONCAREER**GEO Location:** 4 C.F.R. 81.6(f)**Schedule C Certification Statement**

I certify the Schedule C position above, that we request the Office of Personnel Management to exempt from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/Agency Head or Designee: STAFF DIRECTOR**Signature:**

4 C.F.R. 81.6(f)

Date Signed:

12/14/10

Agency White House Liaison**Name:****Phone:****Signature:****Date Signed:****OPM USE ONLY**☒ **Approved**☐ **Disapproved**☐ **Returned without Action****OPM Approving Official:**

4 C.F.R. 81.6(f)

Date Signed:

12/14/10

FAX: 202-606-2373**Source:** Office of Personnel Management**ATTENTION:** Senior Executive Resource Services

Report 1019, Version November 2008

4 C.F.R. 81.6(f)



Request for Schedule C Appointing Authority

Agency Name: COMMISSION ON CIVIL RIGHTS

Print Date: JAN-07-2011

POC: 4 C.F.R. 81.6(f)

Phone: 202-378- [REDACTED]

Fax: 202-378- [REDACTED]

Request No.: CC110003

Request Type: APPOINTMENT

Position: REGULAR C

Candidate: 4 C.F.R. 81.6(f)

Grade/Step: GS14/1

Salary: \$89079

Position No.: CCGS60032

Title: SPECIAL ASSISTANT TO STAFF DIRECTOR

Series: 00301

Desc: MISCELLANEOUS ADMINISTRATION AND PROGRAM

Date PD certified as Schedule C per 5 CFR 213.3301(a): JAN-05-2011

Organization ID: 200

Org. Name: STAFF MEMBERS

Supervisor No: CCES00001

Supv. Title: ASSOCIATE DEPUTY STAFF DIRECTOR

Supervisor Name: 4 C.F.R. 81.6(f)

Supv. Position Type: CAREER

GEO Location: 4 C.F.R. 81.6(f)

Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee: STAFF DIRECTOR

Signature: 4 C.F.R. 81.6(f)

Date Signed: 1/7/11

Agency White House Liaison

Name: _____

Phone: _____

Signature: _____

Date Signed: _____

OPM USE ONLY☒ Approved☐ Disapproved☐ Returned without Action

OPM Approving Official: 4 C.F.R. 81.6(f)

Date Signed: 1/10/11

FAX: 202-606-2378

Source: Office of Personnel Management

ATTENTION: Senior Executive Resource Services

Report 0019, Version November 2005

4 C.F.R. 81.6(f)



4 C.F.R. 81.6(f)



Attachment 7

Standard Form 52-

Rev. 7/91

U.S. Office of Personnel Management

FPM Supp.

REQUEST FOR PERSONNEL ACTION

PART A - Requesting office (Also complete Part B, Items 1, 7-22, 32, 33, 36 and 39.)

1. Actions Requested

Critical Hire - NTE 30 DAYS

2. Request Number

3. For Additional Information Call (Name and Telephone Number)

4. Proposed Effective Date

5. Action Requested By (Typed Name, Title, Signature, and Request Date)

6. Action Authorized By (Typed Name, Title, Signature, and Concurrence Date)

4 C.F.R. 81.6(f)
Acting, Staff Director

4 C.F.R. 81.6(f)

Date: 1-25-2011

PART B - For Preparation of SF 50 (Use only codes in FPM Supplement 292-1. Show all dates in month-day-year order.)

1. Name (Last, First, Middle)

Duell, Alec H.

2. Social Security Number

3. Date of Birth

4. Effective Date

01/28/2011

FIRST ACTION

5-A. Code

5-B. Nature of Action

171

Exc. Appt NTE 3/27/2011

5-C. Code

5-D. Legal Authority

WPG

Sch A. 313. 3102 (I)(31)

5-E. Code

5-F. Legal Authority

SECOND ACTION

6-A. Code

6-B. Nature of Action

6-C. Code

6-D. Legal Authority

6-E. Code

6-F. Legal Authority

7. FROM: Position Title and Number

15. TO: Position Title and Number

SPECIAL ASSISTANT

8. Pay Plan	9. Occ. Code	10. Grade or Level	11. Step or Rate	12. Total Salary	13. Pay Basis	16. Pay Plan	17. Occ. Code	18. Grade or Level	19. Step or Rate	20. Total Salary	21. Pay Basis
						GS	0301	14	01	99079	PA
12A. Basic Pay	12B. Locality Adj.	12C. Adj. Basic Pay	12D. Other Pay	20A. Basic Pay	20B. Locality Adj.	20C. Adj. Basic Pay	20D. Other Pay				
				00 84697	14382		00				

14. Name and Location of Position's Organization

22. Name and Location of Position's Organization

U.S. COMMISSION ON CIVIL RIGHTS
OFFICE OF THE STAFF DIRECTOR

EMPLOYEE DATA

23. Veterans Preference

1 - None

2 - 5 Point

3 - 10-Point/Disability

4 - 10-Point/Compensable

5 - 10-Point/Other

6 - 10-Point/Compensable/30%

24. Tenure

3

0 - None

1 - Permanent

2 - Conditional

3 - Indefinite

25. Agency Use

26. Veterans Preferences for RIF

YES

X NO

27. FEGLI

28. Annuitant Indicator

9

29. Pay Rate Determinant

30. Retirement Plan

31. Service Comp. Date (Leave)

32. Work Schedule

F

33. Part-Time Hours Per

Biweekly

Pay Period

POSITION DATA

34. Position Occupied

1 - Competitive Service

2 - Excepted Service

3 - SES General

4 - SES Career Reserved

35. FLSA Category

E - Exempt

N - Nonexempt

36. Appropriation Code

37. Bargaining Unit Status

38. Duty Station Code

39. Duty Station (City - County - State or Overseas Location)

40. Agency Data	41.	42.	43.	44.	45. Education Level	46. Year Degree Attained	47. Academic Discipline	48. Functional Class	49. Citizenship	50. Veterans Status	51. Supervisory Status
									1 - USA 5 - Other		

PART C - Reviews and Approvals (Not to be used by requesting office)

1. Office/Function	Initials/Signature	Date	Office/Function	Initials/Signature	Date
A. HRD	4 C.F.R. 81.6(f)		D.		
B. BFD			E.		
C.			F.		

2. Approval. I certify that the information entered on this form is accurate and that the proposed action is in compliance with statutory and regulatory requirements.

Signature: 4 C.F.R. 81.6(f)

Approval Date

1-28-2011

CONTINUED ON REVERSE SIDE

52-119

OVER

NSN 7540-01-200-204

2/2/11

D - Remarks by Requesting Office

to Supervisors: Do you know of additional or conflicting reasons for the employee's resignation/retirement?

☐ YES ☐ NO**PART E - Remarks by Requesting Office****Privacy Act Statement**

You are requested to furnish a specific reason for your resignation or retirement and a forwarding address. Your reason may be considered in any future decision regarding your re-employment in the Federal service and may also be used to determine your eligibility for unemployment compensation benefits. Your forwarding address will be used primarily to mail you copies of any documents you should have or any pay or compensation to which you are entitled.

Regulations with regard to employment of individuals in the Federal service and their records. While section 8506 requires agencies to furnish the specific reason for termination of Federal service to the Secretary of Labor or a State agency in connection with administration of unemployment compensation programs.

The furnishing of this information is voluntary, however, failure to provide it may result in your not receiving: (1) your copies of those documents you should have; (2) pay or other compensation due you; and (3) any unemployment compensation benefits to which you may be entitled.

This information is requested under authority of sections 301, 3301, and 8506 of title 5, U.S. Code. Sections 301 and 3301 authorize OPM and agencies to issue

1. Reasons for Resignation/Retirement (NOTE: Your reasons are used in determining possible unemployment benefits. Please be specific and avoid generalizations. Your resignation/retirement is effective at the end of the day - midnight - unless you specify otherwise.)

2. Effective Date

3. Your Signature

4. Date Signed

5. Forwarding Address (Number, Street, City, State, ZIP Code)

PART F - Remarks for SF 50

MO6 - Critical Hire

M46 -

BO 3

BO4

MO1

Attachment 8

Request for Schedule C Appointing Authority

Agency Name: COMMISSION ON CIVIL RIGHTS

Print Date: FEB-01-2011

POC: 4 C.F.R. 81.6(f)

Phone: 202-376- [REDACTED]

Fax: 202-376- [REDACTED]

Request No.: CC110005

Request Type: APPOINTMENT

Position: REGULAR C

Candidate: 4 C.F.R. 81.6(f)

Grade/Step: GS14/1

Salary: \$99079

Position No.: CCGS60032

Title: SPECIAL ASSISTANT

Series: 00301

Desc: MISCELLANEOUS ADMINISTRATION AND PROGRAM

Date PD certified as Schedule C per 5 CFR 213.3301(a): JAN-27-2011

Organization ID: 200

Org. Name: STAFF MEMBERS

Supervisor No: CCEX00011

Supv. Title: CHAIRMAN

Supervisor Name: 4 C.F.R. 81.6(f)

Supv. Position Type: PRESIDENTIAL WITHOUT SENATE APP

GEO Location: 4 C.F.R. 81.6(f)

Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee: STAFF DIRECTOR

Signature:

4 C.F.R. 81.6(f)

Date Signed:

2-2-11

Agency White House Liaison

Name:

Phone:

Signature

Date Signed:

OPM USE ONLY

✓ Approved

Disapproved

Returned without Action

OPM Approving Official

4 C.F.R. 81.6(f)

Date Signed:

2/7/11

FAX: 202-606-2378

Source: Office of Personnel Management

ATTENTION: Senior Executive Resource Services

Report 019, Version November 2009

4 C.F.R. 81.6(f)



4/21/10

4 C.F.R. 81.6(f)

☒ NAME LEGIBLE
☒ SOCIAL SECURITY NUMBER
☒ METAL CLIPS IN PLACE

120-day -
 must have no break in
 service for a conversion
 in less than 120 days

☒ DOCUMENTS IN CHRONOLOGICAL ORDER
☐ DOCUMENTS REMOVED (ATTACH LIST)

☐ **DOCUMENTS ADDED (ATTACH LIST)**

☒ DOCUMENTS IN CHRONOLOGICAL ORDER
☐ DOCUMENTS REMOVED (ATTACH LIST/NOTE ACTION)

☐ **DOCUMENTS ADDED (ATTACH LIST)**

DOCUMENTS MISSING/CORRECTIVE ACTION TAKEN



U.S. Government Accountability Office
Office of Inspector General

REPORT OF INVESTIGATION

C-12-0019-O
4 C.F.R. 81.6(f)

Prepared by:	4 C.F.R. 81.6(f)
Approved by:	J. HOWARD ARP

REPORT OF INVESTIGATION

CASE#: C-12-0019-O	DATE OF REPORT: September 10, 2014
CASE TITLE: 4 C.F.R. 81.6(f)	
PERIOD OF INVESTIGATION: February 15, 2012 TO September 3, 2014	
CASE AGENT: 4 C.F.R. 81.6(f)	
DISTRIBUTION: GIMS, IG	

SUMMARY

4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) U.S. Commission on Civil Rights (CCR), alleged that 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) CCR, was engaged in wasteful travel when attending CCR meetings in Washington, DC. According to 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) listed his official duty station as his residence in 4 C.F.R. 81.6(f), whereas the Commissioners and the 4 C.F.R. 81.6(f) have space assigned to them at the CCR office in Washington, D.C. 4 C.F.R. 81.6(f) further alleged that certain members of the Commission staff were not following CCR policy with respect to using electronic mail by using their personal email accounts to conduct official CCR business. The investigation determined the allegations made by the complainant do not merit any further investigative activity.

DETAILS

On February 15, 2012, the Office of Inspector General (OIG) received a complaint from 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) U.S. Commission on Civil Rights (CCR), that 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) CCR, was engaged in wasteful travel when attending CCR meetings in Washington, DC. According to the complainant, 4 C.F.R. 81.6(f) listed his official duty station as his residence in 4 C.F.R. 81.6(f), whereas the Commissioners and the 4 C.F.R. 81.6(f) have space assigned to them at the CCR office in Washington, D.C. The Complainant stated that it costs the CCR about \$17,000 to fly 4 C.F.R. 81.6(f) to Washington, DC for the monthly meetings (**Exhibit 1**).

4 C.F.R. 81.6(f) further alleged that certain members of the Commission staff were not following CCR policy with respect to using electronic mail. 4 C.F.R. 81.6(f) advised that the CCR has a policy that all CCR business must be conducted using CCR-issued email accounts. 4 C.F.R. 81.6(f) provided samples of emails that had been sent between Commission staff members that purportedly involved official commission business and were sent via Google "Gmail" accounts. CCR Administrative Instruction 4-22 (10-24-2011) states in part, "all agency personnel shall solely use Agency-issued email accounts in connection with the transaction of Agency business. Agency personnel shall not use non-Agency email accounts in connection with the transaction of Agency business."

On August 4, 2014, the Reporting Agent (RA) obtained 4 C.F.R. 81.6(f)'s travel records for the period October 2012 through July 2013. 4 C.F.R. 81.6(f) traveled 11 times during the period for a total cost to the CCR of \$8,327.91 (**Exhibit 2**).

On August 18, 2014, the RA received information from [4 C.F.R. 81.6(f)] Director of Management /Human Resources, CCR, concerning CCR policy regarding the following two issues:

a. *Does CCR have a policy (in effect in 2011 and 2012) that speaks to whether or not Special Assistants may work out of their residence as their post of duty?* According to Martin, when a Commissioner hires a Special Assistant, the duty station is determined based on where the Special Assistant and/or Commissioner lives. Secondly, the Special Assistant makes arrangements with his or her Commissioner as to the specific telework arrangement per Administrative Instruction 2-34.

[4 C.F.R. 81.6(f)] provided a copy of [4 C.F.R. 81.6(f)]'s request to Commissioner [4 C.F.R. 81.6(f)] to telework each workday from his residence. The request was approved on August 11, 2011. The second document is a request to OPM to approve his Schedule C appointment which shows his duty station as [4 C.F.R. 81.6(f)]. OPM approved the request on February 7, 2011 (Exhibit 3)

b. *Does CCR have a policy (in effect in 2011 and 2012) that authorizes [4 C.F.R. 81.6(f)] to conduct official travel to attend CCR meetings?* According to [4 C.F.R. 81.6(f)], the policy is set forth in the Federal Travel Regulations and if a [4 C.F.R. 81.6(f)] travels outside his/her duty station for official Commission business, the [4 C.F.R. 81.6(f)] is entitled to travel expenses.

[4 C.F.R. 81.6(f)] also alleged that CCR employees violated CCR policy by conducting CCR business using non-CCR provided email accounts. [4 C.F.R. 81.6(f)] provided six emails transmitted by CCR staff members using personal Gmail accounts. The newest email was sent over a year prior to the time [4 C.F.R. 81.6(f)] contacted the OIG (Exhibit 4).

DATE	SUBSTANCE OF MESSAGE
12-21-2010 -	[4 C.F.R. 81.6(f)] as Staff Director, [4 C.F.R. 81.6(f)]'s authority, [4 C.F.R. 81.6(f)] as "acting", and Mini-me's big head.
12-29-2010 -	[4 C.F.R. 81.6(f)] leaving for [4 C.F.R. 81.6(f)] on December 30, 2010.
1-10-11 -	[4 C.F.R. 81.6(f)] is back from [4 C.F.R. 81.6(f)] had a terrific time. Any news on [4 C.F.R. 81.6(f)] being reappointed?
1-10-11 -	Link to news article in the Washington Post concerning USCCR.
1-14-11 -	[4 C.F.R. 81.6(f)] has been separated. The ganglet of three and their petty, vindictive agenda.
6-20-11 -	Commissioner Comments re Draft School Discipline. (In this email [4 C.F.R. 81.6(f)] sends the email to CCR staff via his gmail account, and it purports to discuss CCR official business.)

The RA reviewed the emails provided by [4 C.F.R. 81.6(f)] and, based on the contents, has determined that five of the six emails do not rise to being classified as the "transaction of Agency business."

Therefore there is no compelling evidence to show a pattern by employees of a pervasive practice of violating CCR policy.

On the basis of the foregoing information, the allegations made by the complainant do not merit any further investigative activity. As there are no outstanding judicial or administrative actions pending, this matter is closed.

SUBJECTS

4 C.F.R. 81.6(f) **4 C.F.R. 81.6(f)** U.S. Commission on Civil Rights

JUDICIAL/ADMINISTRATIVE ACTIONS

None

DISPOSITION OF EVIDENCE

N/A

STATUS

This case is closed.

EXHIBITS

Exhibit #	Description
1	Record of Meeting – [REDACTED] and OIG
2	MOA – Review of [REDACTED]'s travel expenses
3	MOA – [REDACTED]'s telework request and request to OPM for Schedule C appointment
4	Six sample emails provided by [REDACTED]

Exhibit 1

Record of Meeting

Title	4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f)
Purpose	To discuss concerns related to the U.S. Commission on Civil Rights (Commission)
Contact Place	GAO Office of the Inspector General 441 G. Street, NW Suite 1808 Washington, DC 20548
Contact Date	February 15, 2012
Participants	<u>Commission</u> 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) <u>OIG, USCCR</u> 4 C.F.R. 81.6(f) Deputy Inspector General 4 C.F.R. 81.6(f) Assistant Inspector General, Investigations 4 C.F.R. 81.6(f) Assistant Director-Audit

Comments/Remarks:

4 C.F.R. 81.6(f) requested a meeting with Office of the Inspector General (OIG) personnel to discuss concerns he had regarding the Commission. Due to the nature of the concerns raised during the meeting, the OIG's Office of Audits would like to refer this matter to be handled by the OIG's Office of Investigations. 4 C.F.R. 81.6(f) noted that he had been a 4 C.F.R. 81.6(f) during the period of December 2009 through the present. This included December 2009-December 2010 (Commissioner 4 C.F.R. 81.6(f)); December 2010 – July 2011 (Commissioner 4 C.F.R. 81.6(f)); a couple of months between August and December 2011 (Commissioner 4 C.F.R. 81.6(f)); and August 2011 until present (Commissioner 4 C.F.R. 81.6(f)). Below are key points 4 C.F.R. 81.6(f) made at this meeting:

Commissioners

- The Commissioners are political appointees and are pretty much "self dealing" and bipartisan. He noted that they have other jobs and the Commission compensation is limited to 600 hours--about \$40,000--for seven Commissioners. The Chairman gets compensated for 1,000 hours at about \$70,000. 4 C.F.R. 81.6(f) did recall an instance when a Commissioner (prior to the current 8) had accounted for 600 hours, however a vote was necessary and she had to continue to report to the Commission.

- 4CFR 81.6(f) questioned the commitment of the Commissioners. He noted two instances in which Commissioners 4CFR 81.6(f) and Commissioner 4CFR 81.6(f) were conducting other business during a Commission meeting. He provided an excerpt from the January meeting minutes in which Commissioner 4CFR 81.6(f) abstained from a vote because he "had to take another call" (see GAOHQ-#5579107 page 1/16). In addition, he noted that Commissioner 4CFR 81.6(f) has appeared only 5 out of the last 12 meetings. He also noted that during the October meeting 4CFR 81.6(f) was holding a conversation on his bluetooth and most recently at a February briefing, 4CFR 81.6(f) left after lunch, knowing well in advance that there was a second panel of witnesses scheduled to report to the Board in the afternoon.
- Commissioners meet once a month in Washington and sometimes the meeting only last a few hours. 4CFR 81.6(f) believes that the cost to fly the Commissioners to Washington is expensive, especially when the meetings only last for a few hours.
- 4CFR 81.6(f) mentioned that the Democratic Commissioners are giving consideration to reducing the number of Commissioner Special Assistants (SAs)-currently it is a one-for-one ratio. All SAs are Schedule C employees with salaries ranging from GS 12 to GS 14 (see first bullet below - Special Assistants to the Commissioners).
- The Commission is "top heavy". He noted that the salaries related to the Commissioners and Commissioner's SAs increased from about 10%-11% in 2008 to 16.7% in 2012. 4CFR 81.6(f) provided excerpts from the Commission's FY 2010 [Budget] Justification and the FY 2013 [Budget] Justification (see GAOHQ-#5579107 pages 2/16 and 3/16).

