Description of document:	Closing documents associated with thirty (30) Department of the Interior Investigator General (OIG) investigations closed during CY 2016
Requested date:	14-January-2017
Released date:	26-September-2017
Posted date:	19-March-2018
Source of document:	FOIA Officer Office of Inspector General U.S. Department of the Interior 1849 C Street, NW MS-4428 Washington, DC 20240 Fax: 202-219-1944 (Attn: FOIA Officer) Email: FOIA@doioig.gov

OFFICE OF
INSPECTOR GENERAL
U.S.DEPARTMENT OF THE INTERIOR

VIA EMAIL

September 26, 2017

Re: OIG-2017-00054

This is in response to your Freedom of Information Act (FOIA) request dated January 14, 2017, which was received by the Office of Inspector General (OIG) on January 23, 2017. You requested the following information under the FOIA, 5 U.S.C. § 552: final report, Report of Investigation, closing memo, referral memo/letter, etc. associated with each of these closed OIG Investigations closed during CY 2016: Report of Investigation, closing memo, referral memo/letter, associated with each of these closed OIG investigations closed during CY 2016: OI-OG-10-0526-I; OI-NM-12-0512-I; OI-CO-12-0623-I; PI-PI-13-0189-I; OI-CA-13-0235-I; OI-VA-13-0485-I; PI-PI-13-0541-I; OI-OG-14-0162-I; OI-PI-14-0525-I; OI-GA-14-0641-I; OI-GA-15-0030-I; OI-GA-15-0067-I; OI-PI-15-0087-I; OI-PI-15-0277-I; OI-PI-15-0369-I; OI-VA-15-0432-I; OI-PI-15-0454-I; OI-GA-15-0517-I; OI-GA-15-0522-I; OI-PI-15-0535-I; OI-PI-15-0583-I; OI-PI-15-0609-I; OI-PI-15-0635-I; OI-OG-15-0693-I; OI-CA-15-0696-I; OI-CA-16-0131-I; OI-GA-16-0213-I; OI-OG-16-0260-I.

For purposes of this request, you have been categorized an "other-use" requester. As such, we may charge you for some of our search and duplication costs, but we will not charge you for our review costs; you are also entitled to up to 2 hours of search time and 100 pages of photocopies (or an equivalent volume) for free. *See* *43 C.F.R. § 2.39*. If, after taking into consideration your fee category entitlements, our processing costs are less than $50.00, we will not bill you because the cost of collection would be greater than the fee collected. *See* *43 C.F.R. § 2.49(a)(1)*. In this case, no fee has been assessed.

We obtained the documents you seek and conducted a review of the material you requested. After reviewing this information we have determined that we may release 241 pages of responsive documents with FOIA redactions pursuant to exemptions 5 U.S.C. § 552 (b)(4) & (b)(7)(C).

FOIA requires that agencies generally disclose records. Agencies may only withhold requested records only if one or more of nine exemptions apply.

The file contains commercial and financial business information that arguably may be protected under Exemption 4. Exemption 4 protects "trade secrets and commercial or financial

information obtained from a person [that is] privileged or confidential." 5 U.S.C. §552(b)(4). This exemption is intended to protect two categories of information in agency records: (1) trade secrets; and (2) certain confidential or privileged commercial information. Where there is a reasonable expectation that release of information could cause substantial commercial or competitive harm, we are required by Executive Order 12,600 to contact the submitter before releasing the information. We must allow the submitter to provide its views regarding public disclosure of this information. If we undertook this procedure in your case, it would delay this decision further and likely would not result in the release of any additional relevant information. Consequently, in order to process your request as promptly as possible, we are withholding this material pursuant to Exemption 4. If you are interested in obtaining this commercial information, please contact us, and we will process it in accordance with Executive Order 12,600 and DOI regulations.

Exemption 7 allows agencies to refuse to disclose records compiled for law enforcement purposes under any one of six circumstances (identified as exemptions 7 (A) through 7 (F)). Law enforcement within the meaning of Exemption 7 includes enforcement pursuant to both civil and criminal statutes.

Specifically, Exemption 7(C) permits an agency to withhold information contained in files compiled for law enforcement purposes if production "could reasonably be expected to constitute an unwarranted invasion of personal privacy." U.S.C. § 552 (b)(7)(C). Thus, the purposed of Exemption 7 (C) is to protect the privacy interest exists, we must evaluate not only the nature of the personal information found in the records, but also whether release of that information to the general public could affect that individual adversely. We find that release of personal information withheld here reasonably could be expected to have a negative impact on an individual's privacy. Even if a privacy interest exists, we must nevertheless disclose the requested information if the public interest outweighs the privacy interest in the information requested. You have not established that release of the privacy information of witnesses, interviewee, middle and low ranking federal employees and investigators, and other individuals name in the investigatory file, would shed light on government operations, and we have not found such a public interest in this case. For this reason, after reviewing the information in question, we have determined that disclosure would be an unwarranted invasion of personal privacy and we must withhold this information under FOIA Exemption 7 (C).

We reasonably foresee that disclosure would harm an interest protected by one or more of the nine exemptions to the FOIA's general rule of disclosure.

If you disagree with this response, you may appeal this response to the OIG's FOIA/Privacy Act Appeals Officer. If you choose to appeal, the FOIA/Privacy Act Appeals Officer must receive your FOIA appeal **no later than 90 workdays** from the date of this letter. Appeals arriving or delivered after 5 p.m. Eastern Time, Monday through Friday, will be deemed received on the next workday.

Your appeal must be made in writing. You may submit your appeal and accompanying materials to the FOIA/Privacy Act Appeals Officer by mail, courier service, fax, or email. All communications concerning your appeal should be clearly marked with the words: "FREEDOM

OF INFORMATION APPEAL." You must include an explanation of why you believe the OIG's response is in error. You must also include with your appeal copies of all correspondence between you and the OIG concerning your FOIA request, including your original FOIA request and the OIG's response. Failure to include with your appeal all correspondence between you and the OIG will result in the OIG's rejection of your appeal, unless the FOIA/Privacy Act Appeals Officer determines (in the FOIA/Privacy Act Appeals Officer's sole discretion) that good cause exists to accept the defective appeal.

Please include your name and daytime telephone number (or the name and telephone number of an appropriate contact), email address and fax number (if available) in case the FOIA/Privacy Act Appeals Officer needs additional information or clarification of your appeal. The OIG FOIA/Privacy Act Appeals Office Contact Information is the following:

Office of the Inspector General
U.S. Department of the Interior
1849 C Street, NW
MS-4428
Washington, DC 20240
Attn: FOIA/Privacy Act Appeals Office

Telephone: (202) 208-1644
Fax: (202) 219-1944
Email: oig_foiaappeals@doioig.gov

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of FOIA. *See* 5 U.S.C. 552(c). This response is limited to those records that are subject to the requirements of FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: https://ogis.archives.gov
Telephone: 202-741-5770
Facsimile: 202-741-5769
Toll-free: 1-877-684-6448

Please note that using OGIS services does not affect the timing of filing an appeal with the OIG's FOIA & Privacy Act Appeals Officer.

However, should you need to contact me, my telephone number is 202-208-0954, and the email is foia@doioig.gov.

Sincerely,

Stefanie Jewett

Stefanie Jewett
FOIA Officer

Enclosures


OFFICE OF
INSPECTOR GENERAL
U.S.DEPARTMENT OF THE INTERIOR

Report of Investigation
Illegal Gambling by
FWS Special Agent

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Illegal Gambling by FWS Special Agent	**OI-PI-15-0277-I**
Reporting Office	**Report Date**
Program Integrity Division	**December 15, 2015**
Report Subject	
Report of Investigation	

SYNOPSIS

We initiated this investigation after receiving an anonymous complaint alleging that Special Agent (b) (7)(C), U.S. Fish and Wildlife Service (FWS), regularly engaged in illegal gambling at a private residence in (b) (7)(C) MD. The complaint also alleged that (b) (7)(C) wore his FWS badge and firearm while gambling.

(b) (7)(C) admitted to playing poker for money at two Maryland residences, which violated Maryland Criminal Law Code 12-102, and therefore violated the FWS Law Enforcement Rules of Conduct. (b) (7)(C) also admitted to wearing his FWS badge and firearm while playing poker, but said both were concealed in accordance with FWS policy for off-duty carry.

We communicated with the State Attorney's Office for Frederick County, MD, and the Frederick County Sheriff's Office. Neither office expressed interest in pursuing the violation of State law.

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /SAC	Digitally signed.

Authentication Number: 14A0239EECE9D50CF85EB8D087863B80

BACKGROUND

Maryland Criminal Law Code 12-102 states: "A person may not: (1) bet, wager, or gamble . . . within the State, for the purpose of . . . making, selling, or buying books or pools on the result of a race, contest, or contingency" (**Attachment 1**).

In addition, according to Chapter 1.4(H), "Conduct, General Rules, and Definitions," of the FWS Law Enforcement Rules of Conduct, a law enforcement officer shall "not engage in any activity or employment that may directly or indirectly interfere with the performance of their duties, bring discredit upon the Service, or result in or create the appearance of a conflict of interest" (**Attachment 2**).

The rules of conduct also state that each officer will "faithfully abide by all laws, rules, regulations, and customs governing the performance of [his or her] duties and . . . will commit no act that violates these laws or regulations or the spirit or intent of these laws and regulations while on or off duty." The rule further states that in personal and official activities, officers "will never knowingly violate any local, State, or Federal law or regulation."

FWS' policy on firearms states that an officer may "carry and use firearms to perform their official law enforcement duties while on or off-duty" (**Attachment 3**).

DETAILS OF INVESTIGATION

We initiated this investigation on March 23, 2015, after receiving an anonymous complaint alleging that Special Agent (b) (7)(C) U.S. Fish and Wildlife Service (FWS), regularly engaged in illegal gambling at a private residence in (b) (7)(C) MD, while wearing his FWS badge and firearm.

We interviewed (b) (7)(C), who admitted that he had played poker twice a month at a Maryland residence located between (b) (7)(C) and (b) (7)(C) (**Attachments 4 and 5**). He said that he played on several occasions in 2014 and 2015, but he stopped playing when Office of Inspector General (OIG) agents approached him in May 2015 to discuss these allegations. He said that he did not know that playing poker at someone's house for money violated Maryland State law.

(b) (7)(C) said that he played these games as a member of a "poker league," and said that league members paid $30 a night to join the game. (b) (7)(C) said that the money was used to purchase food and beverages, and that he paid his $30 whenever he played. He added that at each game, the members played for points, and at the end of the year, each member received a number of chips, based on the points accumulated, to play in the end-of-the-year tournament. According to (b) (7)(C), the tournament winners received around $500 to $600. (b) (7)(C) estimated that he had only won $100 or $125 in these games.

(b) (7)(C) said that he has also played poker with a different group of people for the past 20 years at a residence in (b) (7)(C) MD. He described these games as "a friendly get-together," and said that he played about once per month. He said that the players had a nightly limit of $100, which purchased poker chips. He said that a player would win no more than $100 a night.

(b) (7)(C) said that he had heard of police raiding "big-money" poker games, some with up to $30,000

in cash. He said that he had some concerns when he first started playing but that his friends assured him that it was not illegal to gamble in (b) (7)(C) County as long as the homeowner did not take a percentage of the winnings. (b) (7)(C) said that the homeowners where he played never took a percentage, so he did not believe he engaged in illegal activity.

When asked about wearing his FWS firearm and badge while playing poker at these events, (b) (7)(C) said that he wore his FWS firearm and badge everywhere. He added that during the games, he always kept his firearm and badge concealed beneath plain clothes. (b) (7)(C) said that only a few of his close friends who attended the games knew he was a law enforcement officer, and he had never told anyone else about his occupation. He did not know how a player at these events would know that he wore his firearm or badge and added that no one had ever commented about them.

(b) (7)(C) stated that he had never consumed alcohol at the poker games, and he reiterated that he stopped attending the games after we initiated our investigation.

We interviewed (b) (7)(C) supervisor, (b) (7)(C) Special Agent-in-Charge (b) (7)(C), who stated that he had no knowledge of (b) (7)(C) attending these poker games (**Attachments 6 and 7**).

We communicated with the State Attorney's Office for Frederick County, MD, and the Frederick County Sheriff's Office (**Attachment 8**). Neither office expressed interest in pursuing the violation of State Law.

SUBJECT(S)

(b) (7)(C), Special Agent, (b) (7)(C), U.S. Fish and Wildlife Service.

DISPOSITION

We are providing this report to FWS Director (b) (7)(C) for any action he deems appropriate.

ATTACHMENTS

1. Maryland Criminal Law Code 12-102.
2. FWS Law Enforcement Rules of Conduct.
3. FWS firearms policy.
4. Investigative Activity Report (IAR) – Interview of (b) (7)(C) on August 20, 2015.
5. Transcript of interview of (b) (7)(C) on August 20, 2015.
6. IAR – Interview of (b) (7)(C) on May 14, 2015.
7. Transcript of interview of (b) (7)(C) on May 14, 2015.
8. IAR – Communication with State Attorney's Office and Frederick County Sheriff's Office, dated October 30, 2015.

OFFICE OF INSPECTOR
U.S. DEPARTMENT OF

REPORT OF INVESTIGATION

Case Title	Case Number
Timothy Reid, Chief Ranger Yellowstone NP	**PI-PI-13-0541-I**
Reporting Office	**Report Date**
Program Integrity Division	**October 27, 2014**
Report Subject	
Report of Investigation	

SYNOPSIS

The Office of Inspector General initiated this investigation in August 2013 after receiving an allegation that Timothy Reid, Chief Ranger at Yellowstone National Park (Yellowstone), rented his National Park Service (NPS) apartment to Yellowstone visitors and potentially violated his required occupancy agreement with NPS. The complainant observed that over several months, a "steady stream" of visitors entered an employee-housing complex at Yellowstone and stayed for several days at the apartment that NPS rents to Timothy Reid as his on-park U.S. Government housing. The complainant also alleged that Reid lives with his family at the bed and breakfast he and his wife, (b) (7)(C) , own that is located just outside the north gate of Yellowstone. Reid's required occupancy agreement, however, requires him to live in on-park Government housing.

We discovered that since 2009 the Reids allowed 19 individuals to stay at Timothy Reid's NPS apartment. Among the Yellowstone visitors who have stayed at Reid's apartment was a family from France who resided there for 8 days. In exchange for staying in the apartment, the French family agreed to allow the Reids to stay in one of their homes in France as part of a home exchange program. The remaining visitors to the apartment were the Reids' family members, friends, or family of friends. None of these guests provided compensation to the Reids.