Special Assistants (SAs) to the Commissioners

- Each Commissioner has their own SA and in 2009 the Commissioners voted to increase the SA salary cap to GS14. All but himself, are GS14s, he is a GS 4CFR 81.6(f). At the time the special assistants' salary increase took affect, he elected not to take the increase. However, when two additional SAs were hired at a GS14, he then took the increase to GS12. (see GAOHQ-#5579107 page 4/16).
- 4CFR 81.6(f) noted that all 8 of the SAs are Schedule C employees which are considered political rather than career. Given the size of the Commission's appropriation, OMB basically stated they could only have 8 Schedule C employees. He also noted that because all 8 of the SAs are Schedule C employees, the open position of General Counsel for the Commission could not be filled, since it is a Schedule C position. 4CFR 81.6(f) continued to note that (1) a

Schedule C employee must report to Senior Executive Service (SES) personnel, and (2) Schedule C appointments go through the Office of Presidential Personnel—which usually is a “rubber stamp” process. He believes that the SAs should be Schedule C employees because they report to the Commissioner’s which are political appointees.

- Special Assistants are hired as full-time employees. They perform a wide range of work for the Commissioners and it would be difficult to have any definitive proof of the hours/work performed. As an example, he noted that he will often work from home performing internet searches on various issues he is researching. Upon the inquiry of who is responsible for signing off on the Special Assistants’ time charges; he noted that each Commissioner approves the time charges for their respective Special Assistant.
- All but 4 C.F.R. 81.6(f) work in the Commission’s Washington office. The Commissioners and their Special Assistants have offices on the 7th floor of the Commission’s office. 4 C.F.R. 81.6(f) noted that it costs about \$17,000 to fly 4 C.F.R. 81.6(f) to Washington for the monthly meetings.
- Special Assistants terms end upon the retiring/resignation of the respective Commissioner. However, he did note that SAs tend to move among Commissioners. For example, he noted that at one time the SA for Commissioner 4 C.F.R. 81.6(f) went to Commissioner 4 C.F.R. 81.6(f) and then to Commissioner 4 C.F.R. 81.6(f). See the section below “Special Assistant – 4 C.F.R. 81.6(f) in which 4 C.F.R. 81.6(f) believes he was kept on payroll waiting for a Commissioner to be appointed and should not have been.

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f) made a point to state that during the period when 4 C.F.R. 81.6(f) was not an 4 C.F.R. 81.6(f) to a Commissioner, he was maintained on the payroll and assigned to the Office of the Staff Director. He noted that there should be no reason why a 4 C.F.R. 81.6(f) would work under the Commission’s Office of the Staff Director. At the time the personnel that worked to keep 4 C.F.R. 81.6(f) on the payroll was 4 C.F.R. 81.6(f), 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f). (Note: 4 C.F.R. 81.6(f) is the 4 C.F.R. 81.6(f). 4 C.F.R. 81.6(f) provided a series of emails, some of which documented this transaction. (See GAOHQ-#5579107, pages 7/16 through 16/16).

Regional Offices and State Advisory Committees (SACs)

- Six regional offices currently exist and each office has between 6 to 12 states under them.
- SACs are established under a 2 year charter.

- Three states' charters have expired and they have yet to be reestablished. They are New York, Delaware, and West Virginia. He thought it had been about 8 years. He feels the regions have no real interest/oversight in the rechartering of the SACs.
- 4 C.F.R. 81.6(f) feels the regional offices are symbolic. He did state that he believes that the Eastern Regional Office puts out good reports but are bad with the oversight of the SACs.

Staff Director

- The current staff director is responsible for three positions—Acting Staff Director, Acting General Counsel, and Senior Attorney Advisor. This is too much for one person, she is doing basically 3 ½ jobs. Some of the concerns 4 C.F.R. 81.6(f) has with this are:
 - one person working 60 – 120 hours;
 - a career person in a political position;
 - seems to be a babysitter to staff that are not competent;
 - she is not in a position to fight with the staff or the Commissioners when dealing with resistance;
 - she is in a position in which she could/would have to hire her boss (i.e., vacant position of General Counsel).
- 4 C.F.R. 81.6(f) believes that it is likely that there will not be an appointment of a Staff Director until after inauguration day. Noting also that it would be hard to get someone to take the position for only a few months, not knowing the outcome of the election.

Other information/concerns discussed with 4 C.F.R. 81.6(f)

- The Code of Federal Regulations (CFRs) will sometime bridge the gap between the Commission's statute and the Commission's Administrative Instructions (i.e., policies and procedures). For example, in discussing the role of the Staff Director and the hiring of staff, he noted that the CFRs describe the Staff Director's role. In the CFR he noted that it is the Staff Director that appoints the other Commission positions. 4 C.F.R. 81.6(f) noted that he would send us a copy of the Commission's CFRs (see GAOHQ-#5579191).
- Upon looking at the emails provided by 4 C.F.R. 81.6(f) the inquiry was made as to the use of personal email accounts (see GAOHQ-#5579107 pages 7/16 through 16/16). 4 C.F.R. 81.6(f) stated that the use of personal email accounts has since changed as it came up regarding violations to the Federal Records Act and Freedom of Information Act requests. He noted that staff should no longer be using personal email accounts when doing Commission work.

Prepared by: [REDACTED], 2/24/12
Reviewed by: [REDACTED], 3/15/12 and [REDACTED] 3/22/2012

DM Number: 5489598
DM Library: HQ
Job Code: 999612

- Ratings are inflated seems everyone ratings are "outstanding" and addressing poor performers is not happening. He feels, in the past, the Staff Director position has been concerned about the partisan agenda (note: staff director is a presidential appointee) and is reluctant to deal with Equal Employment Opportunity situations or office management.

Exhibit 2

FOR OFFICIAL USE ONLY

REPORT INSERT—OFFICE OF INSPECTOR GENERAL

MEMORANDUM OF ACTIVITY

On August 4, 2014, the Reporting Agent (RA), [4 C.F.R. 81.6(f)] of the U.S. Government Accountability Office (GAO), Office of Inspector General (OIG), reviewed [4 C.F.R. 81.6(f)]'s travel records for the period October 2012 through July 2013. [4 C.F.R. 81.6(f)] is an employee of the U.S. Commission on Civil Rights (CCR) and Special Assistant to Commissioner [4 C.F.R. 81.6(f)]. [4 C.F.R. 81.6(f)]'s travel records were obtained by [4 C.F.R. 81.6(f)] Counsel to the IG, from [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] CCR, following [4 C.F.R. 81.6(f)]'s interview on May 7, 2014. [4 C.F.R. 81.6(f)] provided the travel records to the RA on August 4, 2014. [4 C.F.R. 81.6(f)] traveled 11 times during the period for a total cost to the CCR of \$8,327.91. The complainant had alleged that [4 C.F.R. 81.6(f)]'s travel expenses were approximately \$17,000.

GAO-OIG CASE NUMBER	REPORTING AGENT	DATE PREPARED	REVIEWED BY
C-12-0019-O	[4 C.F.R. 81.6(f)]	9-3-14	[4 C.F.R. 81.6(f)]
Office of Inspector General	FOR OFFICIAL USE ONLY		
	Government Accountability Office		

Authorization Number	Name of Traveler	Fund	Org Code	Org	Func Code	SOC	Proj No.	Ending Travel Date	Authorization Amount	Voucher Number	Date Voucher Received	Total Voucher Amount	CBA Amount	Travel Card Amount	Traveler Amount	Voucher Total
5585351	4 C.F.R. 81.6(f)	980.13	4 C.F.R. 81.6(f)	COMM	ZP000	D03	ZP0003	10/12/2012	\$775.10	5585351	26-Oct-12	\$775.10	\$413.60	\$0.00	\$361.50	\$775.10
5605766		980.13		COMM	ZP000	D03	ZP0003	11/9/2012	\$790.10	5605766	13-Nov-12	\$733.10	\$417.60	\$0.00	\$315.50	\$733.10
5640733		980.13		COMM	ZP000	D03	ZP0003	12/7/2012	\$790.10	5640733	10-Dec-12	\$737.10	\$417.60	\$0.00	\$319.50	\$737.10
5671340		980.13		COMM	ZP000	D03	ZP0003	1/4/2012	\$800.10	5671340	7-Jan-13	\$804.28	\$437.60	\$0.00	\$366.68	\$804.28
5671378		980.13		COMM	ZP000	D03	ZP0003	1/11/2013	\$790.10	5671378	15-Jan-13	\$730.77	\$417.60	\$0.00	\$313.17	\$730.77
5701000		980.13		COMM	ZP000	D03	ZP0003	2/8/2013	\$790.30	5701000	11-Feb-13	\$733.15	\$417.80	\$0.00	\$315.35	\$733.15
5753653		980.13		COMM	ZP000	D03	ZP0003	3/22/2013	\$798.30	5753653	28-Mar-13	\$742.02	\$415.80	\$0.00	\$326.22	\$742.02
5790747		980.13		COMM	ZP000	D03	ZP0003	4/19/2013	\$798.30	5790747-1	22-Apr-13	\$732.24	\$415.80	\$0.00	\$316.44	\$732.24
5829897		980.13		COMM	ZP000	D03	ZP0003	5/31/2013	\$844.30	5829897	3-Jun-13	\$776.06	\$461.80	\$0.00	\$314.26	\$776.06
5836625		980.13		COMM	ZP000	D03	ZP0003	6/14/2013	\$844.30	5836625	17-Jun-13	\$772.80	\$461.80	\$0.00	\$311.00	\$772.80
6892726		980.13		COMM	ZP000	D03	ZP0003	7/12/2013	\$794.30	5892726	16-Jul-13	\$791.29	\$461.80	\$0.00	\$329.49	\$791.29

Exhibit 3

FOR OFFICIAL USE ONLY

REPORT INSERT—OFFICE OF INSPECTOR GENERAL
MEMORANDUM OF ACTIVITY

On September 3, 2014, the Reporting Agent (RA), [REDACTED] 4 C.F.R. 81.6(f) of the U.S. Government Accountability Office (GAO), Office of Inspector General (OIG), received an email from [REDACTED] 4 C.F.R. 81.6(f), U.S. Commission of Civil Rights (CCR). [REDACTED] 4 C.F.R. 81.6(f) provided copies of documents related to [REDACTED] 4 C.F.R. 81.6(f) CCR, and [REDACTED] authorization to work from [REDACTED] home in [REDACTED] 4 C.F.R. 81.6(f). [REDACTED] 4 C.F.R. 81.6(f) provided a copy of [REDACTED] s request to Commissioner [REDACTED] 4 C.F.R. 81.6(f) to telework each workday from [REDACTED] residence. The request was approved on August 11, 2011. (Attachment 1) The second document is a request to OPM to approve his Schedule C appointment which shows his duty station as [REDACTED] 4 C.F.R. 81.6(f). OPM approved the request on February 7, 2011. (Attachment 2)

GAO-OIG CASE NUMBER	REPORTING AGENT	DATE PREPARED	REVIEWED BY
C-14-0019-O	[REDACTED] 4 C.F.R. 81.6(f)	9-4-14	[REDACTED] 4 C.F.R. 81.6(f)
Office of Inspector General	Government Accountability Office		

FOR OFFICIAL USE ONLY

Attachment 1

**U.S. COMMISSION ON CIVIL RIGHTS
EMPLOYEE REQUEST FOR WORK**

TELEWORK SCHEDULETo: 4 C.F.R. 81.6(f)

Supervisor

☒ I request that the following ~~compressed work~~ ~~AND/OR~~ telework schedule be approved for me. Please indicate 8-hour day, day off, or telework days, as appropriate. If requesting episodic teleworking, designate work hours and check the episodic teleworking line.

First week of pay period.

Monday	:	<u>7³⁰</u>	a.m.	to	<u>5¹⁵</u>	p.m.
Tuesday	:	<u> </u>	a.m.	to	<u> </u>	p.m.
Wednesday	:	<u> </u>	a.m.	to	<u> </u>	p.m.
Thursday	:	<u> </u>	a.m.	to	<u> </u>	p.m.
Friday	:	<u> </u>	a.m.	to	<u> </u>	p.m.

☐ Episodic teleworking

Second week of pay period.

Monday	:	<u>7³⁰</u>	a.m.	to	<u>5¹⁵</u>	p.m.
Tuesday	:	<u> </u>	a.m.	to	<u> </u>	p.m.
Wednesday	:	<u> </u>	a.m.	to	<u> </u>	p.m.
Thursday	:	<u> </u>	a.m.	to	<u> </u>	p.m.
Friday	:	<u> </u>	a.m.	to	<u> </u>	p.m.

4 C.F.R. 81.6(f)

Employee's Signature

6.20.11

Date

SUPERVISORY RECOMMENDATION

- ☒ Approve
☐ Approve as modified

4 C.F.R. 81.6(f)8.11.11

Supervisor's Signature

Date

☐ Approved ☐ Approved as modified ☐ Disapproved

Supervisor's signature

Date

APPENDIX B

U.S.COMMISSION ON CIVIL RIGHTS' TELEWORKING PROGRAM
EMPLOYEE/SUPERVISORY AGREEMENT

The following constitutes an agreement on the terms and conditions of teleworking between the Commission and (employee name) 4 C.F.R. 81.6(f)

This teleworking arrangement is on a regular/~~episodic~~ (select one) basis.

Employee volunteers to participate in teleworking and agrees to adhere to all applicable agency guidelines and policies while teleworking.

Employee's participation as a teleworker is entirely voluntary and is available only as long as employee is deemed eligible at the CCR's sole discretion. There exists no right to telework, and supervisory decisions are not appealable or grievable, although employee may discuss any denial with the involved bureau/office head. The CCR may terminate employee's participation as a teleworker upon reasonable notice thereof.

The initial period for which this teleworking arrangement is made begins UPON ONE OF and ends UPON WRITTEN TERMINATION BY SUPERVISOR. SUPERVISORY
SIGNATURE

Employee's official duty station is 4 C.F.R. 81.6(f)
4 C.F.R. 81.6(f)

The alternate work site is the employee's residence and is located at:
4 C.F.R. 81.6(f)

Telephone Number: 4 C.F.R. 81.6(f)

Employee is permitted up to 1 day of teleworking per week (unless needed in the office for other reasons), provided sufficient work to be accomplished via teleworking is available in the pay period. Teleworking for more than 1 day per week may be granted under exceptional circumstances only with prior approval from the Staff Director, or in the case of a special assistant, his or her Commissioner's prior approval. Teleworking in any given pay period is conditioned upon work being available for the employee to perform at the teleworking site. CCR also will permit episodic teleworking as an exception to the rule. All specific criteria applicable to episodic teleworking must be approved by employee's office head/supervisor beforehand.

Employee must work during core hours and is required to be working during the duty hours pre-established with the supervisor. Employee is not authorized to work overtime while teleworking, unless previously approved by supervisor and senior management in accordance with established procedures.

Employee must be reachable while teleworking, preferably via telephone contact. If a teleworker's phone line is tied up by a computer connection, then the employee must be available via e-mail, and must periodically check her/his e-mail to ascertain if contact is being attempted.

Employee will complete all assigned work according to work procedures and requirements specified by the supervisor, and according to guidelines and standards stated in the employee's performance plan. Employee must be able to demonstrate productivity and accomplishment of specified assignments upon return from teleworking.

Supervisor is responsible for monitoring employee's availability while teleworking. This can be accomplished as the supervisor deems appropriate, e.g., telephone contacts, e-mail, visits, etc.

Employee must use her/his own equipment, e.g., computer, phone, furniture, etc., while teleworking.

If employee borrows CCR equipment, employee will protect the equipment appropriately. CCR equipment will be serviced and maintained by CCR. If employee provides own equipment, employee is responsible for servicing and maintaining it.

Employee must sign *Self-Certification Safety Checklist for Home-Based Teleworkers*, by which the employee stipulates that her/his telework location meets specific safety standards.

Furniture, lighting, household safety equipment, etc., incidental to teleworking, software and supplies shall be appropriate for their intended use and shall be used and maintained in a safe condition, free from defects and hazards.

Employee agrees that CCR may make on-site visits to the remote work location for the purposes of determining that the site is safe and free from hazards; to maintain, repair, inspect or retrieve CCR-owned equipment, software, data and/or supplies; or to evaluate the telework arrangement. CCR must provide employee with at least 24-hours notice of an inspection and make inspections only during normal working hours.

Employee agrees that CCR will not be responsible for operating costs, home maintenance, or any other incidental cost (e.g., utilities, insurance) whatsoever associated with the use of the employee's residence or computer equipment.

Employee will apply approved safeguards to protect Government/agency records from unauthorized disclosure or damage and will comply with Privacy Act requirements set forth in the Privacy Act of 1974, P.L. 93-579, codified at section 522a, title 5 U.S.C. Under no circumstances may classified information leave CCR premises.

The CCR will not be liable for damages to an employee's personal or real property or to third parties while the employee is working at the approved alternative workplace, except to the extent the CCR is held liable under the Federal Tort Claims Act.

Employee may be covered under Federal Employee's Compensation Act if injured in the course of actually performing official duties at the official duty station or the alternate work site. Any accident or injury occurring at the alternate work site must be brought to the immediate attention of the supervisor, and the supervisor or other appropriate official will need to promptly investigate the nature and cause of the accident.

Teleworking is not to be used to provide medical care or oversight of others (e.g., child or senior care, or tending to sick family members). Employee is expected to be working on CCR assignments during the time he/she is teleworking.

Employee's Signature: _____

4 C.F.R. 81.6(f)

Date: _____

6.20.11

Supervisor/Office Head's Signature: _____

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f) 8.11.11

APPENDIX C

**SELF-CERTIFICATION SAFETY CHECKLIST
FOR HOME-BASED TELEWORKERS**

NAME: 4 C.F.R. 81.6(f)
OFFICE: 4 C.F.R. 81.6(f)
HOME ADDRESS: 4 C.F.R. 81.6(f)
HOME TELEPHONE: 4 C.F.R. 81.6(f)

The following checklist is designed to assess the overall safety of your alternate duty station. Please read and complete the self-certification safety checklist. Upon completion, you should sign and date the checklist in the space provided.

The alternate duty station is: Home - 4 C.F.R. 81.6(f)

Generally describe the designated work area in the alternate duty station:

HOME OFFICE IN PRIVATELY OWNED SINGLE-FAMILY
RESIDENCE.

A. WORKPLACE ENVIRONMENT

- Yes X No 1. Are temperature, noise, ventilation, and lighting levels adequate for maintaining your normal level of job performance?
- Yes X No 2. Are all stairs with 4 or more steps equipped with handrails?
- Yes X No 3. Are all circuit breakers and/or fuses in the electrical panel labeled as to intended service?
- Yes X No 4. Do circuit breakers clearly indicate if they are in the open or closed position?
- Yes X No 5. Is all electrical equipment free of recognized hazards that would cause physical harm (frayed wires, bare conductors, loose wires, flexible wires running through walls, exposed wires to the ceilings)?