We also determined that Reid—despite annually certifying that his on-park Government housing was his primary residence—violated the terms of his required occupancy agreement by living at the family-owned bed and breakfast, not the on-park apartment. The Yellowstone superintendent and deputy superintendent both admitted that they knew Reid did not comply with the required occupancy condition of his employment and that they took no action.

We are providing this report to the NPS Director for any action deemed appropriate.

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /ASAC	Digitally signed.

Authentication Number: 4B57D49BD96254CF9ACE124F64D2F7EB

BACKGROUND

The National Park Service (NPS) has a number of employees whose position requires them to live in assigned housing as a condition of employment. These employees are called required occupants. NPS has specific policies for housing management relating to required occupants, including Director's Order #36, the National Park Service Housing Management Memorandum, signed by Daniel W. Wenk when he was the Acting Director of NPS. The memorandum states:

> Those NPS employees assigned housing as a condition of employment are referred to as *required occupants* because their positions require them to reside in government housing. Their physical presence is required within a specific geographic area to provide a timely response to emergencies involving human life and safety and/or park resources, and to provide a reasonable level of deterrent protection.

In addition, the U.S. Department of the Interior (DOI) requires employees who live in assigned housing to occupy it as a primary residence, which is stated in the DOI Housing Management Handbook. Further, DOI requires determinations of required occupancy to be submitted on a "Certification of Required Occupancy" form.

Yellowstone National Park's (Yellowstone) "Resident's Handbook for Government Furnished Housing" has policies for permanent residents regarding whether they can have houseguests and what activities would create a conflict of interest. For example, permanent residents may have overnight guests, but guests may not stay more than 5 nights. The Handbook also indicates that NPS managers may not let a permanent resident—including family members and non-employees—conduct a business activity with the housing unit that will create a conflict of interest or the appearance of conflict, or be inconsistent with DOI's "Regulations on Employee Responsibilities and Conduct." Yellowstone's Handbook specifically states that permanent residents may not "involve the use of Government housing as a rental space for overnight accommodations or involve the sublease of Government housing."

DETAILS OF INVESTIGATION

We initiated this investigation on August 13, 2013, after receiving allegations that for the 2 previous months, a steady stream of visitors had been arriving at the on-park apartment belonging to Timothy Reid, Chief Ranger, Yellowstone National Park, NPS. These visitors had stayed for 1 week or less. The complainant alleged that Reid does not occupy the Government-provided apartment, and may be renting it to park visitors.

Until 2008, Timothy Reid and his wife [redacted], also an NPS employee, lived in NPS housing (**Attachments 1 and 2**). Timothy Reid stated that for his entire tenure with NPS, he has lived in park housing for which he pays rent. He has been a required occupant at Yellowstone form the time he arrived in 1994. His current position requires him to sign a required occupancy agreement and keep an on-park Government apartment at Yellowstone (**Attachment 3**). Upon assignment to Mammoth Hot Springs in Yellowstone in 1998, he received a three-bedroom home in the lower Mammoth housing area (see Attachments 1 and 2). He and his family lived there until he won the bid on a large, four-bedroom duplex at the end of officer's row in the upper Mammoth housing area.

In 2008, despite the required occupancy agreement, the Reids moved out of their on-park apartment and relocated to the bed and breakfast that (b) (7)(C) parents had owned and operated in Gardiner, MT, approximately 3 miles from the north entrance of Yellowstone. Due to her parents' health, (b) (7)(C) became the sole proprietor of the bed and breakfast (**Attachments 4, 5, and 6**, and see Attachments 1 and 2). The Reids have remained at that location because of its close proximity to the park, which meant, in his opinion, it was within the 15-minute response time (see Attachments 1 and 2).

Timothy Reid told us he knew he had to keep an on-park apartment as a condition of employment. To satisfy the required occupancy condition, when his family moved to Gardiner, Reid surrendered the large NPS duplex then bid on and was awarded a small efficiency apartment, reducing his monthly housing cost (**Attachment 7**, and see Attachments 1 and 2).

He also explained that for the first couple of years he stayed at the apartment 3 nights per week, but has gradually reduced his time to very few nights (see Attachments 1 and 2). He does use the apartment during peak-operation periods, such as fire season, to remain in the area while getting some sleep. Otherwise, the apartment is vacant unless used by family and friends. Reid told us that although he lives in Gardiner, MT, with his family, he receives all of his mail at the mailing address of his on-park Government housing, which is a PO Box at Mammoth Hot Springs.

Bed and Breakfast and On-Park Apartment Use

Following up on the initial allegation, we identified six families who stayed in the on-park apartment between August and November 2013. We found that one of the families was a French couple visiting from France (**Attachments 8 and 9**). We spoke with the French couple who explained they found the Reid's bed and breakfast on a home-exchange website (www.homeexchange.com) and emailed (b) (7)(C) in the fall of 2012 to negotiate a home exchange at her bed and breakfast. The French couple also explained that prior to the couple's arrival, (b) (7)(C) emailed them, explaining that the cabin they had booked was no longer available. She offered them the on-park Government apartment as an alternative place to stay.

When the family arrived on September 7, 2013, (b) (7)(C) also provided them with a free vehicle park pass to Yellowstone (**Attachments 10 and 11**). The French couple told us that Timothy Reid escorted them to the on-park apartment, showed them around, and provided them with the key to the apartment (see Attachments 8 and 9). Even though the Reids did not know the French family prior to their arrival, the family stayed in the Reids' apartment unsupervised for 8 nights among other NPS employees. The French couple told us that, as part of the home exchange, they offered the Reids a stay at one of their homes in France as compensation. We reviewed the email exchange between the French couple and the Reids, which supported the French couple's statements regarding their stay (see Attachments 10 and 11).

After her interview, (b) (7)(C) recreated a list of the 19 families who had stayed in their apartment since 2009, which Timothy Reid emailed to us (**Attachment 12**, and see Attachment 1). The list included family, friends, or family of friends (see Attachments 4 and 5). We interviewed 7 people on the list, who confirmed they stayed in the apartment, but did not compensate the Reids (**Attachments 13, 14, 15, 16, 17, 18, 19, and 20**). We noted that one guest entry was for Yellowstone employees who had stayed in the Reid's apartment due to issues with their own on-park housing (see Attachment 12). We could not contact them for an interview, but were able to send an email inquiry, and found that

there was no compensation for the family's displacement (**Attachment 21**). According to (b) (7)(C) (b) (7)(C) records, one guest stayed in the apartment for approximately 8 weeks another guest stayed for approximately 7 weeks and the remaining 17 stayed for a week or less (see Attachment 12).

Reids' Interpretation of Onsite Occupancy Requirement

During his interview, Timothy Reid told us that he was not very involved in his family's bed and breakfast operations (see Attachments 1 and 2). He told us that he pays more than $400 per month in rent for the on-park apartment but explained that he would like to relinquish it because he rarely uses it. He noted that even though a required occupancy does not require the employee to actually occupy the residence, the employee is required to keep the on-park quarters in spite of the housing shortage both on and off the park. He noted that with regard to verification of NPS employees occupying their apartments, "there is no bed-check police."

Timothy Reid explained that because they rarely use the apartment, the Reids frequently allow friends and family to stay in the apartment. Reid and his wife said that since they pay for the apartment, they should be able to use it as their own residence and they believe that NPS policy allows them to have overnight guests, even without their presence. In addition, he explained, they do not always have room at their home in the bed and breakfast for family and friends to stay with them, so they frequently allow friends and family to stay in the on-park apartment. As they do not charge those friends and family, they do not have records of those they have allowed to use the apartment, he said. Timothy Reid recalled that some have stayed only 1 night and some as long as several months. He added that some were co-workers with personal issues and others were friends and family. Timothy Reid stated that they absolutely have never received payment or recompense from those staying in the apartment.

He also admitted that his wife is the family's "social director" and has a number of friends that he does not know. Therefore, when she tells him one of her friends is coming to town and she is putting them in the on-park apartment, he does not argue and accepts them as her friends without question. He told us he believes the apartment belongs to both him and his wife and that his wife can use it or allow her friends to stay at her discretion.

(b) (7)(C) also explained that the on-park apartment is only maintained because Timothy Reid has a required occupancy clause in his condition of employment and it is vacant about 90 percent of the time (see Attachments 4 and 5). She said that Timothy Reid only stays in the apartment on rare occasions, when work dictates. The Reids pay rent and utilities on the apartment, but derive very little personal gain from its use.

During (b) (7)(C) interview, she explained that since the apartment is vacant most of the time, she takes it upon herself to offer its use to their personal contacts, friends, and family as a "courtesy." "It's basically a nice thing we can do for somebody," she stated. She said that she and her husband agreed that she could allow family and friends to stay in the apartment. (b) (7)(C) said her husband did not know all of her friends, but if she told him someone was her friend, he accepted it.

(b) (7)(C) also emphasized that she and her husband did not use the apartment as an over-flow for the bed and breakfast, nor did they ever transfer a bed and breakfast reservation to the apartment. She stated that neither she nor her husband ever used the apartment for financial gain. Also, they did not receive something of comparable value in exchange for allowing a guest to stay there.

When we asked about the home exchange program, (b) (7)(C) admitted that they only used the apartment once for the program—with the French couple—but that her family never received any compensation. She explained that in the summer of 2013 she scheduled a couple from France to stay in one of the bed and breakfast cabins as part of the home exchange program. She acknowledged that prior to the couple's arrival, however, she rented the cabin to several fishermen for $200 per night, so she moved the French family to the on-park apartment. (b) (7)(C) said the couple stayed in the apartment because they were friends, even though the Reids had never met the couple prior to their arrival at Yellowstone. (b) (7)(C) explained that she had exchanged e-mails with them after they visited the home exchange website. She told us that the idea behind home exchange is that no money changes hands. Rather it is a "cultural thing" and not about money. She added that the French visitors were the only guests whose stay in the apartment had resulted from the home exchange program and that she and her husband never stayed in the French couples' house as compensation for her allowing them to use Timothy Reid's Yellowstone apartment.

We explained to (b) (7)(C) the alleged perception that a steady stream of visitors had been occupying the apartment, sometimes arriving late at night. She said that she understood why people would get the wrong idea.

To his knowledge, Timothy Reid said, no one other than family or friends has ever stayed in the on-park apartment (see Attachments 1 and 2). Timothy Reid did mention that his wife could be using the apartment without his knowledge, but he would consider that highly improbable. When we confronted him with the names of some of his friends who stayed in the apartment this past fall, Timothy Reid stated he recognized some of the names, but did not know them personally. He could not explain their friendship other than they were probably his wife's friends.

When we asked about the home exchange program, Timothy Reid said that he and his wife had used the bed and breakfast as a part of a home exchange program for the past 10 years. They have engaged in home exchanges with friends in Huntington Beach; Costa Rica; Palau, France; and, most recently, Cabo San Lucas. Anyone they had exchanged homes with, he said, has stayed in either the bed and breakfast or one of their cabins, never in the apartment. He said he allows his wife to share the apartment with family and friends, but never for the home exchange program or for compensation. He stated, doing so would be "illegal."

Timothy Reid conceded he likely escorted the French couple to his Yellowstone apartment, but denied he had any knowledge they were part of the home exchange program. When confronted with his lack of awareness about who was staying in his apartment, Timothy Reid reiterated that he allowed his wife to schedule guests without his permission and at times without his knowledge. Timothy Reid said he did not remember corresponding with the French couple over email, and further indicated that if his wife was responsible, "Then it is what it is and I feel like I've been asleep at the wheel at this. That's pretty serious and that's completely inappropriate."

At the conclusion of his interview, Timothy Reid consented to a search of his personal residence, the bed and breakfast, and on-park apartment (**Attachments 22, 23, and 24**). During the physical search of the personal residence and bed and breakfast, we were unable locate any records relevant to use of the on-park apartment. During our search of the bed and breakfast, we obtained a forensic image of the Reids' personal computer (**Attachment 25**). The data did not disclose any evidence of guests paying to stay in the on-park apartment. On the following day, we conducted a search of his on-park apartment and found very few of his personal-use items, such as clothing, toiletries, and food. The apartment did

not appear to be his primary residence (**Attachment 26**). After we interviewed both Timothy and (b) (7)(C) , we also obtained a forensic image of both of their NPS computers (**Attachment 27 and 28**). A review of the computer image did not disclose any evidence relevant to financial gain from use of the apartment.

We obtained the Reid's personal and business banking records from Yellowstone Federal Credit Union and First Interstate Bank. A review of those records disclosed a number of deposits that indicated a rent payment or other compensation. We interviewed the people who made the deposits, however, and did not find evidence relevant to financial gain from use of the apartment. We also obtained Timothy and (b) (7)(C) ' NPS email accounts. We reviewed in excess of 40,000 emails by key word search and did not discover any emails relevant to financial gain from use of the apartment.

Subsequent to the interview, Timothy Reid emailed two spreadsheets to us (**Attachment 29**, and see Attachment 12). The spreadsheets provided a compilation of guests who physically stayed in the on-park apartment since 2009 and the guests that stayed in the bed and breakfast as part of the home exchange program since 2005. A review of that list disclosed that from 2009 to 2013, Timothy Reid estimated that 19 separate guests stayed in the on-park apartment for a total of about 169 nights.

Timothy Reid's Required Occupancy Agreement

The Yellowstone housing officer, (b) (7)(C) told us that upon assignment to a house, the employee is briefed on the rules of occupancy and provided the "Resident's Handbook for Government Furnished Housing," which lists specific requirements and responsibilities (**Attachments 30 and 31**). She explained that required occupancy is a condition of employment for some positions. Employees assigned to the park receive an appropriately sized house within the park boundaries. Employees with a required occupancy condition may apply to live outside of the park and, in some cases, the Superintendent may grant a waiver. Other required occupancy employees maintain their assigned park housing and commute on the weekends. The problem with the required occupancy condition of employment, (b) (7)(C) told us, is that the rules are not clearly defined. Required occupancy positions are based upon off-duty response time—if a position is critical to park operations, NPS directs those employees to live on the park so that they can respond to emergencies. During the summer months, even if an employee lives just outside the park in or around Gardiner, traffic congestion makes it impractical to respond to Mammoth within 15 minutes.

(b) (7)(C) stated that her supervisor, Deputy Superintendent Steven Iobst, told her that NPS could not require an employee with a required occupancy clause to actually live in the quarters. (b) (7)(C) explained that if NPS required the employee to live in the park 7 days a week, then NPS would be required to pay the employee to be available during that time. (b) (7)(C) also told her that NPS previously had been sued for attempting to enforce the required occupancy requirement and lost in court.

(b) (7)(C) reviewed Timothy Reid's housing folder and relevant policy for us (**Attachments 32 and 33**, and see Attachments 3 and 30). Up until 2008, he and his family lived on the park in keeping with his required occupancy agreement. In 2008, however, Reid moved outside park boundaries into a private residence in Gardiner, MT. No longer needing the large NPS property he had been using, he bid on, and was awarded, an efficiency apartment, which he continued to use as a placeholder to satisfy his required occupancy even though the park has a shortage of employee housing. (b) (7)(C) confirmed that despite not living in the on-park apartment, Reid annually signs a "Certificate of Required Occupancy," stating that his on-park housing is his primary residence.

We asked (b) (7)(C) about the park handbook's rules concerning guests of NPS employees assigned to NPS housing (see Attachment 30). (b) (7)(C) stated that NPS allows guests to stay in an employee's on-park home for a limited amount of time, but the employee cannot charge or sublet the residence.

We interviewed Daniel Wenk, Yellowstone Superintendent, who told us that Yellowstone has a number of required occupancy positions that are predominantly law enforcement positions (**Attachments 34 and 35**). As the Superintendent, Wenk has some latitude with required occupancy positions, but required occupancy designations are generally for key positions required to respond to park emergencies and are a condition of employment for those positions to ensure employees will be able to respond in a timely manner.

Even if Reid had requested to be released from his required occupancy requirement, Wenk said he would not have released him. Wenk explained that the chief ranger position is a critical one for the park. In addition, he indicated that if Timothy Reid were released from the required occupancy agreement, the condition of onsite residency connected with the (b) (7)(C) position would no longer be available for subsequent (b) (7)(C) at Yellowstone.

Wenk also told us that approximately 6 months ago, he and Iobst had discussed park housing shortages. During that discussion, they talked about Timothy Reid and his special circumstance, specifically that Reid was the only division chief who is in a required occupancy position but does not live in the on-park apartment assigned to him. According to Wenk, they took no action at that time and decided to "revisit the conversation."

Wenk said that it is inappropriate for Reid to allow guests who are not legitimate family or friends to stay in his government quarters. Wenk further commented on the impropriety of anyone charging a fee or exchanging something of equal value to stay in park housing. Wenk agreed that even if there were no merit to the allegations regarding Timothy Reid, having guests frequently stay in Reid's on-park apartment without any interaction with Timothy Reid, himself, creates an offensive appearance.

When we spoke with Iobst, he told us that he has responsibility for assigning required occupancy housing and ensuring adequate housing for park employees (**Attachments 36 and 37**). Generally, during the summer months, Yellowstone has 18,000 overnight visitors in the park. To ensure the availability of park employees who respond to emergencies, those employees are designated as required occupancy. Many required occupancy employees live in their on-park housing during the week and depart on the weekends for their off-park homes. Iobst stated he has not heard any complaints about who may or may not be living in housing, the fairness of whether employees are staying in the housing, or possible misuse of employee housing.

Iobst also explained that employees occupying on-park housing receive a copy of Yellowstone's housing rules, which clearly state that employees are prohibited from renting, trading, or obtaining something of value for the use of their on-park residence.

Iobst acknowledged that Timothy Reid has an on-park apartment assigned to him as a condition of employment and that Reid rarely uses it, residing instead at his home 8 miles north of his duty station in Mammoth. Even with the required occupancy condition in place, however, Iobst believes that Reid lives within a reasonable response time from his off-park residence. Iobst confirmed they had not taken any action against Reid for not staying in the on-park apartment. He also confirmed that Reid's apartment is merely a placeholder for the required occupancy clause and does not get used. Iobst added

that the chief ranger is a required occupancy position and that he would not allow Reid to surrender that requirement, even if he requested release.

We explained to Iobst that families with children and suitcases frequently stay in Timothy Reid's apartment for several days and then depart via rental car, creating the perception that Reid is using the apartment as an over-flow for his family's bed and breakfast. Iobst stated that he understood the perception and that the chief ranger position is a position of incredible responsibility and should be held to NPS ethical standards. In addition, he would have similar concerns if the allegations were concerning any park employee. He added that the allegations were disturbing, disrupting, and disconcerting.

SUBJECT(S)

Timothy C. Reid, Chief Ranger, Yellowstone National Park.
(b) (7)(C) NPS Student Writer, Yellowstone National Park.
Daniel Wenk, Superintendent, Yellowstone National Park.
Steven Iobst, Deputy Superintendent, Yellowstone National Park.

DISPOSITION

We briefed Assistant United States Attorney (b) (7)(C) U.S. Attorney's Office, District of Montana, on the results of this investigation. (b) (7)(C) declined prosecution in lieu of an administrative remedy. We are providing this report to the NPS Director for any action deemed appropriate.

ATTACHMENTS

1. IAR - Interview of Timothy Reid on January 14, 2014.
2. Transcript of Timothy Reid Interview on January 14, 2014.
3. Timothy Reid Required Occupancy Certification, dated September 10, 2013.
4. IAR - Interview of (b) (7)(C) on January 14, 2014.
5. Transcript of (b) (7)(C) Interview on January 14, 2014.
6. IAR - Montana Secretary State Query on December 9, 2013.
7. Bid award of Apartment O Memorandum, dated September 4, 2008.
8. IAR - interview of (b) (7)(C) on September 23, 2013.
9. Transcript of (b) (7)(C) Interview on September 23, 2013.
10. IAR – review of (b) (7)(C) Emails on September 26, 2013.
11. Copy of (b) (7)(C) Emails, dated October 3, 2012 through January 20, 2013.
12. Spreadsheet of Apartment Guests .
13. IAR - Interview of (b) (7)(C) on May 19, 2014.
14. IAR - Interview of (b) (7)(C) on January 30, 2014.
15. Transcript of (b) (7)(C) Interview on January 30, 2014.
16. IAR - Interview of (b) (7)(C) on May 19, 2014.
17. IAR - Interview of (b) (7)(C) on Mary 19, 2014.
18. IAR - Interview of (b) (7)(C) on February 5, 2014.
19. IAR - Interview of (b) (7)(C) on May 19, 2014.
20. IAR - Interview of (b) (7)(C) on May 19, 2014.

21. (b) (7)(C) Email Response, dated February 11, 2014 and February 12, 2014.
22. IAR - Consent to Search on January 14, 2014.
23. Consent to Search Form Residences, dated January 14, 2014.
24. Consent to Search Form Electronic Equipment, dated January 14, 2014.
25. IAR - CCU Digital Evidence Recovery – Reid Residence on January 14, 2014.
26. IAR – Search of Apartment O on January 15, 2014.
27. IAR - CCU Digital Evidence Recovery – Yellowstone on January 15, 2014.
28. IAR - CCU Preliminary Findings on April 22, 2013.
29. Spreadsheet of Home Exchange Guests.
30. IAR - Interview of (b) (7)(C) on January 15, 2014.
31. Transcript Interview of (b) (7)(C) on January 15, 2014.
32. IAR - Review of Timothy Reid's Housing File on January 15, 2014.
33. Yellowstone National Park Housing Residence Handbook.
34. IAR - Interview of Daniel Wenk on January 13, 2014.
35. Transcript Interview of Daniel Wenk on January 13, 2014.
36. IAR - Interview of Steve Iobst on January 15, 2014.
37. Transcript Interview of Steve Iobst on January 15, 2014.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Navajo Oil and Gas Non-Reporting / Non-Payment of Royalties	**OI-OG-15-0693**
Reporting Office	**Report Date**
Energy Investigations Unit	**January 15, 2016**
Report Subject	
Closing Report of Investigation	

SYNOPSIS

This investigation was initiated by the Energy Investigations Unit, Office of Inspector General, as a result of a meeting with the Office of Natural Resources Revenue (ONRR) and the United States Attorney's Office (USAO) concerning ongoing problems with production and royalty reporting by the Navajo Nation Oil and Gas Company (NNOGC). The NNOGC was required by regulation to submit monthly production and royalty reports to ONRR, and it was suspected that the misreporting and or inaccurate reporting by the NNOGC may have reduced mineral royalties paid to the Navajo Nation. It was also alleged that ONRR's efforts to work with NNOGC to correct the reporting exceptions were stymied by staffing changes and a lack of experience at NNOGC.

To determine whether NNOGC's reporting to ONRR resulted in a potential loss of royalties, we conducted interviews of current and former employees of NNOGC, and we interviewed a Navajo Nation auditor. We also obtained and reviewed royalty audit workpapers, a forensic audit of NNOGC, and other documents related to NNOGC's reporting to ONRR. The investigation confirmed that NNOGC failed to properly report production and pay royalties, but the failures were largely attributable to decisions made by the former NNOGC (b) (7)(C) whose employment was (b) (7)(C) in mid-2014. Under its current leadership, NNOGC has taken affirmative steps to work with ONRR and bring the company's reporting status and royalty payments into compliance.

Based on NNOGC's efforts to correct its production and royalty reporting, the United States Attorney's Office declined to pursue this matter. The FBI was also consulted regarding potential criminal matters outside the jurisdiction of this office. This investigative report will be provided to ONRR for administrative action as deemed appropriate. As a result, this investigation is closed and no further investigative activity by this office on the matter is anticipated.

Reporting Official/Title (b) (7)(C) (b) (7)(C)/Special Agent	Signature Digitally signed.
Approving Official/Title (b) (7)(C) (b) (7)(C) /SAC	Signature Digitally signed.

Authentication Number: E509550C4AEA79BA4E713C237F87804A

DETAILS OF INVESTIGATION

Acting upon concerns voiced by ONRR and the USAO that NNOGC may be corruptly managed due to the company's persistent problems with reporting production and paying royalties, we interviewed (b) (7)(C), Navajo Nation Minerals Revenue Department (**Attachments 1, 2 and 3**).

(b) (7)(C) manages (b) (7)(C) auditors who oversee Federal royalty and production reporting by all of the companies who are lessees and/or operators of Navajo Nation oil and gas properties. Approximately 17 companies hold and/or operate oil and gas leases on Navajo Nation properties. In her experience, NNOGC has been the least compliant company of all of the companies overseen by her office.

(b) (7)(C) explained that NNOGC is currently contracting with (b) (7)(C) (b) (7)(C) Trinity Petroleum Management (Trinity), Denver, CO, to bring NNOGC into compliance with Federal reporting requirements. This entails preparing and submitting the Reports of Sales and Royalty Remittance-ONRR Form 2014 (Form-2014s) and the Oil and Gas Operations Reports (OGORs) on behalf of NNOGC. (b) (7)(C) started by preparing and submitting the most current Form 2014s and OGORs for all NNOGC leases and has been working backwards to prepare and submit the overdue reports.

(b) (7)(C) provided documentation showing that in September 2015 NNOGC paid the equivalent of $195,336.46 in combined royalty payments to ONRR and royalty in kind (RIK) payments to the Navajo Nation (**Attachment 4**). (b) (7)(C) estimated that, as of October 2015, the outstanding royalty balance owed by NNOGC was approximately $48,000 or $49,000.

(b) (7)(C) pointed out that NNOGC recently also had reporting errors related to the RIK payments that have since been corrected and fully audited by her office. She said, "I don't think that they [NNOGC] are fraudulent. I just think they are very, very irresponsible."

(b) (7)(C) explained that there was a significant amount of management turmoil and staffing turnover at NNOGC during 2014, but she did not think that that situation was an excuse for NNOGC's failure to submit Form-2014s on almost all of its properties during that year. She felt that someone at NNOGC could have made an effort to comply with the production and royalty reporting requirements. (b) (7)(C) did not have any firsthand information about what exactly happened at NNOGC during that time.

We interviewed (b) (7)(C) (b) (7)(C) a consultant with Trinity (**Attachment 5**). (b) (7)(C) confirmed that NNOGC retained Trinity in May 2015 and since that time she has worked closely with NNOGC to prepare and submit the company's OGORs and Form-2014s to ONRR. At the time of the interview, (b) (7)(C) was specifically working with NNOGC to respond to the reporting issues identified by ONRR in an August 26, 2015 Order to Report.

Prior to working at Trinity, (b) (7)(C) was employed by NNOGC at the company's (b) (7)(C) office location from (b) (7)(C) 2012 until approximately (b) (7)(C) 2013, when she was (b) (7)(C) NNOGC's then (b) (7)(C) (b) (7)(C) (b) (7)(C) (b) (7)(C) described a power struggle between NNOGC's Window Rock, Arizona office and the Denver office as the motivation behind the office-wide layoffs in Denver. While working for NNOGC, (b) (7)(C) was responsible for (b) (7)(C),

and (b) (7)(C), among other things. (b) (7)(C) said during the time that (b) (7)(C) was (b) (7)(C) of NNOGC, he gave high paying positions to his friends and there was "a lot of shady stuff going on."

(b) (7)(C) believes NNOGC staff did not fully understand the extent of the company's responsibilities with respect to operating oil and gas properties. NNOGC recently hired a new engineer with years of experience in the oil and gas industry. NNOGC also recently changed its charter to require its board of directors to have oil and gas industry experience.

(b) (7)(C) said she has been receiving the support she needs from NNOGC to do her job. NNOGC recently paid for (b) (7)(C) to travel to visit NNOGC's oil and gas properties so she could see the measurement meters and well configurations. She believes that NNOGC is on the right path toward coming into compliance with regulations.

We also interviewed (b) (7)(C) (b) (7)(C) (b) (7)(C), NNOGC (**Attachment 6**).

(b) (7)(C) explained that in June or July 2013, NNOGC's board of directors hired (b) (7)(C) who had no previous experience in the oil and gas industry. During the time (b) (7)(C) was (b) (7)(C) many experienced NNOGC staff, including (b) (7)(C) and replaced them with people with little to no experience with oil and gas.

In 2014, NNOGC's board of directors (b) (7)(C) and hired (b) (7)(C) (b) (7)(C) a former (b) (7)(C) for the Navajo Nation, as (b) (7)(C) (b) (7)(C) subsequently returned to work as NNOGC's (b) (7)(C) (b) (7)(C)

In their new positions, (b) (7)(C) and (b) (7)(C) retained (b) (7)(C) LLP to conduct a forensic audit of NNOGC from 2010 through mid-2014. According to (b) (7)(C) the forensic audit did not yield any significant findings. Over time, (b) (7)(C) has slowly been re-hiring experienced staff, but NNOGC is still significantly understaffed. In summary, (b) (7)(C) stated that he is not aware of any fraud or other illegal conduct that took place within NNOGC. He said, "There was a lot of incompetence." He said that he and (b) (7)(C) are doing their best to fix the problems caused by the incompetence of previous NNOGC employees.