- Yes X No___ 6. Will the building's electrical system permit the grounding of electrical equipment?
- Yes Y No___ 7. Are aisles, doorways, and corners free of obstructions to permit visibility and movement?
- Yes Y No___ 8. Are file cabinets and storage closets arranged so drawers and doors do not open into walkways?
- Yes___ No___ 9. Do chairs have any loose casters (wheels) and are the rungs and legs of the chairs sturdy? YES No
- Yes X No___ 10. Are the phone lines, electrical cords, and extension wires secured under a desk or alongside a baseboard?
- Yes Y No___ 11. Is the office space neat, clean, and free of excessive amounts of combustibles?
- Yes Y No___ 12. Are floor surfaces clean, dry, level, and free of worn or frayed seams?
- Yes___ No___ 13. Are carpets well secured to the floor and free of frayed or worn seams? N/A
- Yes X No___ 14. Is there enough light for reading?

WORKSTATION

- Yes X No___ 1. Is your chair adjustable?
- Yes X No___ 2. Do you know how to adjust your chair?
- Yes Y No___ 3. Is your back adequately supported by a backrest?
- Yes Y No___ 4. Are your feet on the floor or fully supported by a footrest?
- Yes Y No___ 5. Are you satisfied with the placement of your VDT and keyboard?
- Yes Y No___ 6. Is it easy to read the text on your screen?
- Yes___ No X 7. Do you need a document holder?
- Yes X No___ 8. Do you have enough leg room at your desk?
- Yes Y No___ 9. Is the VDT screen free from noticeable glare?
- Yes Y No___ 10. Is the top of the VDT screen eye level?
- Yes X No___ 11. Is there space to rest your arms while not keying?

Yes y No___ 12. When keying, are your forearms close to parallel with the floor?

Yes x No___ 13. Are your wrists fairly straight when keying?

4 C.F.R. 81.6(f)

6.20.11

Employee's Signature

Date

Attachment 2

Request for Schedule C Appointing Authority

Agency Name: COMMISSION ON CIVIL RIGHTS

Print Date: FEB-01-2011

POC: 4 C.F.R. 81.6(f)

Phone: 202-376- [REDACTED]

Fax: 202-376- [REDACTED]

Request No.: CC110005

Request Type: APPOINTMENT

Position: REGULAR C

Candidate: 4 C.F.R. 81.6(f)

Grade/Step: GS14/1

Salary: \$98079

Position No.: CCGS60032

Title: SPECIAL ASSISTANT

Series: 00301

Desc: MISCELLANEOUS ADMINISTRATION AND PROGRAM

Date PD certified as Schedule C per 5 CFR 213.3301(a): JAN-27-2011

Organization ID: 200

Org. Name: STAFF MEMBERS

Supervisor No.: CGEX00011

Supv. Title: CHAIRMAN

Supervisor Name: 4 C.F.R. 81.6(f)

Supv. Position Type: PRESIDENTIAL WITHOUT SENATE APP

GEO Location: 4 C.F.R. 81.6(f)

Schedule C Certification Statement

I certify the Schedule C position above, that we request the Office of Personnel Management to except from the competitive service because of the confidential or policy-determining character, was not created solely or primarily in order to detail the employee to the White House.

Department/ Agency Head or Designee: STAFF DIRECTOR

Signature: 4 C.F.R. 81.6(f)

Date Signed: 2-2-11

Agency White House Liaison

Name:

Phone:

Signature

Date Signed:

OPM USE ONLY



Approved

Disapproved

Returned without Action

OPM Approving Official

4 C.F.R. 81.6(f)

Date Signed:

2/7/11

FAX: 202-606-2378

Source: Office of Personnel Management

ATTENTION: Senior Executive Resource Services

Report 1018, Version November 2008

Exhibit 4



4 C.F.R. 81.6(f) [REDACTED]@gmail.com>

4 C.F.R. 81.6(f) [REDACTED] as Staff Director

4 C.F.R. 81.6(f) [REDACTED]

Tue, Dec 21, 2010 at 12:31 PM

Reply-To: 4 C.F.R. 81.6(f) [REDACTED]

To: 4 C.F.R. 81.6(f) [REDACTED]@gmail.com>, 4 C.F.R. 81.6(f) [REDACTED]@gmail.com>

4 C.F.R. 81.6(f) [REDACTED]

I'll wait a little while longer to see which way 4 C.F.R. 81.6(f) [REDACTED] ends up going regarding 4 C.F.R. 81.6(f) [REDACTED]'s authority to reschedule the Jan. 14 meeting and briefing.

4 C.F.R. 81.6(f) [REDACTED] (or was it 4 C.F.R. 81.6(f) [REDACTED]?) Regarding your comment about the WH firing 4 C.F.R. 81.6(f) [REDACTED] sooner rather than later:

I'm not altogether sure 4 C.F.R. 81.6(f) [REDACTED] is the man we want as "acting". Not only am I not sure that he can command the career staff but he is at least as much in the thrall of 4 C.F.R. 81.6(f) [REDACTED] as 4 C.F.R. 81.6(f) [REDACTED] is. Maybe more.

In the meantime, he did 4 C.F.R. 81.6(f) [REDACTED] (and 4 C.F.R. 81.6(f) [REDACTED] the courtesy of getting 4 C.F.R. 81.6(f) [REDACTED] a temporary, paid detail to 4 C.F.R. 81.6(f) [REDACTED] (Which, incidentally, REALLY made the veins pop out in mini-me's big head!) 4 C.F.R. 81.6(f) [REDACTED] did that on the understanding that we would try to keep the WH from firing him too soon.

And when 4 C.F.R. 81.6(f) [REDACTED] made her decision to hire you, 4 C.F.R. 81.6(f) [REDACTED] gave the order to 4 C.F.R. 81.6(f) [REDACTED] immediately.

As an aside, and privately, 4 C.F.R. 81.6(f) [REDACTED] thinks that I may be underestimating 4 C.F.R. 81.6(f) [REDACTED]'s ability to do the right thing regarding acting on 4 C.F.R. 81.6(f) [REDACTED]'s authority. (The right thing is defined by 4 C.F.R. 81.6(f) [REDACTED] as "4 C.F.R. 81.6(f) [REDACTED] clearly has the authority.")

4 C.F.R. 81.6(f) [REDACTED]

4 C.F.R. 81.6(f) [REDACTED]

4 C.F.R. 81.6(f)

Documentation supporting 4 C.F.R. 81.6(f) [REDACTED]'s discussion regarding "finding" a position for 4 C.F.R. 81.6(f) [REDACTED] when 4 C.F.R. 81.6(f) [REDACTED] no longer was working as a 4 C.F.R. 81.6(f) [REDACTED]

2/16



4 C.F.R. 81.6(f)@gmail.com>

Jan. 14 Briefing Issues

4 C.F.R. 81.6(f)@gmail.com>
To: 4 C.F.R. 81.6(f)
Cc: 4 C.F.R. 81.6(f)@gmail.com>

Wed, Dec 29, 2010 at 7:56 PM

hello Gentlemen --

I'm leaving for 4 C.F.R. 81.6(f) tomorrow morning, Th. 12/30, and I will be back home on the evening of Tues., 1/4.
I'll have email access but not cell phone access.

Happy New Year to both of you -- talk soon -- 4 C.F.R. 81.6(f)
(Quoted text hidden)

2/6



4 C.F.R. 81.6(f) @gmail.com>

Any news?

4 C.F.R. 81.6(f) @gmail.com>
To: 4 C.F.R. 81.6(f) @gmail.com>

Mon, Jan 10, 2011 at 12:38 PM

hello Nick —

Happy New Year to you as well! I had a terrific time in Montreal with [REDACTED] and a bunch of friends over New Years. It was a great break from the stupid stress which has been plaguing me for months.

I talked to [REDACTED] on Fri. Long story short and barring unanticipated immediate assistance from OPM, I will likely get booted off payroll in the coming hours or days until [REDACTED] is re-apptd and can re-hire me. He expects to be re-apptd this week (although I don't know if the change in the Hill's schedule in light of the tragedy in Tucson will delay that). Taking it one day at a time. I do need to check with him about the 2 upcoming 1/19 filing deadlines, to see if I need to be prepared with something in case he is back on by then.

How is your new job coming? And how are you otherwise?

BTW, my dogs ate my cell on Friday. I am trying to get out to replace it today. Until I do so, please call me at 4 C.F.R. 81.6(f) if you are looking for me by phone.

I hope you are well — [REDACTED]

On Mon, Jan 10, 2011 at 12:18 PM, 4 C.F.R. 81.6(f) @gmail.com> wrote:
It's been awhile since I heard from you. What's going on?

Happy New Year,

4 C.F.R. 81.6(f)

④ Reference "4 C.F.R. 81.6(f)" is to Commissioner 4 C.F.R. 81.6(f)
4 C.F.R. 81.6(f)

12/16

Gmail - 4 C.F.R. 81.6(f) giving 4 C.F.R. 81.6(f) a soap box on which to harangue 4 C.F.R. 81.6(f)

Page 1 of 1



4 C.F.R. 81.6(f) @gmail.com>

4 C.F.R. 81.6(f) giving 4 C.F.R. 81.6(f) a soap box on which to harangue
4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f) @gmail.com>
To: 4 C.F.R. 81.6(f) @gmail.com>
Cc: 4 C.F.R. 81.6(f)

Mon, Jan 10, 2011 at 3:35 PM

Many thanks for the link. BTW, I'm on payroll for the week, thanks to 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f). Great news!

On Mon, Jan 10, 2011 at 3:24 PM, 4 C.F.R. 81.6(f) @gmail.com> wrote:

"This is not simply incoherent and irresponsible, but a monument to self-contradiction.

He states '[we] don't know for sure what the motives of this particular madman were,' but then declares that the victims were 'martyrs to a culture of hate speech' and that extremists on cable news shows and radio are somehow responsible. Never let the facts (or lack thereof) get in the way of a preferred narrative."

http://voices.washingtonpost.com/right-turn/2011/01/a_civil_rights_official_disgra.html



4 CFR 81.6(f) @gmail.com

Non Briefing on Jan. 14 (today)

4 CFR 81.6(f)
Reply-To: 4 CFR 81.6(f)
To: 4 CFR 81.6(f) @gmail.com
Cc: 4 CFR 81.6(f) @gmail.com

Fri, Jan 14, 2011 at 7:42 PM

Yes, I expected that you would be "separated" as soon as 4 CFR 81.6(f) and 4 CFR 81.6(f) left.

I sincerely hope that 4 CFR 81.6(f) will be reappointed in a matter of days. As well as the WH appointees.

The ganglet of three will find that their petty, vindictive agenda against their "enemies of the state" (4 CFR 81.6(f)) will be frustrated and short-circuited by the new commission.

They will not like it one bit when the new commissioners are seated.

Be well!

— Original message —

> Date: Fri, 14 Jan 2011 18:36:18 -0500
> From: 4 CFR 81.6(f) @gmail.com
> Subject: Re: Non Briefing on Jan. 14 (today)
> To: 4 CFR 81.6(f)
> Cc: 4 CFR 81.6(f) @gmail.com
>
> And in other late-breaking USCCR news, I am off the
> rolls until 4 CFR 81.6(f) is reappointed and can initiate
> a re-hiring process. I am not anticipating a
> problem.
>
> Sorry to hear that 4 CFR 81.6(f) is being mistreated ..
> certain folks' lack of professionalism apparently
> knows no bottom.
>
> On Fri, Jan 14, 2011 at 6:19 PM, 4 CFR 81.6(f)
> 4 CFR 81.6(f) wrote:
>
> 4 CFR 81.6(f) and 4 CFR 81.6(f)
>
> It was a very uneventful day at the commission.
>
> 4 CFR 81.6(f), 4 CFR 81.6(f) and 4 CFR 81.6(f) never entered the building;
> 4 CFR 81.6(f) and 4 CFR 81.6(f) left the building around
> 11:30 AM and didn't return til 3:30 PM so the gang
> was obviously meeting off-site somewhere.
> 4 CFR 81.6(f) never came in at all.
>
> Undoubtedly 4 CFR 81.6(f), 4 CFR 81.6(f) and Mini-Me spent the
> day trying to find a way to impeach 4 CFR 81.6(f)

13/11

- >
- > In other news, [REDACTED] and I will finalize the agenda
- > for the Jan. 28 telephone meeting over the
- > weekend. If you have agenda suggestions please
- > send them to me.
- >
- > I said good bye to [REDACTED] tonight. We had a little
- > office party at the commission, then the two OGC
- > attorneys ([REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f)) and I
- > took [REDACTED] out for drinks. We will all miss him
- > terribly.
- >
- > He is being pilloried by his own conservative
- > commissioners ([REDACTED] [REDACTED] [REDACTED]) who are trying to
- > keep him from finding a job because he interpreted
- > the commission's statutes and regulations in an
- > objective fashion.
- >
- > [REDACTED] 4 C.F.R. 81.6(f) may be a Republican, but to
- > [REDACTED] 4 C.F.R. 81.6(f) [REDACTED] is worthless scum because he did
- > not give them the legal opinions they wanted
- > regarding [REDACTED] 4 C.F.R. 81.6(f) [REDACTED] authority as [REDACTED] 4 C.F.R. 81.6(f)
- >
- > Shameless.

Handwritten signature/initials

4 C.F.R. 81.6(f)

From: 4 C.F.R. 81.6(f) [REDACTED]@gmail.com
Sent: Tuesday, June 21, 2011 9:37 AM
To: 4 C.F.R. 81.6(f) [REDACTED]
Cc: 4 C.F.R. 81.6(f) [REDACTED]
Subject: Re: draft School Discipline Commissioner Comments for discussion and editing

[REDACTED] is correct. Just one round of Commissioner comments for briefing reports such as this one. -- [REDACTED]

On Tue, Jun 21, 2011 at 9:28 AM, 4 C.F.R. 81.6(f) [REDACTED]@gmail.com> wrote:
I'll check with [REDACTED] Thanks for the information. -- [REDACTED]

On Tue, Jun 21, 2011 at 9:22 AM, 4 C.F.R. 81.6(f) [REDACTED]@usccr.gov> wrote:

What authority are you relying on to claim that there are two rounds of Commissioner comments for briefing report drafts? It's my understanding that there's only one (based on Appendix 4 of AI 1-6, the checklist for briefing reports).

Thanks,

[REDACTED]

From: 4 C.F.R. 81.6(f) [REDACTED]@gmail.com
Sent: Monday, June 20, 2011 8:59 PM
To: [REDACTED] 4 C.F.R. 81.6(f) [REDACTED]
Subject: draft School Discipline Commissioner Comments for discussion and editing

hello All --

The Comments are due this Friday, June 24. I have used block quotes very liberally in an attempt to put the most critical information right in front of the author(s) of the next draft. I have also avoided using "Id." in my footnotes so that our submission is as "copy and paste-able" as possible to ease and encourage wholesale incorporation of our text into the next draft.

Please remember that, if we follow our normal production template for this report (unlike we are doing for the 2011 Statutory Report), we will have the opportunity to offer another round of comments in response to the second draft. The draft that would then be presented to the Commission for vote would be a third draft.

Thanks in advance for your input. -- [REDACTED]

"This message is for the designated recipient only and may contain privileged, proprietary, or otherwise private information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of the email by you is prohibited."

5/6

From: 4 C.F.R. 81.6(f)
To: mcastro@usccr.gov; rachtenberg@usccr.gov; gheriot@usccr.gov; myaki@usccr.gov; dkladney@usccr.gov; pkirsanow@usccr.gov; ptimmons@usccr.gov; knarasaki@usccr.gov
Cc: [Marlene Sallo](#)
Bcc: [Arp, James H](#); [Trzeciak, Adam](#)
Subject: Transmittal of Inspector General Management Advisory Report
Date: Thursday, October 02, 2014 12:37:00 PM
Attachments: 4 C.F.R. 81.6(f).
[Management Advisory Report to USCCR.pdf](#)

Commissioners, the attached document is transmitted on behalf of the Inspector General and reflects investigative action completed in FY2014.

FOR OFFICIAL USE ONLY



United States Government Accountability Office

September 30, 2014

The Honorable Martin R. Castro, Chair
The Honorable Roberta Achtenberg, Commissioner
The Honorable Gail Heriot, Commissioner
The Honorable Michael Yaki, Commissioner
The Honorable David Kladney, Commissioner
The Honorable Peter N. Kirsanow, Commissioner
The Honorable Patricia Timmons-Goodson, Commissioner
The Honorable Karen Narasaki, Commissioner
U.S. Commission on Civil Rights
1331 Pennsylvania Ave., N.W., Suite 1150
Washington, DC 20425

Re: Inspector General Management Advisory Report

The Office of Inspector General received an allegation that a commissioner at the U.S. Commission on Civil Rights (USCCR) had misused his or her official position when submitting substantive comments to another federal agency on a proposed regulatory action. Because the comments were submitted on official USCCR letterhead and reflected the personal views of the signatories – rather than the official views of the Commission – the use of the commissioner's official position was alleged to have been improper. Our office investigated the allegation and identified a weakness resulting in this Management Advisory Report.

Our investigation revealed that current USCCR policy does not adequately articulate guidance on use of USCCR letterhead for purposes other than official USCCR communications. USCCR Administrative Instruction 9-1, Section 3, part .01 (a) states that, "... Individual Commissioners are, however, free to speak (emphasis added) publicly on substantive civil rights topics and matters upon which the Commission has opined, so long as they make clear that they are speaking in their individual capacities and not as Commission spokespersons." USCCR Administrative Instruction 9-1, Section 3, part .08 states: "Letters to public officials that . . . (3) urge the adoption of a particular position or course of action may not be sent on behalf of the Commission . . . without approval of a majority of Commissioners. . . ." The policy is silent on the use of USCCR letterhead for personal matters or matters not adopted by a majority of the Commission.

The letter was drafted by three members of the Commission and reviewed by the OIG during our investigation. The letter contained the following disclaimer in footnote 1, "[We] are all members of the United States Commission on Civil Rights, an agency of the federal government that makes appraisals of the laws and policies of the federal government with regard to discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice. 42 U.S.C. § 1975(a). We are sending this letter in our individual capacities, not on behalf of the Commission. The views expressed in this document are not necessarily those of the Commission."

Office of Inspector General
Office of Investigations
441 G Street NW, Washington, DC 20548
FOR OFFICIAL USE ONLY

Our office recommends that the Commission adopt a policy that is unambiguous in regards to the use of USCCR letterhead for any personal matter, or for any matter not adopted by the Commission.

Sincerely,

4 C.F.R. 81.6(f)

Adam Trzeciak
Inspector General

Cc: 4 C.F.R. 81.6(f), Staff Director, USCCR



U.S. Government Accountability Office
Office of Inspector General

REPORT OF INVESTIGATION

C-12-0020-O

4 C.F.R. 81.6(f)

Prepared by: 4 C.F.R. 81.6(f)

Approved by: J. HOWARD ARP

REPORT OF INVESTIGATION

CASE#: C-12-0020-O	DATE OF REPORT: September 30, 2014
CASE TITLE: 4 C.F.R. 81.6(f)	
PERIOD OF INVESTIGATION: December 11, 2012 TO September 25, 2014	
CASE AGENT: 4 C.F.R. 81.6(f)	
DISTRIBUTION: GIMS	

SUMMARY

On April 5, 2012, the Office of Inspector General (OIG) received an anonymous complaint that Commissioner 4 C.F.R. 81.6(f) used 4 C.F.R. 81.6(f)'s official position at the U.S. Commission on Civil Rights (USCCR) to issue a comment, using USCCR letterhead, opposing certain regulatory action by the U.S. Equal Employment Opportunity Commission for personal gain (Exhibit 1). The "comment" letter was signed by Commissioners 4 C.F.R. 81.6(f), 4 C.F.R. 81.6(f), and 4 C.F.R. 81.6(f), and copies were made available to the other members of the Commission (Exhibit 2).