Our last interview was with (b) (7)(C) who began as NNOGC (b) (7)(C) on (b) (7)(C), 2014, the week after NNOGC's board (b) (7)(C) (**Attachment 7**). (b) (7)(C) explained that a decision by former (b) (7)(C) (b) (7)(C) to refuse to hedge on oil and gas prices ultimately cost NNOGC financial losses between $30-40 million. As a result, NNOGC defaulted on loan obligations. According to (b) (7)(C) NNOGC can pay off the company debt in six-month installments with interest increasing in two percent increments over time.

In contrast to (b) (7)(C) assessment of the NNOGC forensic audit, (b) (7)(C) believed that some of the issues reported in the forensic audit were criminal, including unauthorized payments made to the Navajo Nation Housing Authority and to an Albuquerque, New Mexico law firm that represented former NNOGC board members in civil litigation against NNOGC. (b) (7)(C) accused the law firm of taking NNOGC documentation to cover up of wrongdoing. NNOGC has initiated litigation against the law firm.

Document Review

(b) (7)(C) provided the OIG with a copy of the forensic accounting report produced by (b) (7)(C) LLP on December 2, 2014, as well as a copy of NNOGC's most recent audited financial statement as of March 31, 2015, which was prepared by Hein & Associates LLP (**Attachment 8**).

The forensic audit of NNOGC covered financial transactions from April 1, 2010 through June 30, 2014 (**Attachment 9**). In total, (b) (7)(C) auditors identified expenditures by NNOGC totaling $1,781,106 that they considered to be non-business related, unauthorized, undocumented/unsubstantiated, questionable/inconsistent with historical transactions, and/or there was evidence of conflict of interest. Of that amount, $1,707,737, or 96 percent of the questionable expenditures, were made between July 1, 2013 through June 30, 2014, roughly the same time frame that (b) (7)(C) worked as NNOGC's (b) (7)(C)

NNOGC's Consolidated Financial Statements for the Years Ended March 31, 2015 and 2014 indicated that NNOGC was experiencing many financial challenges (**Attachment 10**). Pages 5 and 6 stated:

> [T]he governance controversy and litigation among Company directors and officers did great damage to NNOGC and its reputation. … NNOGC was negatively affected by two large borrowing base deficiencies totaling $55.25 million which were primarily caused by prior management's discontinuation of the Company's hedging program as well as the termination of the exploration and production technical staff in the Denver office in August 2013. As a result of the financial strain placed upon the Company and the lack of technical capability within NNOGC, there have been no acquisitions of oil and gas properties, no drilling of wells, nor new convenience stores developed during the past two years.

The report continued:

> The lower average oil price realized during FY2015 also caused the Company to recognize a non-cash impairment to its oil and gas properties in the approximate amount of $55.0 million as required under the full cost method of accounting for oil and gas properties. NNOGC was also impacted by higher general and administrative costs during the past two years due to unauthorized expenditures and legal expenses attributable to NNOGC's FY2014 governance controversy.
>
> Consequently, NNOGC had a consolidated loss from operations of $21.6 million in FY 2015 compared to income from operations of approximately $49 million in FY2014. The $70.7 million difference is mostly due to the $55.0 non-cash impairment of oil and gas properties and lower production revenue from lower average oil prices.

Last, page 39 of the 40-page statement provided the following information about related party transactions:

> The Company and Navajo Nation have entered into a crude oil purchase contract with a refining company. NNOGC delivers the Navajo Nation's royalty-in-kind crude oil volumes to the purchaser and remits payment to the Navajo Nation once received from the purchaser. At March 31, 2015 and 2014, in-kind revenue payable due to the Nation was approximately $2.1 million and $5 million, respectively. In addition, the Company

has an outstanding net receivable due from the Navajo Nation related to overpayments of production of $0 and $499,450 as of March 31, 2015 and 2014, respectively.

Upon request to the Bureau of Indian Affairs, we obtained a copy of the Restated Federal Charter of Incorporation for NNOGC, as amended on October 6, 2015 (**Attachments 11 and 12**). The revised Charter requires that members of NNOGC's board of directors must possess at least a Bachelor's degree and have "substantial knowledge, understanding, and competency in the oil and gas industry; … corporate finance, accounting, economics, law, business management, geophysics, geology, … and oil and gas production operations within Navajo Indian Country."

SUBJECT(S)

Navajo Nation Oil and Gas Company
50 Narbono Circle West
St. Michaels, AZ 56511
(928) 871-4880

Mailing Address:
P.O. Box 4439
Window Rock, AZ 86515

DISPOSITION

We discussed this investigation with the United States Attorney's Office for the District of Colorado. After consideration of the facts developed during the investigation, the United States Attorney's Office declined to initiate civil litigation on this matter and deferred to ONRR for determination of applicable administrative remedies. We provided information concerning NNOGC's forensic audit to the Federal Bureau of Investigation's office in Flagstaff, Arizona for their consideration and action as deemed appropriate. A copy of this investigative report will be provided to ONRR for administrative action as deemed appropriate. This case is closed with the submission of this report.

ATTACHMENTS

1. Investigative Activity Report (IAR) – Interview of (b) (7)(C) (b) (7)(C) on August 10, 2015.
2. IAR – Meeting with ONRR Personnel on August 13, 2015.
3. IAR – Interview of (b) (7)(C) (b) (7)(C) on October 16, 2015.
4. Documentation provided by (b) (7)(C) (b) (7)(C) on October 16, 2015.
5. IAR – Interview of (b) (7)(C) (b) (7)(C) on October 29, 2015.
6. IAR – Interview of (b) (7)(C) (b) (7)(C) on November 3, 2015.
7. IAR – Interview of (b) (7)(C) (b) (7)(C) on January 8, 2016.
8. IAR dated November 4, 2015 – Review of NNOGC Forensic Audit Report and Financial Statements.
9. NNOGC Forensic Accounting Report of (b) (7)(C) LLP, dated December 2, 2014.
10. NNOGC Consolidated Financial Statements for Years Ended March 31, 2015 and 2014.
11. IAR dated November 3, 2015 – Review of NNOGC Federal Charter of Incorporation.
12. Restated Federal Charter of Incorporation and supporting documentation.

OFFICE OF INSPECTOR
U.S. DEPARTMENT OF

REPORT OF INVESTIGATION

Case Title NBC Computer Intrusion	Case Number OI-CO-12-0623-I
Reporting Office Lakewood, CO	Report Date December 15, 2015
Report Subject Final Closing Report	

SYNOPSIS

This case was initiated based on information forwarded from the U.S. Department of the Interior (DOI), Chief Security Operations Branch, Office of the Secretary, National Business Center/Interior Business Center (IBC)[1]. The information reported that an unknown individual(s) logged into an IBC system administrator's computer remotely from a non-government computer.

We found that the Internet Protocol (IP) address that logged into the IBC system originated from the residence of retired DOI employee (b) (7)(C), AZ. After executing a search warrant and obtaining (b) (7)(C) personal laptop, we determined that (b) (7)(C) accessed IBC's systems without authorization approximately 7 times after her retirement (b) (7)(C) also exceeded her authorization by accessing stored communications approximately 17 times, while she was still employed by IBC.

The investigation also determined that an IBC Information Technology Specialist (b) (7)(C) shared his password on a regular basis with (b) (7)(C) and maintained a list of IBC employee passwords. (b) (7)(C) denied any knowledge of (b) (7)(C) computer intrusions even though his (b) (7)(C) (b) (7)(C), indicated she spoke to (b) (7)(C) about (b) (7)(C) computer intrusions/email accesses.

On (b) (7)(C) 2013, a letter of reprimand was issued to (b) (7)(C) for sharing his administrative password. The letter was filed in (b) (7)(C) Official Personnel Folder for a period of approximately two years. On (b) (7)(C), 2015, (b) (7)(C) pleaded guilty to one charge of computer intrusion, a

[1] NBC was restructured and renamed the Interior Business Center in October 2012. Although the incidents documented in this report occurred when the organization was still the NBC, this report will refer to the organization as IBC throughout for consistency and ease of reference.

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /SAC	Digitally signed.

Authentication Number: 68BB7EC200C97ABA524B7D3ADCBAA691

misdemeanor. The court ordered restitution, two years of probation, and (b) (7)(C) is banned from working for the Federal government or for entities that contract with the Federal government.

BACKGROUND

The Acquisition Services Directorate (AQD) is a line of business within the Department of the Interior's (DOI) Interior Business Center (IBC). AQD provides a full spectrum of procurement services to DOI, other Civilian agencies, and the Department of Defense (DOD). AQD is specifically designed to help managers throughout the Federal government fulfill their missions by providing compliant acquisition solutions. From market research through closeout, AQD is able to educate the customer on the details of contracting, and how best to accomplish the requirement at hand.

Per a joint audit conducted by DOD-OIG and the DOI-OIG in 2012, "AQD-Sierra Vista executed 640 contract actions, which obligated $498.7 million of funds. Of these, 464 contract actions, with obligated funds of $434.3 million, were for assisted acquisition purchases that AQD-Sierra Vista made on behalf of DOD customers. Accordingly, 87 percent of AQD-Sierra Vista's FY 2010 obligations were for DOD purchases."

(b) (7)(C) began Federal employment on (b) (7)(C) 1981, at the (b) (7)(C) Department of State (DOS), in Rosslyn, VA. In approximately (b) (7)(C) she began employment at the (b) (7)(C) Department of the Army (DOA), Washington Navy Yard, D.C. In (b) (7)(C) moved to (b) (7)(C), AZ, to begin work with the AQD IBC and opted for (b) (7)(C) in (b) (7)(C) 2012.

DOI Network Password Security Policy

The National Institute of Standards and Technology (NIST) issued Security and Privacy Controls for Federal Information Systems and Organizations /Joint Task Force Transformation Initiative, Special Publication 800-53. The publication is supplemental to DOI department manuals (DMs) and was developed by NIST to further its statutory responsibilities under the Federal Information Security Management Act (FISMA), Public Law (P.L.) 107-347. NIST is responsible for developing information security standards and guidelines, including minimum requirements for federal information systems. The DOI Security Control Standard Identification and Authentication (December 2012), Version 1.5 cites the NIST under "IA-5 AUTHENTICATOR Management" for specifics pertaining to the sharing of passwords.

DETAILS OF INVESTIGATION

On September 27, 2012, this office initiated an investigation based on information forwarded to the U.S. Department of the Interior (DOI), Office of Inspector General (OIG) from (b) (7)(C), Certified Information Systems Security Professional (CISSP), Chief Security Operations Branch, DOI Office of the Secretary (OS)/Interior Business Center (IBC) (**Attachment 1**). The information reported that on August 26, 2012, an unknown individual(s) logged into an IBC system administrator's computer remotely from a Cox Communications IP address, 70.190.175.227. The IBC system administrator's system was located in (b) (7)(C), AZ. The individual(s) remotely accessed another IBC employee's system and accessed an unknown number of personnel documents. IBC information technology (IT) personnel reported that, at the same time, an IBC supervisor received an email from former IBC system administrator (b) (7)(C), who retired early. She used the following email address:

[redacted]. IBC advised a review of the email disclosed it originated from the same IP address of the suspected intrusion (**Attachment 2**).

An IP lookup in the American Registry for Internet Numbers disclosed IP address [redacted] was part of a block of IP addresses that belonged to Cox Communications. An Inspector General subpoena was issued to Cox Communications to identify the physical address of the IP address and it was determined that the IP address was associated with an account that belonged to (b) (7)(C) at [redacted] (b) (7)(C) [redacted], AZ **(Attachments 3 and 4)**. (b) (7)(C) was later identified as (b) (7)(C) employee, and the location was their residence.

On February 13, 2013, we executed a search warrant at (b) (7)(C) residence located at (b) (7)(C) [redacted], AZ and a forensic examination of digital media obtained through the search warrant revealed that (b) (7)(C) personal laptop was used repeatedly to illegally access government computer systems and stored communications at the Sierra Vista IBC facility (**Attachments 5 and 6**). Analysis of known activities indicated that (b) (7)(C) accessed government systems without authorization approximately 7 times. (b) (7)(C) also exceeded her authorization while still employed by IBC when she accessed stored communications approximately 17 times.

We interviewed (b) (7)(C) after serving the search warrant and (b) (7)(C) initially claimed her computer had been "hacked" (**Attachment 7**). She ultimately admitted that she used AQD IT Specialist (b) (7)(C) (b) (7)(C) credentials to access the system (b) (7)(C) said she initially accessed the system after she retired to assist a contract employee and then admitted she also accessed the system a number of times due to personal curiosity and to check on (b) (7)(C).

(b) (7)(C) said she accessed a file regarding (b) (7)(C) [redacted], an AQD employee and (b) (7)(C), because (b) (7)(C) had contacted her and indicated that AQD Supervisor (b) (7)(C) was "targeting" her (b) (7)(C)) (Attachment 7). (b) (7)(C) said she looked at the document to get information to potentially share with (b) (7)(C) however, according to (b) (7)(C) did not ask her to access the document nor did she share anything with (b) (7)(C)

(b) (7)(C) also admitted she accessed documents and email from (b) (7)(C) computer back to 2011 because (b) (7)(C) was "targeting" her for "all kinds of shit" and she had "the opportunity to get his email password" (Attachment 7). She said she read emails to HQ personnel, written by (b) (7)(C) regarding her alleged insubordination for (b) (7)(C) [redacted]. Although (b) (7)(C) did not see (b) (7)(C) access the emails, (b) (7)(C) said (b) (7)(C) knew that she accessed (b) (7)(C) emails because she told him about the emails.

In a follow-up interview with (b) (7)(C), she admittedly accessed (b) (7)(C) email to "monitor" problem tickets (**Attachment 8**). (b) (7)(C) also indicated she did not have (b) (7)(C) permission to do so on many occasions, nor did he have knowledge of her access to his system, specifically after her retirement (b) (7)(C) also said that (b) (7)(C) was unaware that she was using his credentials, after her retirement, to access the computers. (b) (7)(C) also indicated she reviewed contract files of DOI-contract employees after her retirement in order to assist them with computer-related problems. She denied accessing business-related contracts and/or subcontracts for financial gain.

(b) (7)(C) recalled the event that occurred on August 26, 2012, that resulted in her inability to access (b) (7)(C) computer (Attachment 8). She stated she intended to review a document related to (b) (7)(C) [redacted], which (b) (7)(C) had written for (b) (7)(C) personnel file. (b) (7)(C)

stated she was locked out of the system, but denied knowledge of a denial of service (DOS). She stated she did not access the system after this event. Later in the interview, she admitted that she accessed (b) (7)(C), former contracted employee, AQD, IBC, Sierra Vista, AZ, emails on two occasions after the DOS.

We interviewed (b) (7)(C) who recalled entering his office and noting that (b) (7)(C) was logged on to his (b) (7)(C) screen (**Attachment 9**). He went to (b) (7)(C) office and demanded (b) (7)(C) get off his computer, but (b) (7)(C) told (b) (7)(C) that he was not on (b) (7)(C) computer. After (b) (7)(C) saw (b) (7)(C) computer screen, (b) (7)(C) said (b) (7)(C) "freaked out" and called (b) (7)(C)], (b) (7)(C) IBC, DOI. According to (b) (7)(C) suspected someone had taken his credentials (identification/password).

After this incident, (b) (7)(C) stated there were other incidences reported by AQD employees concerning someone accessing electronic files and emails (Attachment 9). (b) (7)(C) also said he found some of his files were accessed, including a file documenting a Memorandum for Record pertaining to a personnel action taken against (b) (7)(C) and a file concerning performance appraisal for (b) (7)(C)

We interviewed (b) (7)(C), who described (b) (7)(C) as his (b) (7)(C) " and became "pretty pissed off" when he discovered she had used his credentials to access the AQD servers after her retirement (**Attachment 10**). He said that, at that point, he wanted nothing to do with (b) (7)(C) stated he shared passwords with (b) (7)(C) in case either one of them were locked out of the system or the network. Prior to a change in policy and the AQD move to a new building, he said they kept an entire list of all employees' passwords. (b) (7)(C) said that, as an IT Specialist, he remote into another employee's computer without their knowledge using remote software and work "behind the scenes," but it would "bump" the original user off their computer (b) (7)(C) said the logs would always show a record of the remote access within a limited amount of time. He said he does not recall or remember a policy that requires IT Specialists to notify users that their computers were remotely accessed.

When asked about (b) (7)(C) access of email, (b) (7)(C) stated he did not "recall" anything "at this time" (Attachment 10). He said he would not be surprised to learn that she was accessing emails because she was nosy, controlling, and a micro-manager. Regarding the notation of passwords, (b) (7)(C) said he wrote passwords on a post-it note and shredded it later if he was required to work on employees' computers while they were absent from their desks. He stated he was unsure of (b) (7)(C) methods but she had a "memory" and would just "remember stuff."

We interviewed (b) (7)(C) who said that in early September 2012, she became aware of the AQD security breach just after returning home from temporary duty (TDY) in (b) (7)(C) (**Attachment 11**). (b) (7)(C) learned from her supervisor that someone had used (b) (7)(C) credentials to remotely log into the AQD computer system and access (b) (7)(C) ' computer. At the time, both and were placed on administrative leave pending an investigation. The information accessed during the security breach was associated with (b) (7)(C), and thus it was assumed that and or may have been responsible for the breach. (b) (7)(C) was never interviewed regarding the breach, but she did speak with her supervisor, who reported the breach had occurred more than once.

(b) (7)(C) stated that she believed that 2 security breaches had occurred during the month of September 2012, and during both occasions, the information that was accessed involved either

[redacted] or [redacted] (Attachment 11). (b) (7)(C) stated that one of the documents accessed during a security breach was (b) (7)(C) performance evaluation. According to (b) (7)(C), (b) (7)(C) performance evaluation was prepared by (b) (7)(C) and given to (b) (7)(C) so that he could forward the evaluation to (b) (7)(C) new supervisor. It was later learned that at the time of the security breach, (b) (7)(C) was on an airplane or at the airport and thus could not have been responsible for the breach, and so she was allowed to return to work. (b) (7)(C) returned to work from administrative leave one week prior to (b) (7)(C) return.

While on administrative leave, [redacted] and [redacted] suspected that (b) (7)(C) had used (b) (7)(C) information to log into the computer system and access (b) (7)(C) computer (Attachment 11). (b) (7)(C) explained that (b) (7)(C) was the only person, other than (b) (7)(C), who could have accessed the system, and (b) (7)(C) would not have done it. (b) (7)(C) stated that she (b) (7)(C)) has access to sensitive information such as employees' social security numbers, but she would never do anything to compromise her ethics or morals, and she was upset that someone (b) (7)(C)) she considered a friend placed (b) (7)(C) employment in question. (b) (7)(C) stated that she did not confront (b) (7)(C) about her suspicions, and instead she and (b) (7)(C) just "stopped talking to her."

When asked how (b) (7)(C) gained access to (b) (7)(C) login information, (b) (7)(C) explained that (b) (7)(C) and (b) (7)(C) worked as a team until (b) (7)(C) retired, and both [redacted] and [redacted] knew each other's information just in case one was locked out of the system while the other was away on TDY (Attachment 11). (b) (7)(C) stated that, officially, (b) (7)(C) was not (b) (7)(C) , but she (b) (7)(C)) acted as though she was his (b) (7)(C) which was why she prepared (b) (7)(C) .

(b) (7)(C) stated that during the time in which (b) (7)(C) believed she was being targeted by (b) (7)(C) (end of 2011), (b) (7)(C) showed her paper copies of email messages that belonged to (b) (7)(C) (Attachment 11). (b) (7)(C) could not recall details regarding the email messages shown to her, but she believed the messages pertained to disciplinary action against (b) (7)(C) did not know why (b) (7)(C) accessed (b) (7)(C) email messages, but she speculated that (b) (7)(C) was trying to control the situation. When (b) (7)(C) showed (b) (7)(C) the email messages that belonged to (b) (7)(C) told (b) (7)(C) she should not access another employee's email messages because it was inappropriate. After that point, (b) (7)(C) never shared anything of that nature with (b) (7)(C) again (b) (7)(C) stated that, although she knew it was wrong and should have told someone, she did not report (b) (7)(C) for accessing (b) (7)(C) email messages.

We interviewed (b) (7)(C) who said that (b) (7)(C) contacted her to determine what was happening at the AQD, but (b) (7)(C) said she did not know anything (**Attachment 12**). [redacted] said that she (b) (7)(C) was required to send an email to her supervisor when she arrived at work. She said (b) (7)(C) jokingly offered to send emails from (b) (7)(C) computer, but (b) (7)(C) declined and (b) (7)(C) retired soon thereafter.

SUBJECTS

Name: (b) (7)(C) .
Employee Status: Retired (b) (7)(C) 2012: IBC, (b) (7)(C) IT Specialist, (b) (7)(C), AZ

Name: (b) (7)(C)
Employee Status: IT Specialist, IBC, (b) (7)(C), AZ

Name: (b) (7)(C)

Employee Status: Program Analyst, IBC, (b) (7)(C), AZ

DISPOSITION

On (b) (7)(C) 2013, a letter of reprimand was issued to (b) (7)(C) for sharing his administrative password (**Attachment 13**). The letter was filed in (b) (7)(C) Official Personnel Folder for a period of approximately two years.

On (b) (7)(C) 2015, (b) (7)(C) agreed to a plea agreement in the U.S. District Court for the District of Arizona, charging (b) (7)(C) with a violation of Title 18 USC 1030(a)(3), Trespass in a Government Computer, a Class A misdemeanor (**Attachment 14**). The terms of the agreement included restitution totaling $17,480.00, two years' probation, and (b) (7)(C) agreed to not seek employment with the United States or any entity contracting with the United States.

This report will be forwarded to IBC for any action deemed appropriate.

ATTACHMENTS

1. Information provided by (b) (7)(C).
2. IAR. Initial Intrusion Report, Review of DOI IBC Firewall Logs.
3. DOI-OIG Subpoena submitted to Cox Communications.
4. IAR. Return of Service of OIG Subpoena.
5. Affidavit for Search Warrant.
6. CCU Forensic Report.
7. IAR. Interview of (b) (7)(C), February 13, 2013.
8. IAR. Re-interview of (b) (7)(C), January 30, 2015.
9. IAR. Interview of (b) (7)(C), February 13, 2013.
10. IAR. Interview of (b) (7)(C), February 14, 2013.
11. IAR. Interview of (b) (7)(C), February 14, 2013.
12. IAR. Interview of (b) (7)(C), February 14, 2013.
13. Letter of Reprimand, dated (b) (7)(C) 2013.
14. Plea agreement - United States of America v. (b) (7)(C).

OFFICE OF INSPECTOR
U.S. DEPARTMENT OF

INVESTIGATIVE ACTIVITY REPORT

Case Title	Case Number
Deepwater Horizon-DOJ Civil Investigation	**OI-OG-10-0526-I**
Reporting Office	**Report Date**
Energy Investigations Unit	**November 24, 2015**
Report Subject	
Closing IAR	

On October 5, 2015, the U.S. Department of Justice issued a Press Release announcing a settlement resolving civil claims against BP arising from the April 20, 2010 Macondo well blowout and the massive oil spill that followed in the Gulf of Mexico. The Press Release stated the following:

> This global settlement resolves the governments' civil claims under the Clean Water Act and natural resources damage claims under the Oil Pollution Act, as well as economic damage claims of the five Gulf states and local governments. Taken together this global resolution of civil claims is worth $20.8 billion, and is the largest settlement with a single entity in the department's history.

Accordingly, this case will be closed.

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.

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OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Reprisal, Southern Plains Region, BIA	**0I-PI-15-0369-I**
Reporting Office	**Report Date**
Program Integrity Division	**April 18, 2016**
Report Subject	
Report of Investigation	

SYNOPSIS

On March 25, 2015, (b) (7)(C) (b) (7)(C) former (b) (7)(C) of the Pawnee Agency Office (PAO), Southern Plain Region, Bureau of Indian Affairs (BIA), Pawnee, OK, reported that she was retaliated against by her (b) (7)(C) (b) (7)(C) (b) (7)(C) (b) (7)(C) of the BIA Southern Plains Region (SPR), Anadarko, OK.

(b) (7)(C) reported that in September 2013, she was temporarily relieved of her (b) (7)(C) duties by (b) (7)(C) and he initiated an administrative investigation in response to complaints from her staff. According to (b) (7)(C) (b) (7)(C) took these retaliatory actions because he suspected that she had complained about him to the Office of Inspector General (OIG) in September 2012.

(b) (7)(C) said she was retaliated against by (b) (7)(C) again in March 2015, when he relieved her of her (b) (7)(C) duties a second time and placed her on (b) (7)(C) duty at SPR.

Our investigation did not reveal evidence of retaliation or reprisal by (b) (7)(C) against (b) (7)(C) We found that (b) (7)(C) initially detailed (b) (7)(C) to SPR in September 2013 and initiated an administrative investigation in October 2013, after receiving multiple Equal Employment Opportunity (EEO) and hostile work environment complaints filed against (b) (7)(C) by her employees at PAO. We determined that the directive to detail (b) (7)(C) to SPR was immediately rescinded by (b) (7)(C) (b) (7)(C) (b) (7)(C) (b) (7)(C) BIA (b) (7)(C) for Field Operations, and she continued to be the PAO (b) (7)(C) during the course of the administrative and EEO investigations.

Our investigation revealed that in March 2015, (b) (7)(C) relieved (b) (7)(C) of her (b) (7)(C) duties and again detailed her to SPR in response to the findings of (b) (7)(C) misconduct identified in

Reporting Official/Title	Signature
(b) (7)(C) (b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) (b) (7)(C) /SAC	Digitally signed.

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the administrative investigation. This directive was not rescinded and (b) (7)(C) has since remained assigned to administrative duties at the SPR.

We found that (b) (7)(C) consulted with BIA Human Resources (HR) representatives before each administrative action, and that the actions taken were recommended by HR. We found no evidence to indicate that any actions taken by (b) (7)(C) were retaliatory or in response to suspected communications between (b) (7)(C) and the OIG.

DETAILS OF INVESTIGATION

We initiated this investigation after receiving a complaint from (b) (7)(C) (b) (7)(C) former (b) (7)(C) Pawnee Agency Office (PAO), Southern Plain Region (SPR), Bureau of Indian Affairs (BIA), Pawnee, OK, that she was retaliated against by her supervisor, (b) (7)(C) (b) (7)(C) (b) (7)(C) SPR, BIA, Anadarko, OK.

We interviewed (b) (7)(C) **(Attachments 1, 2 &3)** who said that in September 2013, (b) (7)(C) relieved her of PAO (b) (7)(C) duties **(Attachment 4)** and initiated an administrative investigation regarding complaints from her staff. (b) (7)(C) said (b) (7)(C) actions were retaliation because she had contacted the Office of Inspector General (OIG) in September 2012 and complained about him after (b) (7)(C) had told her that someone from the IG's office had contacted him regarding her treatment of her employees. According to (b) (7)(C) in September 2013 she complained about being relieved of her duties to (b) (7)(C) (b) (7)(C) BIA (b) (7)(C) for Field Operations (b) (7)(C) (b) (7)(C) who immediately rescinded (b) (7)(C) directive and reinstated her.

(b) (7)(C) said in March 2015, she was relieved of her (b) (7)(C) duties a second time by (b) (7)(C) **(Attachment 5)** after he received the results of the administrative investigation initiated in October 2013. (b) (7)(C) said she was not reinstated as the (b) (7)(C) of the PAO and remained assigned to the SPR responsible for non-supervisory administrative duties.

We interviewed (b) (7)(C) **(Attachments 6 & 7)** who said he began to receive complaints from PAO employees against (b) (7)(C) immediately after she was assigned as the (b) (7)(C) in June 2012. Additionally, he stated he received a telephone call from an unidentified OIG employee in September 2012 who recommended that he tell (b) (7)(C) to "cease and desist," meaning to stop harassing her employees. According to (b) (7)(C) he told (b) (7)(C) about the telephone call and that the caller told him to tell her to "cease and desist whatever you [(b) (7)(C) were doing."