The allegation that Commissioner 4 C.F.R. 81.6(f) used 4 C.F.R. 81.6(f)'s public office for private gain, in this instance, is not supported by the facts provided by the complainant. Further, there appears to be no violation of USCCR policy with regard to the use of USCCR letterhead by Commissioners 4 C.F.R. 81.6(f), 4 C.F.R. 81.6(f), and 4 C.F.R. 81.6(f). On September 30, 2014, Inspector General Trzeciak, issued a Management Advisory Report (MAR) to the USCCR recommending that the agency adopt a policy that is unambiguous in regards to the use of USCCR letterhead for any personal matter, or for any matter not adopted by the Commission.

DETAILS

The complaint cited three factors to support the allegation that 4 C.F.R. 81.6(f) had engaged in misconduct. The Reporting Agent (RA) reviewed the three supporting factors for their investigative merit:

1) According to the complainant, 4 C.F.R. 81.6(f) misused his official position as a Commissioner to issue a comment "opposing" a regulation under consideration by the U.S. Equal Employment Opportunity Commission (EEOC) by including his law firm's contact information in the issued letter to the EEOC. However –

a. 45 CFR Ch. VII, § 701.2 "Responsibilities" paragraph 3 states that a part of the USCCR's mission is: To appraise the laws and policies of the Federal Government relating to discrimination or denials of equal protection of the laws under the Constitution because of, color, race, religion, sex, age, disability, or national origin or in the administration of justice;

b. The "comment" letter was signed by three Commissioners of the USCCR, and copies were made available to the other members of the Commission. This was not an act 4 C.F.R. 81.6(f) undertook as an individual, but in an official capacity along with two other Commissioners.

c. The letter sent by [4 CFR 816(f)] and [4 CFR 816(f)] did not “oppose” the proposed policy. The letter advised that there was additional information available to the EEOC that the EEOC should consider before making a decision on implementing the proposed policy.

d. The letter was clearly issued to reflect the concerns of the three Commissioners. As a courtesy all three Commissioners provided contact information – other than their USCCR contact information, in the event that the EEOC wished to engage in any follow-up communication.

2) According to the complainant, [4 CFR 816(f)]’s comments “*had the appearance*” of benefiting the interests of the National Association of Manufacturers (NAM”) – a “private client” of [4 CFR 816(f)]’s, because a group of business associations that included NAM, sent a letter to the EEOC opposing the proposed regulation.

a. A letter by an umbrella group of business associations, that included the NAM, does not create a direct connection between [4 CFR 816(f)] and NAM in this instance – even if NAM was a client of the law firm for whom [4 CFR 816(f)] was employed.

b. The Commissioners’ letter did not “oppose” the proposed policy – as did the umbrella group’s letter, and therefore does not have the “appearance of benefiting the interests of NAM.”

3) According to the complainant, [4 CFR 816(f)] failed to “*recuse himself from participation in the agency’s review of the EEOC despite his private law firm work on related matters.*”

a. The Commission’s review of the EEOC matter referred to by the complainant concerned the EEOC’s enforcement policies regarding employers’ use of English-only policies. The comments made by [4 CFR 816(f)] and [4 CFR 816(f)] concerned another issue altogether, and was consistent with the mission of the USCCR. The complainant’s assertion that [4 CFR 816(f)] should have recused himself from appropriate USCCR business as a result has no investigative merit.

Two additional issues related to the letter sent by [4 CFR 816(f)] and [4 CFR 816(f)] to the EEOC were also reviewed by the RA:

4) Is it a violation of USCCR policy for a Commissioner or Commissioners to “make appraisals of the laws and policies of the Federal Government” when the “appraisal” has not been adopted by the full Commission?

a. According to USCCR Administrative Instruction 9-1, Section 3, part .01 (a): “ . . . Individual Commissioners are, however, free to speak publicly on substantive civil rights topics and matters upon which the Commission has opined, so long as they make clear that they are speaking in their individual capacities and not as Commission spokespersons.”

However,

b. USCCR Administrative Instruction 9-1, Section 3, part .08 states: “Letters to public officials that . . . (3) urge the adoption of a particular position or course of action may not be sent on behalf of the Commission . . . without approval of a majority of Commissioners. . . .”

(Exhibit 3). In this particular matter, Commissioners 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f) did not urge the adoption of a particular position. Instead, they urged the EEOC to consider additional information prior to making a decision.

5) Is it a violation of USCCR policy for a Commissioner or Commissioners to "make appraisals of the laws and policies of the Federal Government" using Commission letterhead?

a. According to 4 C.F.R. 81.6(f) Attorney, USCCR, there is no particular policy that speaks to the issue of using USCCR letterhead by a Commissioner(s), who "speak publicly on substantive civil rights topics and matters upon which the Commission has opined" by using USCCR letterhead. 4 C.F.R. 81.6(f) added that while the USCCR staff is still trying to resolve the matter and produce appropriate guidance, Commissioners continue the practice of using USCCR letterhead to speak publicly on matters not adopted by the Commission.

On September 30, 2014, Inspector General Trzeciak, issued a Management Advisory Report (MAR) to the USCCR recommending that the agency adopt a policy that is unambiguous in regards to the use of USCCR letterhead for any personal matter, or for any matter not adopted by the Commission (Exhibit 4).

SUBJECTS

4 C.F.R. 81.6(f) Commissioner, U.S. Commission on Civil Rights

JUDICIAL/ADMINISTRATIVE ACTIONS

The OIG issued a Management Advisory Report to USCCR.

DISPOSITION OF EVIDENCE

N/A

STATUS

This case is closed.

EXHIBITS

Exhibit #	Description
1	Complaint letter
2	Letter sent by 4 CFR 81.6(f) et al, to the EEOC
3	Administrative Instruction 9-1
4	MAR

Exhibit 1

To Whom It May Concern:

I have become aware of the following circumstances concerning the compliance of an individual with federal regulations. Please investigate these matters further. I wish to remain anonymous. The below information is all publicly available.

On August 10, 2011 4 C.F.R. 81.6(f) used 4 C.F.R. 81.6(f)'s official position as a Commissioner of the U.S. Commission on Civil Rights (USCCR) to issue a comment opposing certain regulatory action by the Equal Employment Opportunity Commission (EEOC). Although using 4 C.F.R. 81.6(f)'s USCCR title and on USCCR letterhead, Commissioner 4 C.F.R. 81.6(f)'s comment to the EEOC asked for questions to be directed to 4 C.F.R. 81.6(f)'s private law practice rather than 4 C.F.R. 81.6(f)'s Commission contacts. Moreover, Commissioner 4 C.F.R. 81.6(f)'s official comment had the appearance of benefitting the interests of the National Association of Manufacturers (NAM), which on the same day of August 10, 2011 also issued a comment opposing the EEOC's proposed regulatory action. According to public records of the National Labor Relations Board (NLRB) and a recent report from that agency's Inspector General, the NAM was a private client of 4 C.F.R. 81.6(f)'s in the weeks just before and after the August 10, 2011 comments to the EEOC. Finally, in July 2011, the Commission released a printed report on EEOC enforcement that Commissioner 4 C.F.R. 81.6(f) had voted for and during August 2011 the Commission was finalizing a second report that, in part, was to consider the effectiveness of the EEOC's performance. Commissioner 4 C.F.R. 81.6(f) did not recuse 4 C.F.R. 81.6(f) self from participation in the agency's review of the EEOC despite 4 C.F.R. 81.6(f)'s private law firm work on related matters.

4 C.F.R. 81.6(f)'s conflation of his personal law firm email with official government letterhead and the simultaneous submission of comments to the EEOC by 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f)'s client may reasonably be construed to give the appearance of using public office for private gain, a violation of 45 C.F.R. § 706.9.

Whether other regulations were broken will require further investigation. Did the nature, scope, and financial arrangements involved in 4 C.F.R. 81.6(f)'s representation of NAM cover subjects actually or potentially within the Commission's investigations? Was Commissioner 4 C.F.R. 81.6(f) directly involved with or aware that the NAM was commenting on the same matter before the EEOC? What Commission resources (e.g., time of the Commissioner's Special Assistant) were involved in preparation of these comments? Did EEOC members or staff contact Commissioner 4 C.F.R. 81.6(f) through 4 C.F.R. 81.6(f)'s law firm email or phone? If a personal business email address was routinely being used for external contacts by Commissioner 4 C.F.R. 81.6(f) were provisions made to save such information for archival purposes under the Federal Records Act and to satisfy Freedom of Information Act requests?

Details of Incident:

1. On August 10, 2011 4 C.F.R. 81.6(f) with fellow USCCR Commissioners 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f) submitted to the EEOC a comment letter on the subject "EEOC Examination of Arrest and Conviction Records as a Hiring Barrier."
2. The 4 C.F.R. 81.6(f) comment contested what it called "the assumption" at the July 26, 2011 meeting of the EEOC that "aggressive EEOC oversight of employers' use of arrest and conviction records in hiring would lead to increased employment of African Americans." The comment cited two scholarly papers to support the opposite conclusion, that "Employer use of criminal background checks may thus actually benefit African-American job applicants without criminal records."

3. The [REDACTED] comment was on USCCR agency letterhead, with a footnote identifying the authors as members of the USCCR, and further stating that "[w]e are sending this letter in our individual capacities, not on behalf of the Commission. The views expressed in this document are not necessarily those of the Commission." The contact information in the comment, however, used the business email and phone number for [REDACTED] 4 C.F.R. 81.6(f) at the [REDACTED] 4 C.F.R. 81.6(f) law firm rather than [REDACTED] USCCR contact numbers.
4. On August 10, 2011 a group of business associations that included among the signatories the National Association of Manufacturers (NAM) submitted to the EEOC a comment letter on the subject "Employer Use of Criminal Histories to Mitigate Risk and Promote Safety."⁴
5. The NAM comment contested what it described as "the frustration some have in finding employment, especially in a time of national economic stress, and we also appreciate the strong desire to reintegrate former prisoners into American society. The comment stated that, on the contrary, "attempts to ease unemployment frustration or reentry desires should not come at the expense of keeping people and businesses safe from physical or financial harm." The comment effectively stated the associations' opposition to increased EEOC oversight of the issue, stating that "[w]ithin the bounds of existing law, we want the flexibility to conduct criminal background checks that are fair and appropriate."
6. It appears the NAM was a private law firm client of [REDACTED] 4 C.F.R. 81.6(f)s on and around August 10, 2011. Just weeks prior to the comment date, on July 26, 2011, [REDACTED] 4 C.F.R. 81.6(f) spoke before the NLRB as an attorney from the [REDACTED] 4 C.F.R. 81.6(f) law firm representing NAM.⁵ On September 8, 2011 [REDACTED] 4 C.F.R. 81.6(f) filed a complaint in the U.S. District Court for the District of Columbia on behalf of the NAM challenging the implementation of an NLRB rule.⁶

Other Facts:

1. NAM has been a longstanding private client of [REDACTED] 4 C.F.R. 81.6(f)s, and [REDACTED] appears to be continuing to provide counsel to the organization at present.⁷
2. A report by the Inspector General for the NLRB describes Commissioner [REDACTED] 4 C.F.R. 81.6(f)'s actions on behalf of client NAM in the fall of 2011. In part, that report states: "We also find the improper disclosure of information to former Members [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) amounted to a conversion of the information for the private benefit of former Member [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] client, the National Association of Manufacturers, and former Member [REDACTED] 4 C.F.R. 81.6(f)'s labor relations consulting and/or legal practice."⁸ [REDACTED] 4 C.F.R. 81.6(f) was a member of the NLRB from 1/4/06 to 12/31/07.⁹
3. On June 11, 2010 the Commission held a briefing in which Commissioner [REDACTED] 4 C.F.R. 81.6(f) participated. The subject of the briefing was on age discrimination but witnesses were also asked to "consider the effectiveness of the Equal Employment Opportunity Commission in enforcing the law, and the effect of recent Supreme Court decisions governing ADEA on age discrimination claims."¹⁰ A senior official from the EEOC testified. Ultimately the Commission majority, overriding Commissioner [REDACTED] 4 C.F.R. 81.6(f)'s vote, decided not to issue its report on the briefing during its September 9, 2011 meeting.¹¹
4. On December 12, 2008 the Commission examined EEOC enforcement policies regarding employers' use of English-only policies in which Commissioner [REDACTED] 4 C.F.R. 81.6(f) participated.¹² The final report was approved by [REDACTED] 4 C.F.R. 81.6(f) and a majority on October 8, 2010, and subsequently issued in print in July of 2011. The report was sharply critical and recommended scrapping the

existing EEOC policy." Commissioner [REDACTED] did not recuse himself from evaluation of the EEOC on any of these matters.

5. Although his online bio has since been changed to reflect that he works generally on EEO matters, [REDACTED]'s law firm has previously promoted him as "representing management in employment-related litigation as well as in contract negotiations, NLRB proceedings, EEOC matters and arbitration."

Relevant Authorities:

- USCCR Administrative Instruction 4-8 (as amended 4-15-99) "No records or other documents of the Commission shall be subject to disposition action except as authorized by NARA, under the General Records Schedule."
- USCCR Administrative Instruction 4-22 (created 10-24-11) "All Agency personnel shall solely use Agency-issued email accounts in connection with the transaction of Agency business. Agency personnel shall not use non-Agency email accounts in connection with the transaction of Agency business." "Agency personnel" includes all... Commissioners....
- USCCR Administrative Instruction 9-1 (as amended 11-18-11) "Individual Commissioners are, however, free to speak publicly on substantive civil rights topics and matters upon which the Commission has opined, so long as they make clear that they are speaking in their individual capacities and not as Commission spokespersons. When using Commission letterhead in their individual capacities, Commissioners shall begin their correspondence with this disclaimer: I/We write to you in my/our individual capacity/ies as Commissioner(s) of the eight-member U.S. Commission on Civil Rights, and not on behalf of the Commission as a whole."
- 18 USC § 208 - Acts affecting a personal financial interest "(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—Shall be subject to the penalties set forth in section 216 of this title."
- 45 CFR § 706.7 – Outside employment and other activity. Employees of the Commission may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of their Government employment.
- 45 CFR § 706.9 – Proscribed actions. An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of: (a) Using public office for private gain; (b) Giving preferential treatment to any person; (c) Impeding Commission efficiency or economy; (d) Making a Commission decision outside official channels; (e) Losing complete independence or impartiality; or (f) Affecting adversely the confidence of the public in the integrity of the Commission.
- 45 CFR § 706.11 – Proscribed outside employment and other activities. (a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of Government employment. Incompatible activities include but are not limited to: (1) Acceptance of a fee, compensation, gift, payment of

expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of conflict(s) of interest; or

- **45 CFR § 706.12 – Financial interests.** (a) Employees shall not: (1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with their Government duties and responsibilities; or (2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through their Government employment.

ⁱ The 45 CFR 81.6(f) comment letter is available at: <http://cdia.files.cms-plus.com/PDFs/United%20States%20Commission%20on%20Civil%20Rights.pdf>.

ⁱⁱ The NAM comment letter is available at: <http://www.iaapa.org/government/documents/IndustryLetterII.pdf>.

ⁱⁱⁱ 45 CFR 81.6(f) is listed among the speakers presenting at the July 18, 2011 session of the NLRB open meeting on pre- and post-election procedures (see <http://www.nlr.gov/openmeetingspeakers>). Video of the event is online (see <http://www.youtube.com/watch?v=EnAPePRE1ao&list=U&user=nlrb>).

^{iv} See Complaint filed on September 8, 2011 in the case of *National Ass'n of Mfrs. v. N.L.R.B.*— F.Supp.2d —, 2012 WL 691535 (D.D.C., 2012) (available at <http://www.crowell.com/files/National-Association-of-Manufacturers-v-National-Labor-Relations-Board.pdf>).

^v See, e.g., Notice of Appeal filed in *National Assoc. of Manufacturers et al., v. N.L.R.B.* Case No. 1:11-cv-01629-ABJ (D.D.C. March 2, 2012) (Listing 45 CFR 81.6(f) as attorney of record for NAM).

^{vi} See March 19, 2012 Memorandum of NLRB Inspector General 45 CFR 81.6(f) Re OIG-I-468, at 11 (available at: <http://democrats.edworkforce.house.gov/sites/democrats.edworkforce.house.gov/files/documents/112/pdf/letters/3-23-12%20Ltr%20to%20Insp%20Gen%20Eric%20Holder%20re%20NLRB.pdf>).

^{vii} See <http://www.nlr.gov/members-nlr-1935>.

^{viii} See announcement at www.usccr.gov/calendar/agendas/AgeDiscrBriefing_06-11-10.pdf.

^{ix} See transcript at <http://www.usccr.gov/calendar/transcripts.php>.

^x See transcript at <http://www.usccr.gov/calendar/transcripts.php>.

^{xi} See USCCR, *English-only Policies in the Workplace*, at 5, at <http://www.usccr.gov/pubs/recentbriefingreports.php>.

^{xii} See [www.45CFR816\(f\).com/files/InterConnect_Winter08.pdf](http://www.45CFR816(f).com/files/InterConnect_Winter08.pdf).

^{xiii} Note that the Commission held a non-public, closed session during its October 21, 2011 meeting to discuss the issue of using private emails for Commission business. After the meeting, this AI was issued.

Exhibit 2

COMMISSIONMEETINGCOMMENTS - Comments re: EEOC Examination of Arrest and Conviction Records as a Hiring Barrier (July 26, 2011 Meeting)

From: [REDACTED] 4 C.F.R. 81.6(f) [REDACTED]@uscrr.gov>
To: "Commissionmeetingcomments@eeoc.gov"
<Commissionmeetingcomments@eeoc.gov>
Date: 8/10/2011 2:55 PM
Subject: Comments re: EEOC Examination of Arrest and Conviction Records as a Hiring Barrier (July 26, 2011 Meeting)
Attachments: Comment Letter to EEOC re Background Checks_08.10.11.pdf; Attachment 1_Holzer, Raphael andStoll_49 J.L.Econ. 451_2006.doc; Attachment 2_Stoll_1 U. Chi. Legal F. 381_2009.doc

Dear Sir or Madam:

Please find attached comments submitted on behalf of USCCR Commissioners [REDACTED] 4 C.F.R. 81.6(f) [REDACTED] and [REDACTED] 4 C.F.R. 81.6(f) [REDACTED] for the public record of the EEOC's July 26, 2011 meeting regarding arrest and conviction records as a hiring barrier.

Please don't hesitate to contact me, or the individual signatories of the letter, with any questions regarding the attached.

Sincerely,

[REDACTED] 4 C.F.R. 81.6(f)
Counsel & Special Assistant to
Commissioner [REDACTED] 4 C.F.R. 81.6(f)
U.S. Commission on Civil Rights
624 Ninth Street, N.W.
Washington, D.C. 20425
202-376-[REDACTED] DIRECT
202-376-[REDACTED] FAX
[REDACTED] 4 C.F.R. 81.6(f) [REDACTED]@uscrr.gov | www.uscrr.gov

"This message is for the designated recipient only and may contain privileged, proprietary, or otherwise private information. If you have received it in error, please notify the sender immediately and delete the original. Any other use of the email by you is prohibited."