Agents Note: (b) (7)(C) *said he did not obtain the name or telephone number of the caller, therefor we were unable to verify if a phone call was made by an OIG employee to* (b) (7)(C) *in September 2012.*

Following continued complaints against (b) (7)(C) in September 2013 (b) (7)(C) consulted with BIA (b) (7)(C) (b) (7)(C) (b) (7)(C) BIA (b) (7)(C) (b) (7)(C) (b) (7)(C) and BIA (b) (7)(C) Human Resource Operations (b) (7)(C) (b) (7)(C) who agreed that an administrative investigation was merited. In response to the EEO complaints against (b) (7)(C) in September 2013 (b) (7)(C) temporarily assigned (b) (7)(C) to (b) (7)(C) duties at SPR. However, he was contacted by (b) (7)(C) within a few days and directed to reinstate her, which he did.

In October 2013 [redacted] Bureau of Indian Education (BIE), Albuquerque, NM, was assigned to conduct the administrative investigation into the alleged hostile work environment at PAO.

[redacted] said he received a copy of [redacted] investigative report in July 2014 **(Attachment 8)**, which indicated that [redacted] was responsible for creating a "hostile work environment" at PAO. He said that he did not initially take action upon receipt of the report because there were on-going Equal Employment Opportunity (EEO) investigations being conducted at PAO regarding [redacted] According to [redacted] in March 2015, while settling three EEO complaints against [redacted] he and [redacted] agreed to relieve her of her [redacted] duties and detail her to the SPR until the EEO complaints were resolved.

We interviewed [redacted] **(Attachments 9 & 10)** who confirmed that [redacted] consulted with her regarding receiving complaints against [redacted] According to [redacted] [redacted] was assigned to conduct the investigation and he recommended that [redacted] be temporarily relieved of her superintendent duties and assigned to the SPR while the investigation was conducted.

We interviewed [redacted] **(Attachments 11 & 12)**, who said that he and one of his staff members, BIE [redacted] conducted an investigation at the PAO in October 2013. According to [redacted] their investigation determined that [redacted] was responsible for creating "dysfunction" at the PAO through intimidation and fear of retaliation, especially among the supervisory staff. According to the report (See Attachment 8), [redacted] exhibited hostility toward subordinates; displayed a management style of intimidation; fostered an environment of fear of retaliation among her supervisory staff; and used favoritism to curry support from some while undermining the authority of others on her staff. Additionally, the report documented multiple occasions of lack of candor by [redacted] during the investigation.

We interviewed [redacted] **(Attachments 13 & 14)**, who said that the supervisors who worked for [redacted] at the PAO "got together" and complained about [redacted] and an investigation was initiated as a result. Immediately following the decision to conduct an investigation, [redacted] said that [redacted] contacted him in September 2013, indicating that [redacted] relieved her of [redacted] duties and detailed her to SPR. [redacted] said he rescinded [redacted] directive because [redacted] was an "essential" employee and they needed her at PAO during the 2013 Government shutdown. [redacted] confirmed that the administrative investigation subsequently confirmed that the problem was [redacted] management style.

We interviewed [redacted] **(Attachments 15 & 16)**, who said he was aware of the investigation regarding [redacted] and that her [redacted] duties were suspended. According to [redacted] he did not feel that [redacted] was reprised against by [redacted] because it was an accepted practice within BIA to remove a senior leader from their position while an investigation was conducted. [redacted] said that based upon the recommendation of the Department solicitors office, he directed [redacted] to recuse himself from the issues regarding [redacted] because of the potential for the appearance of [redacted] improper interference in the process due to his [redacted] long term working relationship with [redacted]

We obtained a copy of the Office of Special Counsel's (OSC) response to [redacted] whistleblower reprisal complaint **(Attachment 17)** dated December 18, 2013. The OSC response concluded that [redacted] whistleblower reprisal complaint, which was in essence the same information provided to the OIG, did not contain evidence of a protected disclosure or nexus/causation.

SUBJECT

1. [redacted] BIA Southern Plains Region (SPR), Anadarko, OK.

DISPOSITION

A copy of this report has been provided to [redacted], Bureau of Indian Affairs, for information purposes only.

ATTACHMENTS

1. Investigative Activity Report (IAR) – Interview of [redacted] September 15, 2015.
2. Transcript of interview of [redacted] on September 15, 2015 (Part 1).
3. Transcript of interview of [redacted] on September 15, 2015 (Part 2).
4. Memorandum from [redacted] to [redacted], Subject "Detail Assignment," dated September 11, 2013.
5. Memorandum from [redacted] to [redacted], Subject "Detail Assignment to Southern Plains Regional Office (SPRO), Effective March 16, 2015," dated March 9, 2015.
6. IAR – Interview of [redacted] on September 17, 2015.
7. Transcript of interview of [redacted] on September 17, 2015.
8. Report of Investigation, Subject – Pawnee Agency Office [redacted] date stamped June 30, 2014 (Director Bureau of Indian Affairs.)
9. IAR – Interview of [redacted] on September 17, 2015.
10. Transcript of interview of [redacted] on September 17, 2015.
11. IAR – Interview of [redacted] on September 15, 2015.
12. Transcript of interview of [redacted] on September 15, 2015.
13. IAR – Interview of [redacted] on December 4, 2015.
14. Transcript of interview of [redacted] on December 4, 2015.
15. IAR – Interview of [redacted] on December 4, 2015.
16. Transcript of interview of [redacted] on December 4, 2015.
17. Letter from [redacted] Complaints Examining Unit, Office of Special Counsel, to [redacted] dated December 18, 2013.

OFFICE OF
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REPORT OF INVESTIGATION

Case Title	Case Number
GULF ISLANDS NATIONAL SEASHORE	**OI-GA-15-0517-I**
Reporting Office	**Report Date**
Atlanta Field Office	**February 22, 2016**
Report Subject	
Final Report of Investigation	

SYNOPSIS

We initiated this investigation after we received information through the U.S. Government Accountability Office (GAO) from an anonymous source alleging Government waste involving the improper destruction of government property at the Gulf Islands National Seashore (Gulf Islands) in Ocean Springs, MS.

The complainant alleged that valuable government property was improperly destroyed with little or no financial benefit to the government. According to the complainant, some of the items that were identified for destruction were still operable at the time; and one item, a 22-foot crew boat, was worth between $30,000.00 to $40,000.00 at auction and at least $4,000.00 in scrap value.

Our investigation discovered that all of the personal property items identified in the complaint were released by Gulf Islands to a private recycling company on March 23, 2015, and subsequently destroyed. A review of records related to the destruction of property, as well as interviews of involved personnel, revealed the final disposition of this property by Gulf Islands was consistent with GSA, NPS, and DOI guidelines as it pertained to the disposal of unserviceable personal property.

BACKGROUND

The General Services Administration (GSA) Personal Property Disposal Guide contains the following Definitions:

- "Excess personal property" means any personal property under the control of any Federal agency that is no longer required for that agency's needs, as determined by the agency head or

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designee.

- "Personal property" means any property, except real property.

- "Salvage" means property that has value greater than its basic material content but for which repair or rehabilitation is clearly impractical and/or uneconomical.

- "Scrap" means property that has no value except for its basic material content.

- "Screening period" means the period in which excess and surplus personal property are made available for excess transfer or surplus donation to eligible recipients.

- "Surplus personal property (surplus)" means excess personal property no longer required by the Federal agencies as determined by GSA.

- "Surplus release date" means the date when Federal screening has been completed and the excess property becomes surplus.

For the purposes of this investigation, we specifically referenced 41 CFR 102-36 which speaks to unserviceable personal property determined appropriate for abandonment/destruction.

The disposal process for federal excess and surplus property consists of utilization, donation, sale, and abandonment or destruction. Property normally reaches the abandonment or destruction phase only after utilization, donation, and sale efforts have produced no results.

Property may be abandoned or destroyed when an agency official has made a written determination that:

- The property has no commercial, utility, or monetary value (either as an item or as scrap). A written determination to abandon and destroy federal property must be made by an authorized official and approved by a reviewing official who is not directly accountable for the property. This documentation provides certification and written substantiation that the property has no further utilization.

- The cost of care, handling, and preparation of the property for sale would be greater than the expected sales proceeds (estimated fair market value), donation, or sales value.

- In lieu of abandonment/destruction, you may donate such excess personal property to a public body without GSA approval. (A public body is any department, agency, special purpose district, or other instrumentality of a state or local government; any Indian tribe; or any agency of the federal government.)

Interior Property Management Directive 114-60 and NPS Personal Property Management Handbook #44 mirror the CFR and further stipulate that unserviceable property actions will be well documented, with care taken to obtain all the necessary signatures.

A designated employee shall complete a Certificate of Unserviceable Property Form DI-103A describing all property that is unserviceable and forward it to the Custodial Property Office for

approval. Once the Custodial Property Officer concurs, he or she shall sign the DI-103A and forward it to the Accountable Property Officer for review and signature. Once the property is determined to be serviceable and is not needed, proper disposal procedures must be followed.

After final approval, property records must be changed to reflect the destruction or rehabilitation of the property and documentation maintained six years for audit purposes and then destroyed.

Additionally, the NPS Southeast Region Excess Personal Property Management Program Quick Reference Guide institutes a three-pronged "51-Day Rule," which stipulates that excess personal property should be listed on the electronic property management site and made available for screening to all NPS assets for 15 days; to all DOI Bureaus for an additional 15 days; and to all Federal agencies through the GSA website for a total of 21 days. Items less than $10,000.00 can be transferred directly without GSA approval.

DETAILS OF INVESTIGATION

This investigation was initiated based on information we received on May 20, 2015, from the U.S. Government Accountability Office (GAO) FraudNet, Complaint Number 62678, from an anonymous complainant alleging Government waste involving the improper destruction of government property by an employee or employees at the Gulf Islands National Seashore (Gulf Islands) in Ocean Springs, MS **(Attachment 1)**.

The complainant alleged that valuable equipment, including but not limited to, two (2) aluminum crew boats, two (2) generators, a skid steer, and multiple Kawasaki Mule Utility Task Vehicles (UTV) were improperly turned-in and destroyed with little or no financial benefit to the government. The complainant stated that one of the generators and the skid steer were still operable at the time they were excessed. The complainant also stated that according to a government auction website, one of the crew boats was worth between $30,000.00 to $40,000.00 at auction and at least $4,000.00 in scrap value.

Upon receipt of the complaint, DOI-OIG conducted a preliminary inquiry by contacting Gulf Islands (b) (7)(C) (b) (7)(C) and requesting additional information pertaining to the disposed property **(Attachment 2)**.

(b) (7)(C) at Gulf Islands, subsequently provided an official response to our office detailing the circumstances surrounding the disposal of the property mentioned in the allegation **(Attachment 3)**. In a memorandum dated July 15, 2015, Gulf Islands confirmed that a total of ten (10) property items were designated for destruction. Included were four (4) diesel generators; two (2) Kawasaki UTV's; one (1) John Deer tractor; one (1) Bobcat Skid Loader; one (1) 22-foot Boston Whaler Boat; and, one (1) 14-foot Aluminum Skiff. All of the items were collected by Wise Recycling, LLC (Wise Recycling) in Pensacola, FL on or about March 23, 2015 and subsequently destroyed. The memorandum further acknowledged that on April 20, 2015 the park received a check from Wise Recycling for a sum of $3,452.20 for the value of the scrap metal salvaged from the equipment.

The park also provided the OIG with a letter from Wise Recycling titled "Certificate of Destruction," which documented by serial number that each of the subject property items had been destroyed **(Attachment 4)**.

We went to the Gulf Islands Administrative Office in Gulf Breeze, FL and interviewed several employees that were involved in the process for the disposition and destruction of the government property mentioned in this allegation.

(b) (7)(C) provided us several documents in furtherance of this investigation, including a DOI-Property Form 103A, Certificate for Unserviceable Property (Form 103) and the attached Statement of Circumstances, listing and describing the condition of the items to be destroyed **(Attachment 5)**.

Agent's Note: *Upon reviewing the documents, we discovered that some of the items were described as "operable" and/or in need of "minor repairs" in the Statement of Circumstances.*

(b) (7)(C) for the Mississippi District (Ocean Springs, MS), signed the Form103 as the Cognizant Employee, verifying and certifying the condition of the property. We interviewed (b) (7)(C) who described his role as assessing and identifying the property that was earmarked for destruction, and providing the identification numbers (i.e. NPS or serial numbers). According to (b) (7)(C) he then provided the Form 103 to (b) (7)(C) and also to (b) (7)(C) (b) (7)(C) at Gulf Islands headquarters in Florida. (b) (7)(C) said he did not have any formal training in this area and he did not know what a Form 103 was, although he signed the form **(Attachment 6)**.

When asked about the language used in the Statement of Circumstances, (b) (7)(C) said the document was actually prepared by Maintenance Worker (b) (7)(C) (b) (7)(C) However, (b) (7)(C) said he could confirm the condition of the equipment because he saw the property on a daily basis. He described all of the equipment as being in an advanced state of decay due to the daily exposure to the salt content in the sea air. He also stated that although some of the items were described as "operable," he believed they were too expensive to repair or maintain.

(b) (7)(C) said he had no knowledge of how they decided to dispose of the property and as far as he knew Wise Recycling was the designated vendor that collected and destroyed all of the district's property. He said the park was using their services before he was promoted to (b) (7)(C).

The Form 103 was also signed by Gulf Islands (b) (7)(C) and (b) (7)(C).

(b) (7)(C) said to the best of his knowledge, (b) (7)(C) had delegated the responsibility of property management to an employee under her supervision, and that the documentation for property destruction started at the field level and eventually worked its way up to his office **(Attachment 7)**. He also acknowledged that he reviewed all of the property forms and was responsible for signing the Form103 after it had been reviewed and signed by (b) (7)(C) (b) (7)(C) (b) (7)(C). He said he assumed that all of the necessary steps were followed by the time he received the document for his signature.

(b) (7)(C) could not recall if he reviewed the Statement of Circumstances. He said he can only speculate that he did not take the time to review the information thoroughly; otherwise he would have raised the same questions regarding the description and condition of some of the items based on the language (b) (7)(C) used.

He said when he was made aware of the OIG inquiry his primary concern was whether they had followed all of the steps that were in place, and if something inappropriate did happen in this particular instance he wanted to make sure that it didn't happen again. (b) (7)(C) recalled having a discussion with

(b) (7)(C) regarding the regulations as they prepared the response to the OIG and he was concerned that they did not do everything that was required before they disposed of the property. (b) (7)(C) did not indicate what specific missteps he was concerned about.

(b) (7)(C) said he became aware of Wise Recycling as a result of this investigation and he was not aware of any relationship between them and the park other than this instance.

(b) (7)(C) said that as the (b) (7)(C) (b) (7)(C) was responsible for the (b) (7)(C) of the overall (b) (7)(C) Therefore, it was his opinion that (b) (7)(C) and (b) (7)(C) were responsible for the due diligence and attention to detail in this matter.

We interviewed (b) (7)(C) who signed the Form 103 along with (b) (7)(C) (b) (7)(C) acknowledged to us that he was responsible for the (b) (7)(C) for the Florida and Mississippi Districts, and when property is designated for disposal, he is included in the process **(Attachment 8)**. He said the Form 103 was completed by the (b) (7)(C) who then worked with the park's Property Officer ((b) (7)(C) to ensure that the items are disposed of properly.

(b) (7)(C) told us that the decision to dispose of personal property depended on the information or assessment made by the Facilities Manager or custodial officer, who then provides that information to the Property Officer, and once that information was received the decision is made as to whether the property is salvageable or not. (b) (7)(C) vaguely recalled having conversations with (b) (7)(C) about these items during the disposition process. However, based on the information he was given at the time, and the condition of the items, he believed that the proper course of action was taken. He said that he travels to the Mississippi District at least once a week but he did not have the opportunity to physically observe all of the items.

(b) (7)(C) said he did not raise any questions regarding why the items were not being offered to other government agencies or presented at a government auction. He said he considered that to be the responsibility of the Property Officer.

(b) (7)(C) said he had no knowledge of any relationship with Wise Recycling, and as far as he knew, (b) (7)(C) contacted them directly at her own discretion.

We interviewed (b) (7)(C) who told us she had been the (b) (7)(C) at Gulf Islands for approximately a (b) (7)(C) and it was her responsibility to oversee the (b) (7)(C) of the park, including but not limited to, (b) (7)(C) , and (b) (7)(C) (**Attachment 9**). She said she served as the park's official (b) (7)(C) and oversees the overall (b) (7)(C) program. According to (b) (7)(C) she had designated (b) (7)(C) (b) (7)(C) to maintain the property records. She said (b) (7)(C) official title was (b) (7)(C) (b) (7)(C)

(b) (7)(C) said the items were disposed of as part of an annual exercise to create more space and get rid of items that were at the end of their respective life cycle and she was supposed to be involved in the disposal and/or destruction of government property from the very beginning. She indicated that this was the first time since her arrival that they actually disposed of any personal property.

She said that once items are identified for removal, it was her responsibility to ensure that they follow the proper procedures to dispose of the items and promptly remove them from their property inventory in FBMS.

(b) (7)(C) said that on February 9, 2015 she received a list of items to be surveyed from (b) (7)(C) and forwarded the communication to (b) (7)(C) **(Attachment 10)**. She said (b) (7)(C) made the preparations to excess the items on the list, and she also made the arrangements for them to be retrieved and destroyed by Wise Recycling.

In an email to (b) (7)(C) (b) (7)(C) asked to be informed of what steps she was taking to dispose of the items and asked for a response by March 4, 2015. She said (b) (7)(C) never discussed anything with her and to the best of her knowledge she failed to follow any of the steps listed in the GSA and DOI regulations. She said (b) (7)(C) unilaterally decided to contact Wise Recycling and have the items destroyed shortly after she received the email.

(b) (7)(C) said she did not review the Form 103 because the items were generated from the Facilities Management Division and property designated for removal was under the purview of (b) (7)(C) and (b) (7)(C) (b) (7)(C) said that based on the language that (b) (7)(C) used in the Statement of Circumstances; she would not have destroyed those items. (b) (7)(C) said to the best of her recollection, some of the items were in bad shape, and recalled that in 2014 the park had expended approximately $12,000.00 to keep one of the generators running.

(b) (7)(C) stated that she was not aware of any type of relationship between (b) (7)(C) and Wise Recycling and it was her understanding that over the years they have always used that company to dispose of their excessed property. (b) (7)(C) said (b) (7)(C) should have attempted to offer the items to another government agency or auction them off according to the GSA website. She also stated that (b) (7)(C) has completed all of the FBMS property management training and she should have been aware of the necessary steps. (b) (7)(C) said Wise Recycling determined that the items that were collected and destroyed for scrap metal were worth $3,452.00 and she did not know if the government actually received the best value for the items.

Agent's Note: *The email exchanges between (b) (7)(C) and (b) (7)(C) dated February 9, 2015 indicated that (b) (7)(C) was well aware of the process and requirements concerning excess property and listed them in her response. Due to the fact that the items were deemed unserviceable, (b) (7)(C) was not required to attempt to auction them off or offer them to other government agencies. (b) (7)(C) responded back to (b) (7)(C) and instructed her to prepare the report for unserviceable property items and remove them from the system by March 4, 2015. The emails are in direct contradiction to (b) (7)(C) claims during her interview that (b) (7)(C) unilaterally and improperly disposed of the items without her knowledge or consent and further indicated that (b) (7)(C) was not proficient in her knowledgeable of the NPS regulations concerning the disposal of personal property.*

(b) (7)(C) told us that when the park was contacted by the OIG she and (b) (7)(C) went to Wise Recycling to see if they still had any of the items in their possession, but they had already been destroyed for scrap metal.

Agent's Note: *Shorty after the OIG's initial inquiry, (b) (7)(C) retired. (b) (7)(C) said the timing of (b) (7)(C) retirement was just a coincidence and she had previously been on extended leave following an (b) (7)(C) and elected to retire after the matter was settled.*

We also interviewed (b) (7)(C) and (b) (7)(C) (b) (7)(C) of Wise Recycling, LLC in Pensacola, FL **(Attachment 11)**. (b) (7)(C) described Wise Recycling as a scrap metal recycler and said they had been in business since 1998.

(b) (7)(C) said they have been doing business with the Gulf Islands since 2010, following the BP oil spill. He said he was contacted directly by (b) (7)(C) to remove and destroy all of the computer equipment because the landfill would not take certain items such as lithium batteries. He stated that after the initial contact, (b) (7)(C) would just call him whenever they needed something to be recycled and they would pick it up and give them a check.

(b) (7)(C) said the amount of money they remitted to the park for scrap metal depended upon the item and what the market would dictate for that type of metal at that particular time, and that the cost of travel and pick-up was factored in also. He said their profit margin ranged between five and eight cents per pound.

Both men indicated that no one at Wise Recycling had any type of personal or financial relationship or affiliation with (b) (7)(C) and she did not receive any personal compensation.

(b) (7)(C) indicated that the items that were disposed of by Gulf Islands in February 2015 were collected on four separate occasions that were arranged through the site manager. He said (b) (7)(C) was never present for the pick-up at any time.

(b) (7)(C) mentioned that the "Miss Teak," a large aluminum boat, was actually cut up on site in Ocean Springs, MS due to its size and it took them approximately two weeks to complete the job. He said all of the other items were transported to Pensacola. (b) (7)(C) said the items they retrieved were rusted and in horrible shape due to the corrosion caused by the salt in the sea air.

(b) (7)(C) said the items were collectively listed as a commodity versus an individual item and therefore it would be difficult to determine how much each individual item was worth in scrap metal. (b) (7)(C) said he would always give the check to (b) (7)(C) and there was a stub attached to each check listing each commodity and what they paid for it.

(b) (7)(C) printed out a copy of all of the monies remitted to Gulf Islands by commodity. The document he provided indicated that the park had received a total of $3,717.40 and the contact for the park was listed as (b) (7)(C) in Gulf Breeze, FL **(Attachment 12)**.

(b) (7)(C) said the Certificate of Destruction he provided to (b) (7)(C) was produced upon request; otherwise it was not something they normally provided. He said they have done business with other government agencies, such as Elgin Air Force Base and the Pensacola Naval Air Station, and they were familiar with the GSA property disposal guidelines.

When we interviewed (b) (7)(C) (b) (7)(C) she told us she retired from NPS as a (b) (7)(C) in (b) (7)(C) 2015 after (b) (7)(C) of service **(Attachment 13)**. Her duties consisted of (b) (7)(C), (b) (7)(C), (b) (7)(C), and other administrative duties as assigned. She said she was initially trained in (b) (7)(C) in 1999, and she further stated that she was never designated as the official (b) (7)(C); only the (b) (7)(C)

(b) (7)(C) said she received formal FBMS training through the regional office when it was initially rolled out and that was the extent of her knowledge of the system. She said she often relied on the Regional (b) (7)(C) for additional guidance.

When asked about the disposition of property, (b) (7)(C) said the items were first supposed to be offered to other NPS locations and/or DOI bureaus, and if there were no takers, the next step was to

offer it for disposal through the GSA site for external government agencies.

We reviewed the complaint with (b) (7)(C) and she said it was her understanding that unserviceable items were not subject to the 51-day screening process. (b) (7)(C) also stated that she reached out to (b) (7)(C) to make sure that all of the items in question were actually unserviceable. She said she reviewed the list thoroughly and recalled preparing the Form 103 that she signed on February 18, 2015.

(b) (7)(C) said none of the NPS officials that signed the form questioned the condition of the items as they appeared in the Statement of Circumstances. She said she was the only one that questioned whether or not the items should be destroyed.

(b) (7)(C) said they used to let the Naval Air Station in Pensacola recycle their items that were deemed unserviceable. She said other local vendors were charging the park a fee to retrieve the items. She was initially referred to Wise Recycling by (b) (7)(C) (b) (7)(C) an IT Specialist at Gulf Islands. (b) (7)(C) said (b) (7)(C) had used them in the past to dispose of some IT materials, and insisted that she had no personal or financial relationship with any personnel from Wise.

(b) (7)(C) said the money they received from Wise Recycling was determined by the weight of the items they collected. She said Wise Recycling weighed the materials on the truck before removing them. (b) (7)(C) admitted that she did not perform any type of comparison or due diligence to determine if the rates being offered by Wise Recycling were competitive.

(b) (7)(C) could not recall how many times she had actually used Wise Recycling. She said (b) (7)(C) (b) (7)(C) should have an accurate accounting of how long they have been using Wise Recycling.

(b) (7)(C) insisted that she was not acting without supervision or guidance while disposing of these items and she did not make the final decision.

(b) (7)(C) reviewed the park's records at the OIG's request and determined that they had received an accumulative total of $7,600.00 from Wise Recycling throughout the length of their business relationship. (b) (7)(C) provided the OIG with copies of all of the remittance documents from Wise **(Attachment 14)**.

We also interviewed Maintenance Worker (b) (7)(C) (b) (7)(C) and Boat Operator (b) (7)(C) (b) (7)(C) regarding the condition of the items that were abandoned for destruction.

(b) (7)(C) indicated that no one ever spoke with him regarding the language he used in describing some of the items **(Attachment 15)**. He said he believed that some of the items were salvageable; however, he did not believe it was economically feasible for Gulf Islands to retain them.

(b) (7)(C) spoke exclusively to the advanced-decay of the "Miss Teak" Boston Whaler and concurred that it was unsalvageable **(Attachment 16)**.

SUBJECT(S)

(b) (7)(C) (Retired), Gulf Islands National Seashore, Florida District, Gulf Breeze, FL

DISPOSITION

We are providing this report to NPS for any administrative action deemed appropriate.

ATTACHMENTS

1. Government Accountability Office (GAO) FraudNet Complaint Number 62678 received on May 20, 2015.
2. Investigative Activity Report (IAR) pertaining to the initial inquiry by the OIG Investigative Support Division (ISD) on July 10, 2015.
3. Memorandum from Gulf Islands National Seashore (GINS) in response to ISD inquiry dated July 15, 2015.
4. Certificate of Destruction from Wise Recycling, LLC listing the items that were collected for destruction from GINS dated July 22, 2015.
5. Documents from GINS (b) (7)(C) pertaining to the disposition of GINS personal property received on September 1, 2015.
6. IAR pertaining to the interview of (b) (7)(C) on September 1, 2015.
7. IAR pertaining to the interview of (b) (7)(C) on September 1, 2015.
8. IAR pertaining to the interview of (b) (7)(C) on September 1, 2015.
9. IAR pertaining to the interview of (b) (7)(C) (b) (7)(C) on September 1, 2015.
10. Documents from (b) (7)(C) regarding the disposition of GINS personal property received on September 2, 2105.
11. IAR pertaining to interview of (b) (7)(C) and (b) (7)(C) on September 1, 2015.
12. Document from Wise Recycling, LLC denoting the cumulative YTD amount remitted to GINS for property destroyed received on September 1, 2015.
13. IAR pertaining to the interview of (b) (7)(C) (b) (7)(C) on October 28, 2015.
14. IAR pertaining to the interview of (b) (7)(C) (b) (7)(C) on October 28, 2015.
15. IAR pertaining to the interview of (b) (7)(C) (b) (7)(C) on October 27, 2015.
16. IAR pertaining to the interview of (b) (7)(C) (b) (7)(C) on October 27, 2015.

OFFICE OF INSPECTOR
U.S. DEPARTMENT OF

REPORT OF INVESTIGATION

Case Title	Case Number
NPS MAMMOTH CAVE CONTRACT FRAUD	OI-GA-15-0030-I
Reporting Office	**Report Date**
Atlanta, GA	July 7, 2016
Report Subject	
Report of Investigation	

SYNOPSIS

The Office of Inspector General (OIG) initiated this investigation after receiving information from (b) (7)(C) of the National Park Service (NPS), who alleged that (b) (7)(C) of (b) (7)(C) Construction Company ((b) (7)(C) made false claims against the Government and provided false statements to validate those claims related to various contracted work at the Mammoth Cave National Park, Kentucky. Specifically, (b) (7)(C) alleged that (b) (7)(C) submitted certification of payments made to subcontractors that were never paid, or that were not paid in full (b) (7)(C) also alleged that (b) (7)(C) provided NPS with signed checks to prove that he had paid the subcontractors, but that the subcontractors never received those checks.

Our investigation did not uncover any evidence to indicate that (b) (7)(C) made false claims against the Government. We found that, in total, (b) (7)(C) submitted 29 individual certifications of payments to NPS indicating that they paid their subcontractors a total of $3,724,182.

We conducted a selected review of invoices and payments related to three subcontractors. (b) (7)(C) provided NPS with copies of 37 signed checks totaling approximately $808,761 as evidence of payments to these three subcontractors. We verified that the subcontractors received 36 of the 37 checks, but we were unable to verify payment for one check for approximately $4,870.

We confirmed that there were numerous instances in which (b) (7)(C) did not pay their subcontractors promptly according to Federal regulations, and found that (b) (7)(C) frequently did not request sufficient funds from NPS in an appropriate timeframe to pay their subcontractors in a timely manner.