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

525 North Street, N.W.
Washington, D.C. 20542

August 10, 2011

Commission Meeting, EEOC Executive Officer
Equal Employment Opportunity Commission
131 M Street, N.E.
Washington, D.C. 20507

Re: EEOC Examination of Arrest and Conviction Records as a Hiring Barrier

Dear EEOC Executive Officer:

We¹ wish to submit a comment to be included in the record for the recent meeting of the Commission regarding EEOC's examination of employer use of conviction and arrest records as a hiring barrier. During the deliberations at the July 26 EEOC meeting, both panelists and commissioners appeared to share the assumption that aggressive EEOC oversight of employers' use of arrest and conviction records in hiring would lead to increased employment of African Americans. Because African Americans are disproportionately likely to have criminal backgrounds, the argument went, panelists and commissioners alike seemed to agree that employer use of criminal background checks would lead to lower hiring of African Americans. But two recent scholarly papers indicate that the picture is not quite so simple and that this assumption may not be warranted. These papers indicate that employers who do not use criminal background checks may be *less* likely to hire African Americans because they are using race, age, or other characteristics as proxies for past criminal history. Employer use of criminal background checks may thus actually benefit African-American job applicants without criminal records.

In a paper published in the *Journal of Law and Economics*, economists Harry Holzer and Stephen Raphael and public policy professor Michael Stoll analyzed the effect of employer-initiated criminal background checks on the likelihood that employers hire African Americans.² They found that employers who check criminal backgrounds are more likely to hire African-American workers, especially men.³ Their results suggest that, in the absence of criminal background checks, some employers discriminate statistically against black men and/or those with weak employment records.⁴

¹ 4 C.F.R. 81.6(f) (EEOC staff), and 4 C.F.R. 81.6(h) are all members of the United States Commission on Civil Rights, an agency of the federal government that makes appraisals of the laws and policies of the federal government with regard to discrimination or denial of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice. 42 U.S.C. § 1975(a). We are sending this letter in our individual capacities, not on behalf of the Commission. The views expressed in this document are not necessarily those of the Commission.

² Harry J. Holzer et al., *Perceived Criminality, Criminal Background Checks, And the Racial Hiring Practices of Employers*, 49 J. LAW & ECON. 431 (2006).

³ *Id.* at 452.

⁴ *Id.* at 453.

In another article published in the *University of Chicago Legal Forum*, Michael Stoll performed an analysis similar to the one used in the paper he co-authored with Holzer and Raphael, but using a more recent data set.² Stoll noted that, in the absence of a criminal background check, some employers may infer the likelihood of past criminal activity via markers such as race or age.³ If the tendency of employers is to overestimate the likelihood that African-American applicants have prior felony convictions, systematic background checks may actually increase the likelihood that an African-American applicant is hired. This information effect from a background check could thus counter the exclusionary effect associated with the higher incidence of previous convictions among African-American applicants.⁴ Stoll found that for employers that check backgrounds, about 12 percent of their last hired workers were black males, while the comparable figure for those employers who do not check is 3 percent, a difference of about 9 percentage points.⁵ The percentage point estimate of the difference in hiring black males by whether firms check backgrounds is at 8.7 percentage points is similar in magnitude to the estimates found by Holzer, Raphael, and Stoll in the paper cited above.⁶

As Stoll indicates in his paper, these findings indicate that the use and effect of criminal background checks on hiring of ex-offenders and the employment of black workers is far more nuanced than previously thought,¹⁰ and certainly more so than time has permitted the EEOC to explore in its two meetings on this subject to date. The evidence adduced by Holzer, Raphael and Stoll is worthy of much closer scrutiny before the EEOC acts to amend its rules governing employers' consideration of arrest and conviction records. We recommend that the EEOC convene a meeting that focuses specifically on the data discussed herein before amending its policies to ensure that it is considering all facets of the issue. At a minimum, we believe that both of these papers are very relevant to the EEOC's deliberations, and thus we have included copies of them for inclusion in the public record. We also welcome any questions about this letter that members of the EEOC or their staff members wish to pose to us.

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b7D

4 C.F.R. 81.6(f) can be contacted at 4 C.F.R. 81.6(f) or at 4 C.F.R. 81.6(f)
and Todd Gutzano is at 4 C.F.R. 81.6(f) or at 4 C.F.R. 81.6(f)

Sincerely,

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f)

Commissioner

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f)

Commissioner

¹ Michael Stoll, *Ex-Offenders, Criminal Background Checks, and Racial Consequences in the Labor Market*, 1 U. CHI. L.P.

381 (2009).

⁴ *Id.* at 384.

' $M = 402$

¹ *Id.* at 401.

7.

10 12-406-07

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f)

Commissioner

Attachments

cc: Jacqueline A. Berrien, Chair, EEOC
Constance S. Barker, Commissioner, EEOC
Chai Feldblum, Commissioner, EEOC
Stuart J. Ishimaru, Commissioner, EEOC
Victoria A. Lipnic, Commissioner, EEOC
P. David Lopez, General Counsel, EEOC

4 C.F.R. 81.6(f) USCCR
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4 C.F.R. 81.6(f) USCCR

Exhibit 3

FOR OFFICIAL USE ONLY

REPORT INSERT—OFFICE OF INSPECTOR GENERAL
MEMORANDUM OF ACTIVITY

On July 21, 2014, the Reporting Agent (RA), [REDACTED] 4 C.F.R. 81.6(f), of the U.S. Government Accountability Office (GAO), Office of Inspector General (OIG), telephonically contacted [REDACTED] 4 C.F.R. 81.6(f), [REDACTED] 4 C.F.R. 81.6(f), U.S. Commission on Civil Rights (CCR). The RA requested any CCR Policy guidance that discussed the use of CCR letterhead – especially when commissioners used the letterhead for matters not adopted by the Commission. [REDACTED] 4 C.F.R. 81.6(f) responded the same day by sending the RA, via email, a copy of Administrative Instruction 9-1 "Public Affairs Unit." (See Attachment)

GAO-OIG CASE NUMBER	REPORTING AGENT	DATE PREPARED	REVIEWED BY
C-14-0020-O	[REDACTED] 4 C.F.R. 81.6(f)	9-3-14	<i>J. Howard Ap</i>
Office of Inspector General			Government Accountability Office

FOR OFFICIAL USE ONLY

Attachment 1

Issued: 1/12/06

ADMINISTRATIVE INSTRUCTION 9-1

PUBLIC AFFAIRS UNIT

SECTION 1. PURPOSE

.01 The purpose of this Administrative Instruction (AI) is to establish guidelines and lines of authority for the public information, education outreach, and publications functions of the Public Affairs Unit (PAU).

SECTION 2. ORGANIZATION

.01 Supervisors. The Public Affairs Unit is headed by the Chief of PAU.

.02 Chief of PAU. The Chief of PAU provides leadership and direction to PAU in administering its responsibilities in the areas of public relations policy and communications services; serves as advisor to the Commissioners through the Chair, the Staff Director, and program directors in the areas of press relations and public affairs; and, provides advice on strategies and approaches to be used to improve public understanding of civil rights issues involved in Commission programs and policy through the news media and other means. The Chief serves as editor of the *Civil Rights Journal and Update*, and as advisor to Regional Directors on public affairs matters, as requested.

.03 Deputy Chief of PAU. The Deputy Chief assists the Chief in carrying out the responsibilities of PAU.

SECTION 3. PUBLIC INFORMATION FUNCTION

.01 Policy.

- (a) The Chair and the Staff Director are the designated spokespersons for the Commission. Individual Commissioners are, however, free to speak publicly on substantive civil rights topics and matters upon which the Commission has opined, so long as they make clear that they are speaking in their individual capacities and not as Commission spokespersons.
- (b) Whenever the Chair, Vice Chair, other Commissioner, or Staff Director speak publicly about matters before the Commission, he or she may not purport to speak for the entire Commission, without acknowledging the existence of dissenting viewpoints among the Commissioners.

- (c) The Chief of PAU and the Deputy Chief of PAU may speak on behalf of the Commission concerning approved activities.

.02 Scope. PAU develops and implements public affairs strategies to achieve Commission program objectives in coordination with other Commission components; coordinates news media-relations strategies; responds to all news media inquiries concerning Commission programs and related issues; develops fact sheets, news advisories and releases, and articles for publication; manages preparation and clearance of speeches, letters-to-the-editor, op-ed pieces, and official statements on Commission programs and activities; and recommends to the Staff Director agency communications, publications, or postings on the Commission Web site. Media include radio, television, newspapers, specialized newsletters, magazines, and wire services.

.03 Duties of PAU Officials. PAU officials are responsible for organizing press conferences for the Commissioners subject to fund and staff the availability; scheduling press interviews; preparing briefings; coordinating editorial board meetings for the Chair; arranging television and radio appearances for the Chair and the Staff Director; and preparing Commission statements to the press on civil rights topics of urgent importance; Commission letters-to-the-editor for the Chair; and introductory statements for the Chair's use at press conferences and other Commission-sponsored events.

.04 Media Inquiries to PAU. All media inquiries to Commission offices, including telephone calls, facsimiles, e-mails, letters, and personal visits, should be referred to a PAU official. The PAU official will record the media inquiry on CCR Form 407. If the official has the appropriate information, he/she will respond directly to the media representative. If the inquiry is for more technical and complex information than can be covered by the information available to PAU officials, they will designate the appropriate Commission official to respond with the appropriate office head's approval.

.05 Media Inquiries to Regional Offices. Media inquiries should be referred to the Chief of PAU. News releases about a Commission report or activity drafted by a Regional Office shall be approved by the PAU Chief or the Staff Director prior to distribution.

.06 Response Time. Because reporters are often on tight deadlines, if a Commission official cannot respond immediately to an inquiry, this information shall be conveyed quickly to the media representative, and a time, normally not to exceed one hour, should be established when a response will be made. If there is to be a delay in the response over the established time, the media representative should be called and the delay explained.

.07 Official Position. When a response is made to the media orally, or in writing, it should reflect the Commission's official position rather than personal opinion, conjecture, or uninformed speculation. Commission staff shall not speak "off the record" when responding to media inquiries. All responses should be viewed by the Commission

spokesperson as quotable. When talking with reporters, Commission officials should discuss only those matters within their area of responsibility and personal knowledge.

.08 Letters to Public Officials. Letters to public officials that (1) state Commission policy regarding a substantive civil rights topic; (2) express concern over recent civil rights developments; and/or (3) urge the adoption of a particular position or course of action may not be sent on behalf of the Commission, the Chair, the Vice Chair, or the Staff Director purporting to represent the Commission as a whole without approval of a majority of Commissioners. Approval need not be sought at a Commission meeting, but may be obtained by a notational vote. A Commissioner's failure to respond to a request for approval of such a letter will be regarded as an abstention. In order to protect the rights of dissenting Commissioners, such letters will be signed by all Commissioners who so approve; dissenting Commissioners need not sign the document in order to signal their lack of consent. When there are dissenting Commissioners, the letter should include a statement that the letter is signed by "a majority of the Commission." Routine letters seeking data as part of an on-going commission project and letters concerning operational matters with other agencies do not require approval by a majority vote of the Commission.

.09 Press Releases.

- (a) Statements regarding Commission business (including, but not limited to, responses to public statements made about the Commission and statements about internal Commission governance) and statements of substance or policy (including, but not limited to, statements of official Commission policy on a particular civil rights topic; commentary on court rulings, legislation, administrative rules, or actions by elected or appointed officials; and responses to news stories about civil rights issues) must be approved by a majority vote of the Commission before release to the public or the press.
- (b) Press releases which are approved by a majority of the Commission, but which fail to garner unanimous support, must reflect that the statement was approved by "a majority of the Commission."

.10 Commission Events. PAU officials assist and attend to the needs of media at Commission-sponsored events, such as hearings, consultations, conferences, briefings, and meetings. Press conferences to release Commission reports will be planned in conjunction with the program office that prepared the report. PAU officials write press advisories to alert news organizations and the public about upcoming Commission activities, and prepare news releases on Commission publications and events. PAU will maintain the Commission's mailing list of journalists and news organizations, and create specialized news media faxing and mailing lists, as needed, either through staff or be contractor. At the discretion of the Staff Director, they may provide on-site press relations support for State Advisory Committee activities.

.11 Meetings. When the notice of Commission meetings is sent to the *Federal Register*, it shall direct that any questions concerning meetings should be made to PAU officials.

.12 Hearings and Consultations. The General Counsel will provide the Chief of PAU with the concept proposal and project design for each project. The Chief of PAU will circulate clippings from newspapers and printed information from Internet sites on the subject matter of the projects. Before each hearing or consultation the Chief of PAU will submit a media information plan to the Staff Director detailing how information will be disseminated to print and broadcasting media, and what special media opportunities may exist at the hearing site. The PAU Chief will cooperate with the General Counsel and appropriate Regional Directors in devising and implementing a plan for attracting community attendance at the hearing. This plan should include sending out a press advisory on the event at least three to four weeks before the event. Once the witnesses receive a subpoena, their names and background information will be provided by the General Counsel to the Chief of PAU. The OGC will provide PAU with information concerning the witnesses, panelists, and a preliminary outline agenda at least two weeks in advance of the hearing or consultation. During the hearing, PAU officials on-site will handle media relations and keep the Chair and the Staff Director informed about news media opportunities, coverage, and developments.

.13 Briefings. PAU officials prepare informational briefings on topics recommended by the Commissioners. The Chief of PAU will prepare a list of potential panelists for the Staff Director. After Staff Director approval, PAU will invite potential participants. Materials shall be provided to the Commissioners to help them prepare for the briefing. PAU will prepare an opening statement for the Chair and the press kits for the news media. PAU staff will edit the briefing transcripts, and write executive summaries based on the transcripts. PAU officials shall also conduct/arrange briefings for foreign nationals visiting the United States, as well as for U.S. students and researchers.

.14 Educational Outreach. PAU officials will conduct outreach efforts to educators to encourage teaching about civil rights and tolerance in the schools. They will develop and submit to the Staff Director for approval, educational materials such as wall charts/posters and lesson plans for secondary teachers recognizing significant events in American civil rights history. PAU staff will also develop other educational resource materials on civil rights and tolerance programs for use by educators. Officials in PAU will also reach out to federal, state, and local governmental agencies and private organizations on civil rights related matters, as time permits.

SECTION 4. INTERNAL INFORMATION SERVICES

.01 Daily Press Report. PAU officials will conduct a daily early morning review of news media coverage of the agency and Commissioners, and its treatment of key civil rights issues. PAU staff will also conduct daily for the Staff Director an Internet search covering Commission-related news items and White House press releases. The Chief and, in his/her absence, the Deputy will immediately call the Staff Director's attention to news developments of special interest.

SECTION 5. PUBLICATIONS FUNCTION

.01 Publications. PAU officials provide technical leadership and services in public information and printing; recommend approaches for meeting internal and external communications needs of the Commission; and act as a focal point for clearance of all publications and audio-visual projects produced under contract.

SECTION 6. AUDIO-VISUAL PROGRAM

.01 Control Mechanisms. PAU will comply with the following Office of Management and Budget Circular 130 guidelines:

- a. keep an inventory of audio-visual products;
- b. provide access for the disabled, if possible;
- c. provide publications to the news media and general public free of charge; and
- d. prepare the office budget for future years, by:
 - (I) analyzing the costs and benefits of each publication; and,
 - (II) examining whether past publications resulted in their estimated benefits.

.02 Overall. PAU officials oversee the creative development, production, distribution, airing, and evaluation of the Commission's statutorily mandated Public Service Announcements (PSA). These officials shall also collect, distribute internally, and maintain file copies of tapes of TV and radio news and other programming of interests to the Commission. They will continue to maintain the existing file of documentary still photos and other materials concerning the Commission.

.03 Public Service Announcement Policy. Pursuant to the overall educational outreach purpose of the clearinghouse mandate, and the statutory authorization in the enabling legislation, PSAs will be prepared in order to discourage discrimination and promote tolerance. Pursuant to authority for, and with the purpose of preparing PSAs, the Commission is authorized to obtain volunteer services.

.04 Statement of Work. The Chief of PAU will submit a draft statement of work and the names of potential contractors for PSA production to the Budget and Finance Division. Once the Budget and Finance Division allocates funds to the project, the draft statement of work is sent to the Administrative Services and Clearinghouse Division for competitive contracting procedures. A PAU official will be designated as the technical representative on the contract for the agency.

.05 Approval of Content. The contractor will provide several scripts that shall be submitted to the Staff Director for consideration by the Commissioners. After final Commission approval of the script, the Chief of PAU will send a statement of work to the Chief of Administrative Services for a contract for duplication and distribution. When the proposed contract involves more than the minimum amount that requires advertisement in the *Commerce Business Daily*, Commissioner approval will be obtained. The contractor, in conjunction with a PAU official, will identify a celebrity to prepare the PSA. The final version shall be approved by the Staff Director.

SECTION 7. PUBLICATIONS FUNCTION

.01 Pamphlets. PAU officials write, edit, and oversee distribution of the quarterly newsletter *Update*, the Commission Brochure, the booklet *Getting Uncle Sam to Enforce Your Civil Rights*, and the *Civil Rights Directory*. The Commission Brochure shall be updated every time a new Commissioner or Staff Director is appointed, or there is a major change in the Commission authorizing statute. The Chief of PAU will request funds to update *Getting Uncle Sam to Enforce Your Civil Rights* and the *Civil Rights Directory* every two years.

.02 Civil Rights Journal. PAU officials are responsible for conceiving each issue of the *Civil Rights Journal*, assigning and editing articles written by freelance authors, coordinating the graphic design and production, and monitoring printing and distribution of the *Journal*. Design tasks associated with each issue of the *Journal* are contracted out. A PAU official will be the technical representative named in the contract.

.03 Portable Exhibit. PAU officials develop a portable exhibit for placement at PAU-recommended/OSD-selected national conferences of civil rights and other organizations.

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f)

Staff Director

Exhibit 4

FOR OFFICIAL USE ONLY



United States Government Accountability Office

September 30, 2014

The Honorable Martin R. Castro, Chair
The Honorable Roberta Achtenberg, Commissioner
The Honorable Gail Heriot, Commissioner
The Honorable Michael Yaki, Commissioner
The Honorable David Kladney, Commissioner
The Honorable Peter N. Kirsanow, Commissioner
The Honorable Patricia Timmons-Goodson, Commissioner
The Honorable Karen Narasaki, Commissioner
U.S. Commission on Civil Rights
1331 Pennsylvania Ave., N.W., Suite 1150
Washington, DC 20425

Re: Inspector General Management Advisory Report

The Office of Inspector General received an allegation that a commissioner at the U.S. Commission on Civil Rights (USCCR) had misused his or her official position when submitting substantive comments to another federal agency on a proposed regulatory action. Because the comments were submitted on official USCCR letterhead and reflected the personal views of the signatories – rather than the official views of the Commission – the use of the commissioner's official position was alleged to have been improper. Our office investigated the allegation and identified a weakness resulting in this Management Advisory Report.

Our investigation revealed that current USCCR policy does not adequately articulate guidance on use of USCCR letterhead for purposes other than official USCCR communications. USCCR Administrative Instruction 9-1, Section 3, part .01 (a) states that, “. . . Individual Commissioners are, however, free to speak (emphasis added) publicly on substantive civil rights topics and matters upon which the Commission has opined, so long as they make clear that they are speaking in their individual capacities and not as Commission spokespersons.” USCCR Administrative Instruction 9-1, Section 3, part .08 states: “Letters to public officials that . . . (3) urge the adoption of a particular position or course of action may not be sent on behalf of the Commission . . . without approval of a majority of Commissioners. . . .” The policy is silent on the use of USCCR letterhead for personal matters or matters not adopted by a majority of the Commission.

The letter was drafted by three members of the Commission and reviewed by the OIG during our investigation. The letter contained the following disclaimer in footnote 1, “[We] are all members of the United States Commission on Civil Rights, an agency of the federal government that makes appraisals of the laws and policies of the federal government with regard to discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice. 42 U.S.C. § 1975(a). We are sending this letter in our individual capacities, not on behalf of the Commission. The views expressed in this document are not necessarily those of the Commission.”

Office of Inspector General
Office of Investigations
441 G Street NW, Washington, DC 20548
FOR OFFICIAL USE ONLY

Our office recommends that the Commission adopt a policy that is unambiguous in regards to the use of USCCR letterhead for any personal matter, or for any matter not adopted by the Commission.

Sincerely,

4 C.F.R. 81.6(f)

Adam Trzeciak
Inspector General

Cc: 4 C.F.R. 81.6(f), Staff Director, USCCR

From: [REDACTED]
To: mcastro@usccr.gov; rachtenberg@usccr.gov; gheriot@usccr.gov; myaki@usccr.gov; dkladney@usccr.gov; pkirsanow@usccr.gov; ptimmons@usccr.gov; knarasaki@usccr.gov
Cc: [REDACTED]
Bcc: Arp.James.H@usccr.gov; Trzeciak.Adam@usccr.gov
Subject: Transmittal of Inspector General Management Advisory Report
Date: Thursday, October 02, 2014 12:37:00 PM
Attachments: [REDACTED]
[Management Advisory Report to USCCR.pdf](#)

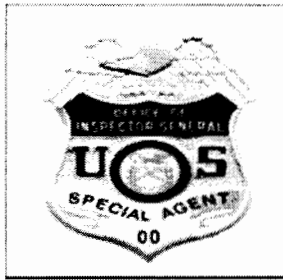
Commissioners, the attached document is transmitted on behalf of the Inspector General and reflects investigative action completed in FY2014.



U.S. Government Accountability Office
Office of Inspector General

REPORT OF INVESTIGATION

C-12-0021-O
**USCCR-Possible waste of
government funds and property**



Prepared by:	4 C.F.R. 81.6(f)
Approved by:	AIIG/ARP
4 C.F.R. 81.6(f)	

REPORT OF INVESTIGATION

CASE#: 12-0021-O	DATE OF REPORT: September 30, 2014
CASE TITLE: USCCR - POSSIBLE WASTE OF GOVERNMENT FUNDS AND PROPERTY	
PERIOD OF INVESTIGATION: August 30, 2012 TO September 30, 2014	
CASE AGENT: 4 C.F.R. 81.6(f)	
DISTRIBUTION: GIMS	

SUMMARY

On August 30, 2012, the OIG received an allegation regarding the United States Commission on Civil Rights (USCCR) possible waste of government funds and property. The original complaints alleged that some furniture and "serviceable" information technology (IT) equipment was not moved from USCCR's previous space, located at 624 9th street N.W., Suite 550, Washington, D.C. when USCCR moved in July 2012. The complainant thought that USCCR's lease ended in June 2012. Therefore, USCCR moved from its old space "too late" and wasted the cost of a month's rent (\$90,000) due to incompetence.

The OIG investigation revealed that the complainant was mistaken about when the move occurred. The rent on the new space was first paid in August 2013. Further, the complainant was mistaken regarding the disposition of surplus furniture and IT equipment, because the moving company took the old equipment from USCCR's old space to the General Services Administration (GSA) as surplus property.

DETAILS

This investigation was initiated based on allegations received from 4 C.F.R. 81.6(f), USCCR, and 4 C.F.R. 81.6(f), USCCR. 4 C.F.R. 81.6(f) alleged in an email received by the OIG that 4 C.F.R. 81.6(f), Commissioner, USCCR, was concerned about waste and improper self-dealing relative to decisions made about the move of USCCR office space (**Exhibit 1**). 4 C.F.R. 81.6(f) alleged in a statement to OIG employees that the USCCR lease for office space terminated in June 2012 and the move to new office space did not occur until August 27, 2012, resulting in \$90,000 being wasted to pay the extra month of rent (**Exhibit 2**). Further, 4 C.F.R. 81.6(f) stated none of the furniture, printers or scanners was moved to the new office space, although some of the furniture had been recently

RESTRICTED INFORMATION GAO OIG 09/18/2014	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Government Accountability Office, Office of Inspector General or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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purchased. USCCR purchased new furniture, printers and scanners for the new office space.

On September 13, 2012, 4 C.F.R. 81.6(f), USCCR, responded to Marie Ingol's, Assistant Inspector General for Investigations (AIGI), OIG, email requesting a copy of the lease agreement for the office space located at 624 9th Street, NW, Washington, DC 20001 (hereinafter referred to as the "YWCA Property") (Exhibit 3). The lease agreement is dated November 15, 2002, and identifies the dates of occupancy from December 3, 2002, through December 2, 2012. This information disproves 4 C.F.R. 81.6(f)'s allegation that the YWCA Property lease ended in June 2012. USCCR had been granted rent abatement to move from the YWCA Property to the new space, in August 2012.

USCCR records and an e-mail from 4 C.F.R. 81.6(f), 4 C.F.R. 81.6(f), USCCR, revealed that: 1) The lease at the YWCA Property was paid through September 2012; 2) payment for rent at the new space started August 2013; 3) USCCR disposed of furniture and equipment through GSA as surplus property. The moving company delivered the excess property to GSA (Exhibit 4).

Based on the interviews conducted and information obtained during this investigation, the OIG determined the allegations were not supported. As a result of the OIG investigation, and with no other matters unresolved, this investigation is being closed with no further action.

SUBJECTS

None

JUDICIAL/ADMINISTRATIVE ACTIONS

n/a

DISPOSITION OF EVIDENCE

n/a

STATUS

Closed

EXHIBITS

Exhibit #	Description
1	Email Allegation submitted by 4 C.F.R. 81.6(f) on August 30, 2012
2	Statement of 4 C.F.R. 81.6(f) on September 30, 2012
3	E-mail from 4 C.F.R. 81.6(f) inistration, USCCR, dated September 13, 2012

3 of 4

RESTRICTED INFORMATION GAO OIG 09/18/2014	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Government Accountability Office, Office of Inspector General or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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4	E-mail from [REDACTED] and Reports of Excess Personal Property (Standard Form 120)
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4 of 4

**RESTRICTED
INFORMATION**
GAO OIG
09/18/2014

This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Government Accountability Office, Office of Inspector General or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.



U.S. Government Accountability Office
Office of Inspector General

MEMORANDUM

Date: June 14, 2013

To: 4 C.F.R. 81.6(f) Managing Director, Congressional Relations
4 C.F.R. 81.6(f) Chief Human Capital Officer, Human Capital Office

From: Adam R. Trzeciak, Inspector General 4 C.F.R. 81.6(f)

Subject: Report of Investigation - 13-0113-P

I am providing you with our report of investigation for any action you may deem appropriate. This report describes our investigative findings regarding an allegation referred to our office.

Within 30 days of receipt of this report, please advise me of your decision to initiate any administrative disciplinary action or any other management decision regarding our investigative findings. If administrative action is proposed, I request that you inform me of the anticipated date that final action will be taken. In any event, please execute the attached Disposition Report upon completion of management's final action in this matter.

You are advised that this report remains the property of the Office of Inspector General. Release or disclosure of the contents to any individual who is not a named recipient as specified above is prohibited. You are responsible for protecting this report from unauthorized disclosure. Reproduction of this report is prohibited without the authorization of the Inspector General.

After management has completed administrative action, if any, you must return the entire report to our office.

If you have any questions or require additional information, please contact Marie Ingol, Assistant Inspector General for Investigations, at (202) 512-5222, or me at (202) 512-5748.

Attachment



U.S. Government Accountability Office
Office of Inspector General

REPORT OF INVESTIGATION

13-0113-P
4 C.F.R. 81.6(f)

SENSITIVE BUT UNCLASSIFIED



U.S. Government Accountability Office
Office of Inspector General

MEMORANDUM

Date: June 11, 2013

To: 4 C.F.R. 81.6(f) Chief Human Capital Officer, Human Capital Office
4 C.F.R. 81.6(f) Deputy Chief Human Capital Officer, Human Capital Office
4 C.F.R. 81.6(f)

From: Adam R. Trzeciak, Inspector General

Subject: Report of Investigation - 13-0113-P

I am providing you with our report of investigation for any action you may deem appropriate. This report describes our investigative findings regarding an allegation referred to our office.

Within 30 days of receipt of this report, please advise me of your decision to initiate any administrative disciplinary action or any other management decision regarding our investigative findings. If administrative action is proposed, I request that you inform me of the anticipated date that final action will be taken. In any event, please execute the attached Disposition Report upon completion of management's final action in this matter.

You are advised that this report remains the property of the Office of Inspector General. Release or disclosure of the contents to any individual who is not a named recipient as specified above is prohibited. You are responsible for protecting this report from unauthorized disclosure. Reproduction of this report is prohibited without the authorization of the Inspector General.

After management has completed administrative action, if any, you must return the entire report to our office.

If you have any questions or require additional information, please contact Marie Ingol, Assistant Inspector General for Investigations, at (202) 512-5222, or me at (202) 512-5748.

Attachment

cc: 4 C.F.R. 81.6(f) Managing Director, Congressional Relations



U.S. Government Accountability Office
Office of Inspector General

REPORT OF INVESTIGATION

DISPOSITION ACTION

SENSITIVE BUT UNCLASSIFIED

To: Adam Trzeciak, Inspector General

From:

Subject: Report of Investigation - 13-0113-P **4 C.F.R. 81.6(f)**

The Report of Investigation in the matter referenced above has been reviewed and evaluated. A copy of the action letter is attached. The action or actions indicated below are ☐ **PROPOSED**
☐ **FINAL** (Please check one).

(Please check the boxes below to summarize the actions in the action letter.)

- | | |
|---|--|
| <input type="checkbox"/> Counseling | <input type="checkbox"/> Admonishment |
| <input type="checkbox"/> Reprimand | <input type="checkbox"/> Suspension |
| <input type="checkbox"/> Curtailment | <input type="checkbox"/> Demotion |
| <input type="checkbox"/> Resignation in Lieu of Termination | <input type="checkbox"/> Termination |
| <input type="checkbox"/> Monetary Recovery Initiated | <input type="checkbox"/> Other |
| <input type="checkbox"/> Change in Rules, Regulations or Procedures | <input type="checkbox"/> No Action Warranted |

EXPLANATION *(Summarize details of action(s), including names, dates, amounts, etc. If No Action Warranted, give basis for determination. Use additional pages if necessary)*

Signed: _____
(Authorized Official)

Date: _____

SENSITIVE BUT UNCLASSIFIED



U.S. Government Accountability Office
Office of Inspector General

REPORT OF INVESTIGATION

Date: June 11, 2013

Case File Number: G-13-0113-P

Subject(s): 4 C.F.R. 81.6(f)

Possible Violations:

4 CFR 81.6 (a) Records which may be exempt from disclosure.

Records relating to work performed in response to a congressional request (unless authorized by the congressional requester), congressional correspondence, and congressional contact memoranda.

GAO Order 2751.1, Discipline and Adverse Actions, Appendix 1. GAO Guide Table of Penalties for Various Offenses, 17.b.

Unauthorized release of draft or restricted GAO reports or other official information contrary to law and regulation.

GAO, *Policy Manual*, Section 390, Public Reporting; Part C – Reporting Classified and Sensitive but Unclassified Information and Using Copyrighted Works in GAO's Products.

Consistent with GAO's *Congressional Protocols*, in response to inquiries from entities not involved in a particular ongoing audit, GAO generally does not disclose the source of the request. (pg. 390, para. 2)

All GAO employees having access to classified or sensitive information protect that information against unauthorized disclosure in accordance with applicable GAO policies and orders. (pg. 398, para. 2)

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GAO's Congressional Protocols (GAO-04-310G, July 16, 2004).

GAO does not generally provide others with copies of request letters.

Rather, GAO will refer any person who wants a copy of a request letter to the Member who submitted the request. (pg. 11, para. 1)

Prepared By:

4 C.F.R. 81.6(f)

Investigator

Reviewed By:

4 C.F.R. 81.6(f)

Cathy Helm

Deputy Inspector General

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Predication

On January 29, 2013, 4 C.F.R. 81.6(f), 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) advised that on or about Tuesday, January 22, 2013, 4 C.F.R. 81.6(f) had been contacted via email by 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) to 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) notified 4 C.F.R. 81.6(f) that a copy of a letter sent to GAO by 4 C.F.R. 81.6(f)'s office had been obtained by a lobbying firm in Washington, D.C. 4 C.F.R. 81.6(f) stated that the 4 C.F.R. 81.6(f) letter in question, dated December 22, 2011, was sent by 4 C.F.R. 81.6(f) to GAO to request 4 C.F.R. 81.6(a)

4 C.F.R. 81.6(a)

4 C.F.R. 81.6(f) advised the OIG that the letter was processed by 4 C.F.R. 81.6(f) staff on or about December 23, 2011. 4 C.F.R. 81.6(f) stated that the release of the letter to the lobbying firm or other outside entity had not been authorized.

Synopsis

The investigation found that on January 22, 2013, 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) obtained a copy of the 4 C.F.R. 81.6(f) request letter from 4 C.F.R. 81.6(f)'s Document Management (DM) folder and, at 1:12 p.m., sent the letter as an attachment in an email to 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f), a lobbyist who represents 4 C.F.R. 81.6(f). On the same day, at 2:41 p.m., 4 C.F.R. 81.6(f) another lobbyist who represents 4 C.F.R. 81.6(f) sent an email referencing the 4 C.F.R. 81.6(f) request letter, to 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f). At 7:03 p.m., 4 C.F.R. 81.6(f) sent 4 C.F.R. 81.6(f) a second email and included the 4 C.F.R. 81.6(f) request letter as an attachment. At 7:22 p.m., 4 C.F.R. 81.6(f) forwarded the second 4 C.F.R. 81.6(f) email to 4 C.F.R. 81.6(f). The OIG interviewed 4 C.F.R. 81.6(f) on May 29, 2013. 4 C.F.R. 81.6(f) admitted to sending a copy of the 4 C.F.R. 81.6(f) request letter, without authorization, as an attachment in an email to 4 C.F.R. 81.6(f).

Details of Investigation

On December 23, 2011, 4 C.F.R. 81.6(f) received a request letter from 4 C.F.R. 81.6(f) who requested that GAO conduct a review of 4 C.F.R. 81.6(a) 4 C.F.R. 81.6(a) 4 C.F.R. 81.6(a) processed the request letter, identifying the letter as 4 C.F.R. 81.6(a) and assigning it to the 4 C.F.R. 81.6(a) 4 C.F.R. 81.6(a) team. (Attachment 1)

In July 2012, PI initiated the first engagement for the request letter entitled "4 C.F.R. 81.6(a) 4 C.F.R. 81.6(a)." On January 18, 2013, 4 C.F.R. 81.6(f) Analyst-in-Charge (AIC), contacted 4 C.F.R. 81.6(f) by email and attached a letter requesting demographic information based on zip code numbers. (Attachment 2)

Four days later, on Tuesday, January 22, 2013, at 11:45 a.m., 4 C.F.R. 81.6(f), an employee of the Franklin Square Group, a Washington, D.C.-based lobbying group, sent an email to 4 C.F.R. 81.6(f) stating, "A client recently received a letter from GAO re: examining competition in the video marketplace – it came from 4 C.F.R. 81.6(f). I am trying to find out a little more about it – it says it was Congressionally mandated, do you know what they are looking to find etc?"

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At 12:05 p.m., [4 C.F.R. 81.6(f)] accessed the [4 C.F.R. 81.6(f)] request letter within [4 C.F.R. 81.6(f)]'s files in Document Manager. (Attachment 3)

At 12:11 p.m., [4 C.F.R. 81.6(f)] responded to [4 C.F.R. 81.6(f)] stating, "I think this was a [4 C.F.R. 81.6(f)] request from late 2011. Different team than mine and I don't think they report out until the middle of this year or later. I'll ask around a bit."

At 12:18 p.m., [4 C.F.R. 81.6(f)] wrote: "Thanks! Really appreciate it – Will dig around myself . . ."

At 1:12 p.m., [4 C.F.R. 81.6(f)] emailed [4 C.F.R. 81.6(f)] and attached a copy of the [4 C.F.R. 81.6(f)] request letter, stating, "I think this was the original request and these are the boiled down questions . . ." (Attachment 4)

At 2:41 p.m., [4 C.F.R. 81.6(f)] employee of [4 C.F.R. 81.6(f)] another Washington, D.C. lobbying group, sent an email referencing the [4 C.F.R. 81.6(f)] request letter and the letter from AIC [4 C.F.R. 81.6(f)] to [4 C.F.R. 81.6(f)] to [4 C.F.R. 81.6(f)] [4 C.F.R. 81.6(f)] At 6:03 p.m., [4 C.F.R. 81.6(f)] forwarded [4 C.F.R. 81.6(f)] email to [4 C.F.R. 81.6(f)] (and to [4 C.F.R. 81.6(f)]). (Attachment 5)
At 7:03 p.m., [4 C.F.R. 81.6(f)] sent [4 C.F.R. 81.6(f)] a second email and included the [4 C.F.R. 81.6(f)] request letter as an attachment. At 7:22 p.m., [4 C.F.R. 81.6(f)] forwarded the email to [4 C.F.R. 81.6(f)]. (Attachment 6)

On May 29, 2013, the Reporting Investigator (RI) and [4 C.F.R. 81.6(f)] Counsel to the Inspector General, interviewed [4 C.F.R. 81.6(f)]. The interview took place in the conference room (1814E) of OIG's Office of Investigations. Prior to initiating the interview, [4 C.F.R. 81.6(f)] read and explained the Garrity Warning to [4 C.F.R. 81.6(f)]. [4 C.F.R. 81.6(f)] stated that he understood his rights and agreed to answer questions posed to him by the OIG. The RI confirmed with [4 C.F.R. 81.6(f)] that he understood that he could stop the interview and leave the OIG office space at any time.

The RI presented [4 C.F.R. 81.6(f)] with a copy of the email exchange between [4 C.F.R. 81.6(f)] and [4 C.F.R. 81.6(f)] dated January 22, 2013. [4 C.F.R. 81.6(f)] admitted that he sent the [4 C.F.R. 81.6(f)] request letter to [4 C.F.R. 81.6(f)] adding that the reason he did so was to be a "good neighbor." [4 C.F.R. 81.6(f)] explained that [4 C.F.R. 81.6(f)] had been very helpful to him and NRE during a "patent litigation" engagement and he wanted to return the favor. [4 C.F.R. 81.6(f)] stated that he did not receive anything, like a gift, from [4 C.F.R. 81.6(f)] in return for helping [4 C.F.R. 81.6(f)]. [4 C.F.R. 81.6(f)] added that [4 C.F.R. 81.6(f)] had not promised him anything in return for receiving a copy of the request letter. [4 C.F.R. 81.6(f)] said: "I should not have done that. I should have known . . . This was a stupid thing to do."

The RI asked [4 C.F.R. 81.6(f)] if he knew what the GAO policy was regarding the release of "engagement-related" documents such as a congressional request letter. [4 C.F.R. 81.6(f)] stated that [4 C.F.R. 81.6(f)] did not know with any certainty what the GAO policy is, that [4 C.F.R. 81.6(f)] did not think about any policy at the time [4 C.F.R. 81.6(f)] sent the request letter to [4 C.F.R. 81.6(f)] adding that, "It was a stupid thing to do." The RI challenged [4 C.F.R. 81.6(f)] stating that [4 C.F.R. 81.6(f)] has worked at GAO for more than 25 years, has conducted many engagements, and yet somehow, [4 C.F.R. 81.6(f)] could claim that [4 C.F.R. 81.6(f)] did not know what the policy was for responding to requests to release documents to the public? [4 C.F.R. 81.6(f)] repeated that what he had done was "stupid" and that "I should not have done that." [4 C.F.R. 81.6(f)] added: "There's no situation that would justify the release." However, he refused to answer the question about whether [4 C.F.R. 81.6(f)] knew the policy or did not know the policy.

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4 C.F.R. 81.6(f) advised that 4 C.F.R. 81.6(f) had been reassigned to 4 C.F.R. 81.6(f) within the last two weeks (as of May 13, 2013) and that since 4 C.F.R. 81.6(f) started working there, 4 C.F.R. 81.6(f) has become aware of the emphasis in keeping request letters secure. 4 C.F.R. 81.6(f) asked 4 C.F.R. 81.6(f) why he had kept silent about giving the request letter to 4 C.F.R. 81.6(f) once he knew such an unauthorized release was a matter of importance to GAO. 4 C.F.R. 81.6(f) stated that the issue "had fallen off his radar," that he had forgotten about it "in the rush of work," and that "not everybody follows procedure all of the time." (Attachment 7)

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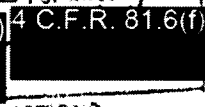
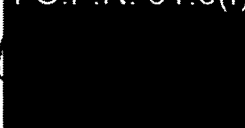
List of Exhibits

1. Request letter to GAO sent by [REDACTED] 4 C.F.R. 81.6(f)
2. Email from AIC [REDACTED] to the RI detailing his contacts with [REDACTED] 4 C.F.R. 81.6(f)
3. DM history showing who had accessed the [REDACTED] request letter
4. Email exchange between [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) dated January 22, 2013
5. Email exchange between [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) dated January 22, 2013
6. Second email exchange between [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f), dated January 22, 2013
7. Memorandum of Interview with [REDACTED] 4 C.F.R. 81.6(f) conducted on May 29, 2013

Attachment 1

4 C.F.R. 81.6(a)



Forward for Unit Control to: 	
Advance copy to:	
<input checked="" type="checkbox"/> For Action 4 C.F.R. 81.6(f) 	<input checked="" type="checkbox"/> For Info. 4 C.F.R. 81.6(f) 
SPECIAL INSTRUCTIONS CK Acknowledged receipt	
4 C.F.R. 81.6(f) Date: 12-23-11 	

4 C.F.R. 81.6(f)


4 C.F.R. 81.6(f)


4 C.F.R. 81.6(f)


4 C.F.R. 81.6(a)



Attachment 2

4 C.F.R. 81.6(f)

From: 4 C.F.R. 81.6(f)
Sent: Monday, May 20, 2013 5:56 PM
Subject: 4 C.F.R. 81.6(f)
contact dates

I had a few minutes and here is the information that you requested. We identified government affairs, public relations, and other likely contacts at the MVPDs. Some of these were based on interviews, past knowledge, or FCC input. If I recall right, I found 4 C.F.R. 81.6(f)'s contact information through 4 C.F.R. 81.6(f)'s website. That was either in December or January. I didn't use her contact information until January.

1. Called 4 C.F.R. 81.6(f) at 4 C.F.R. 81.6(f) 1/18/13
2. Emailed information request for zip code analysis to 4 C.F.R. 81.6(f) 1/18/13
3. Emailed follow-up to 4 C.F.R. 81.6(f) 1/29/13
4. Emailed information request a second time to 4 C.F.R. 81.6(f) (upon 4 C.F.R. 81.6(f) request), 1/29/13
5. Received email from 4 C.F.R. 81.6(f) (who 4 C.F.R. 81.6(f) passed on my request to), 1/29/13
6. Emailed 4 C.F.R. 81.6(f) heard back, and then had a phone call to run 4 C.F.R. 81.6(f) through the zip code information request, 1/30 to 1/31/13
7. 4 C.F.R. 81.6(f) followed up with an update on 2/11/13 (requesting more time)
8. 4 C.F.R. 81.6(f) followed up with another update on 2/15/13 (response coming soon)
9. Received zip code information request on 2/21/13 (sent a thank you message)

Please let me know if I can help in addition to this.

Attachment 3

DOCUMENT NUMBER	DOCUMENT NAME	TYPIST	DATE_TIME	ACTIVITY TYPE	VERSION #
5378189 12-0239		4 C.F.R. 81.6(f)	1/22/2013 12:05	DOCUMENT ACCESSED	1
5378189 12-0239	1/23/2013 9:11		DOCUMENT ACCESSED	1	
5378189 12-0239	1/23/2013 9:45		DOCUMENT ACCESSED	1	
5378189 12-0239	1/23/2013 10:51		DOCUMENT ACCESSED	1	
5378189 12-0239	1/23/2013 11:30		DOCUMENT ACCESSED	1	
5378189 12-0239	1/23/2013 11:39		DOCUMENT ACCESSED	1	
5378189 12-0239	1/23/2013 12:14		DOCUMENT ACCESSED	1	
5378189 12-0239	1/23/2013 12:41		DOCUMENT ACCESSED	1	
5378189 12-0239	1/24/2013 10:04		DOCUMENT ACCESSED	1	
5378189 12-0239	1/24/2013 10:31		DOCUMENT ACCESSED	1	
5378189 12-0239	1/25/2013 11:52		DOCUMENT ACCESSED	1	
5378189 12-0239	1/29/2013 12:21		DOCUMENT ACCESSED	1	
5378189 12-0239	11/29/2012 9:40		DOCUMENT ACCESSED	1	
5378189 12-0239	12/23/2011 12:52		CREATE	1	
5378189 12-0239	12/23/2011 12:52		EDIT	1	

4 C.F.R. 81.6(f)

FOL

4 C.F.R. 81.6(f)

x 2-

4 C.F.R. 81.6(f)

Attachment 4

RE: Question Unrelated to Patents**4 C.F.R. 81.6(f)**

Sent: Tuesday, January 22, 2013 1:12 PM
To: 4 C.F.R. 81.6(f) [mailto:4 CFR 81.6(f)@gmail.com]
Attachments: 4 C.F.R. 81.6(f) Letter.pdf (248 KB)

4 C.F.R. 81.6(f)

I think this was the original request and these are the boiled down questions.

4 C.F.R. 81.6(a)

4 C.F.R. 81.6(f)

-----Original Message-----

From: 4 C.F.R. 81.6(f) [mailto:4 CFR 81.6(f)@gmail.com]
Sent: Tuesday, January 22, 2013 12:18 PM
To: 4 C.F.R. 81.6(f)
Subject: Re: Question Unrelated to Patents

Thanks! Really appreciate it -

Will dig around myself but it wasn't readily apparent from the letter what the driver behind the inquiry is -

On Jan 22, 2013, at 12:11 PM, "4 C.F.R. 81.6(f)" <4 CFR 81.6(f)@gao.gov> wrote:

> 4 C.F.R. 81.6(f)

> I think this was a 4 C.F.R. 81.6(f) request from late 2011. Different team than mine and I don't think they will report out until the middle of this year or later.

> I'll ask around a bit.

> 4 C.F.R. 81.6(f)

> -----Original Message-----

> **From:** 4 C.F.R. 81.6(f) [mailto:4 CFR 81.6(f)@gmail.com]
> **Sent:** Tuesday, January 22, 2013 11:45 AM
> **To:** 4 C.F.R. 81.6(f)
> **Subject:** Question Unrelated to Patents

> Hey 4 C.F.R. 81.6(f)

> A client recently received a letter from GAO re: 4 C.F.R. 81.6(a) it came from 4 C.F.R. 81.6(f)

> I am trying to find out a little more about it - it says it was Congressionally mandated, do you know what they are looking to find etc?

Attachment 5

FW: Following up my voicemail on GAO report

4 C.F.R. 81.6(f)

Sent: Tuesday, January 22, 2013 6:03 PM

To: 4 C.F.R. 81.6(f)

Importance: High

Wanted to make sure you were aware that according to the forwarded email below, people have associated our private request for a report on 4 C.F.R. 81.6(f) with our office. I'm pretty stunned, our request for these reports is sensitive and delicate and we were assured confidentiality. As you remember, this is not the first time this has happened to us on these issues.* I have to assume that the leak is coming from GAO, as I can assure you that it did not leak on our end as I'm practically the only person working on it and I've not told a soul.

I haven't directly responded yet, and I'm reaching out, partly to let you know, but also partly to ask if you have suggestions for how I should respond other than saying that I have no idea what they're talking about.

Thanks again for the work you're doing, it is appreciated, but this is a bit much.

All the best,

ACFHE

* [http://www.4 C.F.R. 81.6\(a\)](http://www.4 C.F.R. 81.6(a))

4 C.F.R. 81.6(f)

Policy Advisor | 4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f)

202 202 4 C.F.R. 81.6(f) H-204, The Capitol, Washington DC 20515

From: 4 C.F.R. 81.6(f)

Sent: Tuesday, January 22, 2013 2:41 PM

To: 4 C.F.R. 81.6(f)

Subject: Following up my voicemail on GAO report

4 C.F.R. 81.6(f)

Hi, I hope you are well. I trust you enjoyed the events yesterday!

I am writing on behalf of our client, 4 C.F.R. 81.6(f) who recently received a request from GAO for some 4 C.F.R. 81.6(a) I've copied below the substantive part of the request, which covers a randomly selected zip code which is in the company's footprint.

I believe that this GAO report is being generated pursuant to a letter 4 C.F.R. 81.6(f) sent at the end of 2011. Your letter covered a whole range of issue, of which 4 C.F.R. 81.6(a) I am hoping to chat with you (or get an email) to provide some context as to why 4 C.F.R. 81.6(a) sent the letter and what 4 C.F.R. 81.6(f) thinking is on these matters.

As always, I appreciate your consideration.

Best,



Jeremy

In response to a Congressional request, 4 C.F.R. 81.6(a)

4 C.F.R. 81.6(a)



4 C.F.R. 81.6(f)

ML Strategies, LLC
701 Pennsylvania Ave., NW, Suite 900 | Washington, DC 20004
Direct: (202) 434- Fax: (202) 434-7400
E-mail:  4 C.F.R. 81.6(f)
Web: www.mlstrategies.com

ML
STRATEGIES
A Consulting Affiliate of Mintz Levin

Attachment 6

4 C.F.R. 81.6(f)

From: 4 C.F.R. 81.6(f)
Sent: Tuesday, January 29, 2013 12:16 PM
To: 4 C.F.R. 81.6(f)
Subject: FW: GAO
Attachments: 4 C.F.R. 81.6(f) to GAO.pdf

4 C.F.R. 81.6(f) - here is the email. There is no one at GAO with exactly the same name.

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f)
4 C.F.R. 81.6(f)
U.S. Government Accountability Office
4 C.F.R. 81.6(f)@gao.gov
202 512 4 C.F.R. 81.6(f) (office)
202 4 C.F.R. 81.6(f) (cell)

From: 4 C.F.R. 81.6(f)
Sent: Tuesday, January 22, 2013 7:22 PM
To: 4 C.F.R. 81.6(f)
Subject: Fw: GAO

4 C.F.R. 81.6(f) I'm not saying it's you, but this letter has your name on it and other internal markings from GAO. I'm at a loss.

=====
4 C.F.R. 81.6(f)
4 C.F.R. 81.6(f)
4 C.F.R. 81.6(f)

From: 4 C.F.R. 81.6(f)
Sent: Tuesday, January 22, 2013 07:03 PM
To: 4 C.F.R. 81.6(f)
Subject: GAO

4 C.F.R. 81.6(f)

Here is the 4 C.F.R. 81.6(f) letter with you listed as the contact. I am guessing that the current GAO investigation stems from this letter, but can't know for sure. Would love any insights. 4 C.F.R. 81.6(f)


4 C.F.R. 81.6(f)
ML Strategies, LLC
701 Pennsylvania Ave., NW, Suite 900 | Washington, DC 20004
Direct: (202) 434-4444 Fax: (202) 434-7400
Email: 4 C.F.R. 81.6(f)@mlstrategies.com
Web: www.mlstrategies.com

ML
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A Consulting Affiliate of Mintz Levin

4 C.F.R. 81.6(a)



Forward for Unit Control to: 

4 C.F.R. 81.6(f)

Advance copy to:
☒ For Action ☒ For Info.

4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f)

4 C.F.R. 81.6(f)

SPECIAL INSTRUCTIONS

CR Acknowledged
receipt

4 C.F.R. 81.6(f) Date: 12-23-11



4 C.F.R. 81.6(a)



Attachment 7

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REPORT INSERT - OFFICE OF INSPECTOR GENERAL

MEMORANDUM OF INTERVIEW

INTERVIEW OF

4 C.F.R. 81.6(f)

DATE OF INTERVIEW

May 29, 2013

On May 29, 2013, the Reporting Investigator (RI), 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f) of the Government Accountability Office (GAO), Office of Inspector General (OIG), interviewed 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) GAO. The interview took place in the conference room (1814E) of the OIG Office of Investigations. Prior to initiating the interview, 4 C.F.R. 81.6(f) (Counsel to the IG) read and explained the Garrity Warning to 4 C.F.R. 81.6(f). 4 C.F.R. 81.6(f) stated that 4 C.F.R. 81.6(f) understood his rights and signed the Garrity Warning form, electing to answer questions posed to 4 C.F.R. 81.6(f) by the OIG. (Attachment 1) The RI confirmed with 4 C.F.R. 81.6(f) that 4 C.F.R. 81.6(f) understood that the interview was voluntary on 4 C.F.R. 81.6(f)'s part and that 4 C.F.R. 81.6(f) could stop the interview and leave the OIG office space at any time.

4 C.F.R. 81.6(f) advised that 4 C.F.R. 81.6(f) had been reassigned to Congressional Relations (CR) within the last two weeks (as of May 13, 2013) and that previously 4 C.F.R. 81.6(f) was assigned to the 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f). 4 C.F.R. 81.6(f) added that 4 C.F.R. 81.6(f) had been with 4 C.F.R. 81.6(f) since December 1997 and with GAO for over 25 years and 9 months. 4 C.F.R. 81.6(f) identified 4 C.F.R. 81.6(f) current supervisor as 4 C.F.R. 81.6(f). 4 C.F.R. 81.6(f) stated that during 4 C.F.R. 81.6(f) tenure with GAO 4 C.F.R. 81.6(f) has worked on "lots and lots" of engagements, including those engagements initiated at the request of a Member of Congress (MOC). 4 C.F.R. 81.6(f) stated that 4 C.F.R. 81.6(f) has exclusively worked on engagements for more than 25 years at GAO.

4 C.F.R. 81.6(f) was asked if 4 C.F.R. 81.6(f) knew an individual by the name of 4 C.F.R. 81.6(f). 4 C.F.R. 81.6(f) stated that he knew 4 C.F.R. 81.6(f) and that 4 C.F.R. 81.6(f) worked as a lobbyist for 4 C.F.R. 81.6(f) in Washington, DC. 4 C.F.R. 81.6(f) said that 4 C.F.R. 81.6(f) became acquainted with 4 C.F.R. 81.6(f) through an engagement on "patent litigation" he worked on while assigned to 4 C.F.R. 81.6(f). 4 C.F.R. 81.6(f) added that 4 C.F.R. 81.6(f) had assisted 4 C.F.R. 81.6(f) by providing access to various companies and entities associated with the telecom and software industry. 4 C.F.R. 81.6(f) denied having a social or personal relationship with 4 C.F.R. 81.6(f). 4 C.F.R. 81.6(f) stated that 4 C.F.R. 81.6(f) had never gone out to dinner with 4 C.F.R. 81.6(f) nor had 4 C.F.R. 81.6(f) ever attended a party or similar social gathering with 4 C.F.R. 81.6(f).

The RI presented 4 C.F.R. 81.6(f) with a series of email exchanges between 4 C.F.R. 81.6(f) and 4 C.F.R. 81.6(f) dated Tuesday, January 22, 2013:

At 11:45 AM 4 C.F.R. 81.6(f) sent an email to 4 C.F.R. 81.6(f) at his GAO email account that read: "A client recently received a letter from GAO re: 4 C.F.R. 81.6(a) - it came from 4 C.F.R. 81.6(f). I am trying to find out a little more about it - it says it was Congressionally mandated, do you know what they are looking to find etc?"

[At 12:05 PM 4 C.F.R. 81.6(f) accessed the CR Document Manager (DM) database for document 5378189 12-0239, which is the Request Letter dated December 22, 2011, from 4 C.F.R. 81.6(f). This letter requested GAO to conduct a review of 4 C.F.R. 81.6(a).

4 C.F.R. 81.6(a)

At 12:11 PM 4 C.F.R. 81.6(f) responded to 4 C.F.R. 81.6(f) with the following: "I think this was a 4 C.F.R. 81.6(f) request from late 2011. Different team than mine and I don't think they report out until the middle of this year or later. I'll ask around a bit."

ASSIGNMENT NUMBER	REPORTING AGENT	DATE PREPARED	REVIEWED BY
FY13-0113-P	4 C.F.R. 81.6(f)	5-30-13	4 C.F.R. 81.6(f)

FOR OFFICIAL USE ONLY

PERSON INTERVIEWED	ASSIGNMENT NUMBER	DATE PREPARED	PAGE
4CFR 81.6(f)	FY13-0113-P	5-30-13	2 OF 3
FORM 29 DM# 5641347 Continuation Sheet			

At 12:18 PM 4CFR 81.6(f) wrote: "Thanks! Really appreciate it – Will dig around myself . . ."

At 1:12 PM 4CFR 81.6(f) emailed 4CFR 81.6(f) and attached a copy of the 4CFR 81.6(f) Request Letter, writing:
"I think this was the original request and these are the boiled down questions . . ."

(Attachment 2)

4CFR 81.6(f) confirmed that 4CFR 81.6(f) sent the 4CFR 81.6(f) Request Letter to 4CFR 81.6(f), adding that the reason 4CFR 81.6(f) did so was to be a "good neighbor." 4CFR 81.6(f) explained that 4CFR 81.6(f) had been very helpful to 4CFR 81.6(f) and 4CFR 81.6(f) during the patent litigation engagement and 4CFR 81.6(f) wanted to return the favor. 4CFR 81.6(f) stated that 4CFR 81.6(f) did not receive anything, like a gift, from 4CFR 81.6(f) in return for helping 4CFR 81.6(f). 4CFR 81.6(f) added that 4CFR 81.6(f) had not promised 4CFR 81.6(f) anything in return for receiving a copy of the Request Letter. 4CFR 81.6(f) said, "I should not have done that. I should have known . . . This was a stupid thing to do."

4CFR 81.6(f) when asked how 4CFR 81.6(f) had known to look for the Request Letter in the CR DM folder, said that 4CFR 81.6(f) could not remember. 4CFR 81.6(f) added that 4CFR 81.6(f) thinks 4CFR 81.6(f) found it by doing a search on the GAO intranet. 4CFR 81.6(f) denied talking with anyone from the 4 C.F.R. 81.6(f) team about the engagement. The RI observed that 4CFR 81.6(f) had accessed the Request Letter prior to telling 4CFR 81.6(f) that 4CFR 81.6(f) would "ask around a bit." The RI again asked 4CFR 81.6(f) to identify with whom he had spoken. 4CFR 81.6(f) again said that 4CFR 81.6(f) could not remember, adding that 4CFR 81.6(f) did not think 4CFR 81.6(f) spoke to anyone. 4CFR 81.6(f) acknowledged that 4CFR 81.6(f) 4 C.F.R. 81.6(f) is an 4 C.F.R. 81.6(f) for 4CFR 81.6(f) and is working on the 4CFR 81.6(f) Request Letter engagement, but 4CFR 81.6(f) denied that 4CFR 81.6(f) had spoken to 4CFR 81.6(f) about 4CFR 81.6(f)'s request.

The RI challenged 4CFR 81.6(f) on 4CFR 81.6(f)'s denial that 4CFR 81.6(f) had not contacted his wife and asked her for help in locating the RL. Minelli stated that if he had called 4CFR 81.6(f), 4CFR 81.6(f) did not remember doing so with regard to the RL. 4CFR 81.6(f) said that 4CFR 81.6(f) and 4CFR 81.6(f) usually speak to each other over the telephone and by email frequently throughout the workday. 4CFR 81.6(f) said that it was "entirely possible that I called 4CFR 81.6(f)" but 4CFR 81.6(f) did not remember doing so. 4CFR 81.6(f) added that 4CFR 81.6(f) does not know 4CFR 81.6(f).

4CFR 81.6(f) was asked if 4CFR 81.6(f) had spoken to a supervisor prior to releasing the RL to 4CFR 81.6(f). 4CFR 81.6(f) said that 4CFR 81.6(f) had not. 4CFR 81.6(f) added that 4CFR 81.6(f) had not spoken to a supervisor about releasing the RL after the fact either. When asked if 4CFR 81.6(f) was aware of the restrictions against providing RLs to the public, 4CFR 81.6(f) said that 4CFR 81.6(f) hadn't thought about it. 4CFR 81.6(f) added that since 4CFR 81.6(f) started working in 4CFR 81.6(f), 4CFR 81.6(f) has become aware of the emphasis in keeping RL secure. The RI provided 4CFR 81.6(f) with a printed page of a GAO Notice entitled "Handling Inquiries for Request Letters" that was posted on the front page of GAO Intranet on January 30, 2013. 4CFR 81.6(f) advised that 4CFR 81.6(f) could not remember if 4CFR 81.6(f) had seen the notice. When the RI asked 4CFR 81.6(f) if 4CFR 81.6(f) had considered notifying 4CFR 81.6(f)'s current supervisor about 4CFR 81.6(f)'s unauthorized release of the 4CFR 81.6(f) Request Letter, 4CFR 81.6(f) did not answer the question.

The RI asked 4CFR 81.6(f) if 4CFR 81.6(f) knew what the GAO policy was regarding the release of "Engagement Related" documents such as a congressional request letter. 4CFR 81.6(f) stated that 4CFR 81.6(f) did not know with any certainty what the GAO policy is, that 4CFR 81.6(f) did not think about any policy at the time 4CFR 81.6(f) sent the request letter to 4CFR 81.6(f), adding that, "It was a stupid thing to do." The RI challenged 4CFR 81.6(f) stating that 4CFR 81.6(f) has worked at GAO for more than 25 years, has conducted many engagements, and yet somehow, 4CFR 81.6(f) could claim that 4CFR 81.6(f) did not know what the policy was for responding to requests to release documents to the public? 4CFR 81.6(f) repeated that what 4CFR 81.6(f) had done was "stupid" and that, "I should not have done that." 4CFR 81.6(f) added that, "There's no situation that would justify the release." However, 4CFR 81.6(f) refused to answer the question about whether 4CFR 81.6(f) knew the policy or did not know the policy.

FOR OFFICIAL USE ONLY

PERSON INTERVIEWED	ASSIGNMENT NUMBER	DATE PREPARED	PAGE
4 C.F.R. 81.6(f)	FY13-0113-P	5-30-13	3 OF 3
FORM 29 DM# 5841347 Continuation Sheet			

4 C.F.R. 81.6(f) stated that 4 C.F.R. 81.6(f) had never released any other document to 4 C.F.R. 81.6(f) to members of the press, or to any news organizations. When asked specifically, 4 C.F.R. 81.6(f) stated that he had never released any GAO document to "Wired", "AOL Defense", "Breaking Defense.com", Sydney Freedberg, 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) or to 4 C.F.R. 81.6(f).

4 C.F.R. 81.6(f) asked 4 C.F.R. 81.6(f) if 4 C.F.R. 81.6(f) was certain that 4 C.F.R. 81.6(f) had not seen the Notice concerning releasing RL that was posted on the front page of the GAO Intranet. 4 C.F.R. 81.6(f) reminded 4 C.F.R. 81.6(f) that the OIG could determine from his GAO-issued computer whether or not 4 C.F.R. 81.6(f) had "clicked on" the link to the Notice. 4 C.F.R. 81.6(f) answered that 4 C.F.R. 81.6(f) did not recall seeing the Notice. 4 C.F.R. 81.6(f) asked 4 C.F.R. 81.6(f) why 4 C.F.R. 81.6(f) had kept silent about giving the RL to 4 C.F.R. 81.6(f) once 4 C.F.R. 81.6(f) knew such an unauthorized release was a matter of importance to GAO. 4 C.F.R. 81.6(f) stated that the issue "had fallen off 4 C.F.R. 81.6(f) radar," that 4 C.F.R. 81.6(f) had forgotten about it "in the rush of work," and that "not everybody follows procedure all of the time."

4 C.F.R. 81.6(f) advised that 4 C.F.R. 81.6(f) did notice that 4 C.F.R. 81.6(f) began using a stamp on Request Letters, adding that 4 C.F.R. 81.6(f) wondered if 4 C.F.R. 81.6(f) providing the 4 C.F.R. 81.6(f) RL to 4 C.F.R. 81.6(f) was the reason 4 C.F.R. 81.6(f) began using the stamp. 4 C.F.R. 81.6(f) then stated, "I may have to stop this." [At this point in the interview, the RI asked 4 C.F.R. 81.6(f) if he would like to take a break, or get something to drink, but 4 C.F.R. 81.6(f) declined, advising that 4 C.F.R. 81.6(f) wanted to continue.]

The RI noted that, according to 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) had not offered 4 C.F.R. 81.6(f) anything of value in return for receiving the Request Letter. 4 C.F.R. 81.6(f) affirmed the statement saying that 4 C.F.R. 81.6(f) was not the kind of person who would do such a thing. The RI pointed out the 4 C.F.R. 81.6(f) was willing to risk 4 C.F.R. 81.6(f)'s career in order to get the Request Letter, so how could 4 C.F.R. 81.6(f) be certain that 4 C.F.R. 81.6(f) might not do the same thing to another GAO employee? The RI suggested that 4 C.F.R. 81.6(f) reflect on 4 C.F.R. 81.6(f) conversations with 4 C.F.R. 81.6(f) and that if 4 C.F.R. 81.6(f) recalled a situation where 4 C.F.R. 81.6(f) had offered him something, 4 C.F.R. 81.6(f) should contact the RI.

The RI asked 4 C.F.R. 81.6(f) is there was anything that the RI and 4 C.F.R. 81.6(f) should know that they had not asked 4 C.F.R. 81.6(f) 4 C.F.R. 81.6(f) stated that 4 C.F.R. 81.6(f) did not think so. 4 C.F.R. 81.6(f) added that 4 C.F.R. 81.6(f) felt terrible about what 4 C.F.R. 81.6(f) had done. 4 C.F.R. 81.6(f) said that he "let the agency down." 4 C.F.R. 81.6(f) also stated, "I didn't think it was a big deal at the time."



U.S. Government Accountability Office
Office of Inspector General

NOTE TO REQUESTER:
SUSPENSION WAS LATER
REDUCED TO 10 DAYS

REPORT OF INVESTIGATION

DISPOSITION ACTION

SENSITIVE BUT UNCLASSIFIED

To: Adam Trzeciak, Inspector General

From:

Subject: Report of Investigation - 13-0113-P **4 C.F.R. 81.6(f)**

The Report of Investigation in the matter referenced above has been reviewed and evaluated. A copy of the action letter is attached. The action or actions indicated below are ☒ **PROPOSED**
☐ **FINAL** (Please check one).

(Please check the boxes below to summarize the actions in the action letter.)

- | | |
|---|--|
| <input type="checkbox"/> Counseling | <input type="checkbox"/> Admonishment |
| <input type="checkbox"/> Reprimand | <input checked="" type="checkbox"/> Suspension |
| <input type="checkbox"/> Curtailment | <input type="checkbox"/> Demotion |
| <input type="checkbox"/> Resignation in Lieu of Termination | <input type="checkbox"/> Termination |
| <input type="checkbox"/> Monetary Recovery Initiated | <input type="checkbox"/> Other |
| <input type="checkbox"/> Change in Rules, Regulations or Procedures | <input type="checkbox"/> No Action Warranted |

EXPLANATION (Summarize details of action(s), including names, dates, amounts, etc. If No Action Warranted, give basis for determination. Use additional pages if necessary)

Proposed suspension for 15 days.

4 C.F.R. 81.6(f)

Signed: _____
(Authorized Official)

Date: 7/4/13

SENSITIVE BUT UNCLASSIFIED



O I G

Office of Inspector General

United States Government Accountability Office

Memorandum

Date: January 22, 2014
To: Chief Learning Officer, Learning Center – 4 C.F.R. 81.6(f)
From: Inspector General – Adam R. Trzeciak – 4 C.F.R. 81.6(f)
Subject: Referral to Management Regarding OIG Case Number G13-0277-HL-MN

I am referring this matter for your review and any action that you deem appropriate.

Background

On May 03, 2013, OIG received an anonymous hotline complaint alleging that:

"GAO is wasting resources on its "Hot Buttons: Word and Actions" course, in particular, the extremely poor text book that was provided to all participants. The course should be cancelled. It provided no value and was a waste of resources. It did not clarify hot buttons but instead provided confusing and often conflicting information in terms of what was and was not appropriate to say or otherwise offensive. For example, the course content taught that it was inappropriate to say "you spoke really well in there" or "you were/are very eloquent" yet at the same time implied we should give honest and direct feedback. Seeing shadows of racism in every utterance does not foster an honest and including environment. The content essentially tried to provide common sense and good interpersonal skills but failed miserably. Further, the book provided to all participants (Ms. Cullen's "35 Dumb Things Well-Intended People Say: Surprising Things We Say That Widen the Diversity Gap") had not a single footnote or source and is instead the subjective opinions and rantings of Ms. Cullen. The content is at times politically charged on sensitive topics and did not respect religious viewpoints and perspectives. I sincerely hope GAO did not purchase these books as there would have been much better choices based on social science and psychology research rather than the unsubstantiated opinion of a diversity marketer."

If you have any questions or require additional information, please contact Assistant Inspector General for Investigations, Marie Ingol, or myself at (202) 512-5748.



O I G

Office of Inspector General

United States Government Accountability Office

Memorandum

Date: January 22, 2014
To: Managing Director, Infrastructure Operations – 4 C.F.R. 81.6(f)
From: Inspector General – Adam R. Trzeciak 4 C.F.R. 81.6(f)
Subject: Referral to Management Regarding OIG Case Number G-13-0363-HL-MN

I am referring this matter for your review and any action you deem appropriate.

Background

On August 13, 2013, OIG received an anonymous hotline complaint alleging that:

"4 C.F.R. 81.6(f) is providing lousy, inconsiderate, shoddy work. The Congressional Research Service (CRS) can do the job that 4 C.F.R. 81.6(f) are being paid to do – ten-fold. The CRS already serves the legislative branch and is held in the highest regard by all who use them. The 4 C.F.R. 81.6(f) is a joke. They are poor researchers, do not know how to use the tools they are given and they waste considerable money. They are a paramount example of government waste and duplication – and the fact that they are stealing tax dollars while being employed by the one government agency that exists to eliminate waste is an embarrassment."

If you have any questions or require additional information, please contact Assistant Inspector General for Investigations, Marie Ingol, or myself at (202) 512-5748.



O I G

Office of Inspector General

United States Government Accountability Office

Date: April 25, 2014

To: Inspector General – Adam Trzeciak

Thru: Deputy Inspector General - Cathy L. Helm

From: [REDACTED] 4 C.F.R. 81.6(f)

Subject: Case Closing Memorandum Regarding Case Number G-13-0400-HL-P

This memorandum presents the findings of my investigation. The allegations were unsubstantiated. No further actions or referrals are necessary to close this matter.

On August 28, 2013, the OIG received a complaint that GAO employee [REDACTED] 4 C.F.R. 81.6(f) [REDACTED] 4 C.F.R. 81.6(f) inappropriately used the National Finance Center (NFC) database. According to the complaint, [REDACTED] 4 C.F.R. 81.6(f) prepared (or somehow obtained) a spreadsheet of salary information for Field Operations' Administrative Professional and Support Staff (APSS) based on information obtained from the NFC data base.

On September 4, 2013, the RA telephonically spoke with [REDACTED] 4 C.F.R. 81.6(f) Vice President of union representatives. [REDACTED] 4 C.F.R. 81.6(f) stated that [REDACTED] 4 C.F.R. 81.6(f) did not meet with [REDACTED] 4 C.F.R. 81.6(f) regarding a spreadsheet that contained salary information. According to [REDACTED] 4 C.F.R. 81.6(f), this matter came to [REDACTED] 4 C.F.R. 81.6(f) attention by a union representative. [REDACTED] 4 C.F.R. 81.6(f) advised the union representative on what to tell the GAO employee and [REDACTED] 4 C.F.R. 81.6(f) complied. The RA asked [REDACTED] 4 C.F.R. 81.6(f) if [REDACTED] 4 C.F.R. 81.6(f) ever saw a spreadsheet that was created by [REDACTED] 4 C.F.R. 81.6(f) containing other employee's salary information. [REDACTED] 4 C.F.R. 81.6(f) said [REDACTED] 4 C.F.R. 81.6(f) never saw it and [REDACTED] 4 C.F.R. 81.6(f) only received second hand information on the matter. [REDACTED] 4 C.F.R. 81.6(f) only involvement was advising the union representative on what to do. In addition, [REDACTED] 4 C.F.R. 81.6(f) opined that if such a spreadsheet existed it was created out of "ignorance" on the employee's part.

On September 6, 2013, the RA interviewed [REDACTED] 4 C.F.R. 81.6(f). [REDACTED] 4 C.F.R. 81.6(f) stated that [REDACTED] 4 C.F.R. 81.6(f) did not access the NFC database to compile a list of GAO employee's salaries. [REDACTED] 4 C.F.R. 81.6(f) also denied having possession of such a list. [REDACTED] 4 C.F.R. 81.6(f) agreed to provide a sworn written statement regarding the information covered during the interview. After the statement was written and the RA began to go over the statement with [REDACTED] 4 C.F.R. 81.6(f), [REDACTED] 4 C.F.R. 81.6(f) stated that [REDACTED] 4 C.F.R. 81.6(f) no longer wanted to provide a sworn statement and the interview was ended.

On October 28, 2013, Agents from Health and Human Services (HHS) OIG forensically imaged the hard drive from [REDACTED] 4 C.F.R. 81.6(f)'s GAO issued laptop. HHS Agents provided the RA with a DVD containing a copy of all of the extracted files from [REDACTED] 4 C.F.R. 81.6(f)'s imaged hard drive. Two documents were encrypted, no other pertinent documents were found during the review. HHS OIG agents were not able to crack the passwords on the two encrypted documents however, a screenshot of the actual emails received by [REDACTED] 4 C.F.R. 81.6(f) that contained the encrypted documents show that the documents were not relevant to this investigation.

On November 25, 2013, the RA telephonically spoke with [REDACTED] 4 C.F.R. 81.6(f) [REDACTED] 4 C.F.R. 81.6(f) spoke with [REDACTED] 4 C.F.R. 81.6(f) as [REDACTED] 4 C.F.R. 81.6(f) union representative regarding another issue and made a comment to [REDACTED] 4 C.F.R. 81.6(f) on the spreadsheet during their conversation. [REDACTED] 4 C.F.R. 81.6(f) said [REDACTED] 4 C.F.R. 81.6(f) received a spreadsheet from GAO's

human capital office (HCO) that contained names of individuals and salary information on it. [REDACTED] took the list and compared it to his peers. [REDACTED] did not understand why someone outside of HCO would have that information. [REDACTED] did not recall if [REDACTED] told [REDACTED] who in HCO sent him the information. The RA asked [REDACTED] if [REDACTED] received an email from [REDACTED] containing a spreadsheet that had that type of information on it. [REDACTED] said no. [REDACTED] never saw the spreadsheet. The RA asked if [REDACTED] knew if [REDACTED] used the NFC database to make the comparison of [REDACTED] peers' salaries; [REDACTED] said no. [REDACTED] never said anything about the NFC database.

On January 27, 2014, the RA conducted a review of [REDACTED]'s GAO Microsoft Outlook email account to determine if [REDACTED] had sent or received an email pertaining to, or that included, a copy of a spreadsheet containing salary information for Field Operations' APSS staff based on information from the NFC database. No pertinent emails were found.

4 C.F.R. 81.6(f)

Adam Trzeciak
Inspector General

4-25-14
Date



O I G

Office of Inspector General

United States Government Accountability Office

Memorandum

Date: August 4, 2014

To: Inspector General Adam Trzeciak

Thru: J. Howard Arp, Assistant Inspector General for Investigations [REDACTED]

From: Special Agent [REDACTED] 4 C.F.R. 81.6(f)

Subject: Closing Memorandum for Case Number: G-14-0150-HL-P

On March 25, 2014, the U.S. Government Accountability Office (GAO), Office of Inspector General (OIG), received an anonymous complaint that [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) were engaging in a personal relationship during work hours. The complainant added that [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) had been observed engaged in sexual acts thereby causing an "uncomfortable, stressful, and impossible" work environment. [REDACTED] 4 C.F.R. 81.6(f) is identified as a [REDACTED] 4 C.F.R. 81.6(f) assigned to the [REDACTED] 4 C.F.R. 81.6(f) team. [REDACTED] 4 C.F.R. 81.6(f) is [REDACTED] 4 C.F.R. 81.6(f) assigned to the [REDACTED] 4 C.F.R. 81.6(f) team.

The investigation produced documentation that supported the allegation. The Reporting Agent (RA) requested images of both [REDACTED] 4 C.F.R. 81.6(f)'s and [REDACTED] 4 C.F.R. 81.6(f)'s GAO Outlook accounts. A review identified numerous personal emails between [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f), during work hours, after hours, and on weekends. As an example, on Tuesday, February 18, 2014, [REDACTED] 4 C.F.R. 81.6(f) sent an email to [REDACTED] 4 C.F.R. 81.6(f) at 8:41 a.m. with the subject line "Can we meet at 2 instead?" [REDACTED] 4 C.F.R. 81.6(f) replied at 9:12 a.m., "Sure. See you at Starbucks on H street (sic) at 2 pm." The RA also reviewed the GAO Outlook Calendars for both [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) and noted that they had scheduled several long lunches together. For example, on [REDACTED] 4 C.F.R. 81.6(f)'s calendar for December 5, 2013, the RA noted a lunch appointment scheduled for 12 p.m. to 1:30 p.m. For December 12, 2013, [REDACTED] 4 C.F.R. 81.6(f)'s calendar had a second lunch listing [REDACTED] 4 C.F.R. 81.6(f) and scheduled for 11:30 a.m. to 1 p.m.

On July 22, 2014, the RA interviewed [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) individually. Both [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) confirmed that they had entered into a personal relationship, which had subsequently ended. [REDACTED] 4 C.F.R. 81.6(f) denied that [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) had taken long lunches or breaks during duty hours. [REDACTED] 4 C.F.R. 81.6(f) stated that [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) on occasion, had taken lunch breaks that exceeded the allotted 45 minutes allowed by GAO policy. The investigation was able to identify only a minimal number of instances where [REDACTED] 4 C.F.R. 81.6(f) and [REDACTED] 4 C.F.R. 81.6(f) took excessive breaks away from the GAO building during duty hours. This matter is therefore closed.

APPROVED:

4 C.F.R. 81.6(f)

Adam R. Trzeciak, Inspector General

8/4/14
Date

cc: Counsel to the Inspector General Cynthia Hogue