We also confirmed that (b) (7)(C) did not pay some of their subcontractors all of the monies due to them. As a result of (b) (7)(C) failure to pay their subcontractors in full, their surety bonding company, Great

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /SAC	Digitally signed.

Authentication Number: 24AC9F42385EA2F66806D32F88A83FFD

American Insurance Company paid the subcontractors approximately $499,020 for work conducted on the Mammoth Cave National Park project.

We presented the findings of our investigation to the U.S. Attorney's Office in the Western District of Kentucky, but it declined to pursue the matter.

BACKGROUND

The National Park Service (NPS) awarded the (b) (7)(C)) a $6,005,455 construction contract on March 23, 2010 (**Attachment 1**). The purpose of the contract was to construct phase II of the visitors' center for the Mammoth Cave National Park (MCNP) in Mammoth Cave, KY (**Attachment 2**). (b) (7)(C) of (b) (7)(C) received a notice to proceed on June 28, 2010, with an original completion date of September 20, 2011 (**Attachment 3**).

Due to unanticipated problems with hazardous materials, (b) (7)(C) did not substantially complete the contracted work until August 31, 2012. This meant that the visitors' center was considered operational and without health and safety issues, but (b) (7)(C) had several minor requirements (such as hanging doors) that needed to be completed. The task was finished eight months later. With the exception of warranties not meeting the contract requirements, the work was completed to the satisfaction of the Government. Both parties agreed that NPS should deduct monies as consideration for the noncompliant warranties.

After the contract ended NPS owed (b) (7)(C) $500, but (b) (7)(C) did not submit an invoice or provide a release of claims. (b) (7)(C) refused to submit a release of claims to NPS indicating it was not paid $1,446,313 for a certified claim for equitable adjustment (**Attachment 4**). NPS did not pay the $1,446,313 because (b) (7)(C) did not provide the requested cost or pricing data to validate the claim (**Attachment 5**).

DETAILS OF INVESTIGATION

The U.S. Department of the Interior Office of Inspector General initiated this investigation after receiving information from an NPS employee on October 7, 2014 (**Attachment 6**). (b) (7)(C) , (b) (7)(C) , alleged that (b) (7)(C) made false claims against the Government and gave false statements to validate those claims. Specifically, (b) (7)(C) alleged that (b) (7)(C) submitted certified pay estimates for subcontractors that either were never paid or were not paid in full. She also alleged that (b) (7)(C) provided NPS with signed checks to prove that he had paid the subcontractors, but the subcontractors never received them.

During our investigation, we reviewed the original contract between NPS and (b) (7)(C) and 15 contract modifications that occurred over the life of the contract. We also reviewed 29 progress payment certifications prepared by NPS to pay (b) (7)(C) and 29 contractor certifications of payment prepared by (b) (7)(C) We randomly selected three of the larger subcontractors for review and examined the subcontracts, change orders, invoices, and the payments made by (b) (7)(C) to the subcontractors. We interviewed (b) (7)(C) and two employees from those companies, and also reviewed records from Great American Insurance Company (GAIC), a surety bonding company, pertaining to bond payments they made on behalf of (b) (7)(C) to settle debts from the MCNP project.

Certification of Payments to Subcontractors and Signed Checks Submitted as Proof of Payments

Between July 2010 and May 2013, (b) (7)(C) submitted 29 individual certified payment forms to NPS indicating that they paid 38 subcontractors a total of $3,724,182 (**Attachment 7**). (b) (7)(C), however, told us that when she (b) (7)(C) of the contract in 2010, she received a call from MCNP in reference to Miller Act letters from subcontractors concerning nonpayment by (b) (7)(C) (see Attachment 3). She later asked (b) (7)(C) why there were so many Miller Act requests and if he was paying the subcontractors according to the Federal Prompt Payment Act (PPA).

***Agent's Note**: Procedures under the Miller Act afford first tier subcontractors and suppliers a venue in U.S. District Court to file a claim for payment against the payment bond held by a prime contractor.*

According to (b) (7)(C) informed her that the subcontractors were paid in full as stated in his letter dated December 13, 2011 (**Attachment 8**). (b) (7)(C) provided copies of signed checks to (b) (7)(C) totaling $833,068 as proof of payments for payment application number 17 (b) (7)(C) also later submitted copies of signed checks for payment applications 20 and 22 totaling $1,362,819 and $315,969, respectively (**Attachment 9 and 10**). (b) (7)(C) told us that she found out (b) (7)(C) never mailed any of those checks to the subcontractors, and he did not notify NPS of any performance deficiency on the part of the subcontractors (see Attachment 3).

Sampling of Subcontractors Who Worked on the MCNP Project

We randomly selected three of the larger subcontractors for an in-depth review and questioned employees in reference to subcontracts, change orders, invoices, performances, and payments.

According to Federal regulations, each construction contract awarded by the Government must include a payment clause that obligates the prime contractor to either pay a subcontractor within 7 days upon receiving payment for satisfactory performance under its contract or notify the Government of the subcontractor's deficient performance (**Attachment 11**). Payments for performance that failed to conform to the specification, terms, and conditions of the contract constitute unearned amounts. The contractor is obligated to pay the Government an amount equal to the interest on the unearned amounts from the date the contractor received the unearned amounts until the Government is notified that the performance deficiency has been corrected.

CK Concrete Inc. (CK Concrete)

On April 23, 2010, (b) (7)(C) and CK Concrete entered into a contractual agreement in the amount of $89,000 (**Attachment 12**). (b) (7)(C) of CK Concrete, told us that CK Concrete had a labor-only contract with (b) (7)(C) to place and finish concrete for phase II of the MCNP project (**Attachment 13**). (b) (7)(C) said there were massive amounts of underground work that the engineers did not account for which resulted in several change orders and ultimately increased the final contract amount.

(b) (7)(C) stated that CK Concrete submitted invoices on or around the 25th of each month and the amounts were based on the scope of work completed. (b) (7)(C) said a 5% retainage fee was withheld by (b) (7)(C) on every invoice (b) (7)(C) told us that (b) (7)(C) was not paying anyone on time, and when (b) (7)(C) did pay, it only paid a percentage of what was owed. For example, CK concrete's first invoice in the amount of $43,150.71 was submitted on January 7, 2011. (b) (7)(C) said (b) (7)(C) paid him $20,767 (after retainage) on March 21, 2011.

(b) (7)(C) told us when he followed up with (b) (7)(C) on outstanding payments, (b) (7)(C) told him that he

had not receive payment from the Government. (b) (7)(C) said he kept working although he was not being paid because he (b) (7)(C) did not want to breach the contract. (b) (7)(C) also said he raised several concerns of nonpayment with (b) (7)(C). (b) (7)(C) was an employee of Alpha Construction who was hired by the Government to supervise the project (b) (7)(C) also spoke with (b) (7)(C), a MCNP employee, but he did not file a claim under the Miller Act.

(b) (7)(C) did file a breach of contract claim against (b) (7)(C) in June 2012, but (b) (7)(C) proclaimed that the grinding of the library floors provided by CK Concrete was deficient. (b) (7)(C) told us that (b) (7)(C) did not give him the opportunity to cure the deficiency. (b) (7)(C) said (b) (7)(C) owed him $25,000 at the time of breach of contract litigation, but ended up settling for just $8,500.

We collected CK Concrete's subcontract agreement and all the change orders for the MCNP project from (b) (7)(C). We also collected all of their invoices and payments and compiled a spreadsheet to reflect the financial transactions that occurred between (b) (7)(C) and CK Concrete from April 23, 2010 to October 9, 2012 (**Attachment 14**).

CK Concrete submitted 42 change orders for approximately $196,919 for the aforementioned period. The change orders combined with the original subcontract amount of $89,000 resulted in a final contract amount of approximately $285,919. CK Concrete submitted 15 invoices to (b) (7)(C) for approximately $313,230. We noted that the amounts of the invoices exceeded the final contract amount by $27,311. (b) (7)(C) was unable to explain the difference.

We found that (b) (7)(C) only requested $185,686 from NPS to pay CK Concrete. Additionally, we found that (b) (7)(C) frequently did not request sufficient funds from NPS in a timely manner to pay CK Concrete's outstanding invoices.

We also found that (b) (7)(C) made a number of partial payments to CK Concrete and the payments ranged from 28 to 146 days from the date of the invoice. (b) (7)(C) paid CK Concrete a total of approximately $266,740 of the $313,230 billed. Thus, an unpaid balance of $46,490 including a $13,478 retainage amount remained. We confirmed that CK Concrete accepted a check of $8,500, as a debt settlement from (b) (7)(C) on October 9, 2012.

Finally, we compared the checks that we received from CK Concrete to the copies (b) (7)(C) submitted to the NPS as evidence of payments. We confirmed that CK Concrete received payments for all of the checks that were submitted to NPS as proof of payments.

DDS Engineering PLLC

On April 23 2010, (b) (7)(C) and DDS Engineering entered into a contractual agreement in the amount of $11,210 (**Attachment 15**). (b) (7)(C) for Geotechnical and Construction Services at DDS Engineering, told us that DDS Engineering was hired by (b) (7)(C) to provide testing and inspection services on the MCNP's project (**Attachment 16**). (b) (7)(C) explained that contractors normally applied soil materials during the earthwork phase of construction projects. (b) (7)(C) said DDS Engineering was responsible for sampling/testing the soil for compactness, and for sampling/testing the concrete/masonry for compression strength.

According to (b) (7)(C), there were several amendments to the contract, and each time (b) (7)(C) poured concrete, a DDS Engineering technician was required to be on site. (b) (7)(C) stated that DDS Engineering used change orders at the beginning of the project, but the actual labor hours consistently

exceeded the estimated hours. He explained that the changes in the contract amounts were better verified through the invoices and daily field reports because a change order was not always used to reflect the additional cost.

told us that DDS Engineering billed on a monthly cycle, and invoices were calculated based on actual labor hours and unit costs said withheld 5% of DDS Engineering's invoice amounts as retainage, but there was no payment withheld or delayed for deficient performance. He added that DDS Engineering was expecting to be paid within 30 days, but that rarely happened. said whenever he asked about the outstanding invoices, told him he did not receive payment from the Government. stated that DDS Engineering was ultimately paid in full by GAIC.

We spoke to (b) (7)(C), who worked in Accounting/Payroll at DDS Engineering. She confirmed that DDS Engineering billed on a monthly basis for the MCNP project (**Attachment 17**). told us the invoices were submitted to on or around the 20th of every month. added that paid DDS Engineering approximately 60 days after being billed, but as the project progressed the lateness increased.

We collected DDS Engineering's subcontract agreement and all the change orders for the MCNP project. We also collected all of their invoices and payments, and compiled a spreadsheet to reflect the financial transactions that occurred between and DDS Engineering from April 23, 2010 to August 13, 2013 (**Attachment 18**).

DDS Engineering submitted 23 invoices totaling approximately $94,105 for the aforementioned period. We found that only requested a total of $49,507 from NPS to pay DDS Engineering. Additionally, we found that frequently did not request sufficient funds from NPS in a timely manner to pay DDS Engineering's outstanding invoices.

We also found that made numerous partial payments to DDS Engineering, and the payments ranged from 16 to 364 days from the date of the invoice. paid DDS Engineering approximately $69,784 of the $94,105 billed. The remaining balance of approximately $24,321 including a retainage amount of $3,571.86 was ultimately paid by GAIC.

Finally, we compared the checks that we received from DDS Engineering to the copies submitted to NPS as evidence of payments. We confirmed that DDS Engineering received payments for all of the checks that were submitted to NPS as proof of payments.

Professional Mechanical Contractors Inc. (PMCI)

On April 23, 2010, and PMCI entered into a contractual agreement in the amount of $754,060 (**Attachment 19**). We interviewed (b) (7)(C), who was the (b) (7)(C) of PMCI. told us that PMCI was founded in February or March 2008 by himself, (b) (7)(C), and (b) (7)(C) (**Attachment 20**) said that he and ran the company, while (b) (7)(C) dealt with the funding such as securing payment and performance bonds had been the (b) (7)(C) of PMCI for approximately years before it closed in December 2014. (b) (7)(C) received a salary, but (b) (7)(C) only received profit shares.

told us PMCI was hired by in late 2010 to perform mechanical heating, ventilation, and air conditioning (HVAC) work for the Mammoth Cave project. said although was a

partner of PMCI, PMCI was wholly independent of (b) (7)(C)

(b) (7)(C) said there were several change orders as the job progressed which ultimately changed the final contract amount. According to (b) (7)(C), PMCI submitted invoices to (b) (7)(C) on or around the 25th of each month and the amounts were based on percentage of work completion. (b) (7)(C) added that (b) (7)(C) withheld 10% of PMCI's invoice amounts as retainage.

(b) (7)(C) told us he started experiencing payment issues from (b) (7)(C) toward the end of the project and it was only the last three or four invoices that were not paid in a timely manner. (b) (7)(C) believed it took approximately six to eight months to receive those payments. (b) (7)(C) said that when he asked (b) (7)(C) about the outstanding invoices, (b) (7)(C) told him that he (b) (7)(C) had not received payment from the Government. (b) (7)(C) said that, although the last several payments were late, he did eventually receive the entire amount of monies due to PMCI.

We collected PMCI's subcontract agreement and all the change orders for the MCNP project from (b) (7)(C). We also collected all of their invoices/payments and compiled a spreadsheet to reflect the financial transactions that occurred between (b) (7)(C) and PMCI from April 23, 2010 to August 13, 2013 (**Attachment 21**).

PMCI submitted 14 change orders for approximately $79,023 during the aforementioned period. The change orders combined with the subcontract amount of $754,060 resulted in a final contract amount of approximately $833,083. PMCI submitted 18 invoices totaling approximately $871,832. We noted that the total amount invoiced exceeded the final contract amount by $38,749. (b) (7)(C) was unable to explain the difference.

We found that (b) (7)(C) requested a total of $873,886 from NPS to pay PMCI. Although (b) (7)(C) requests from NPS exceeded PMCI's invoices by $2,054, we found that (b) (7)(C) did not always request sufficient funds from NPS in a timely manner to pay PMCI's outstanding invoices.

We also found that (b) (7)(C) made numerous partial payments to PMCI, and the payments varied from 20 - 326 days from the date of the invoice. Even though (b) (7)(C) requested $873,886 from NPS to pay PMCI, they only paid approximately $787,570 of the $871,832 billed. GAIC paid an additional $43,114 on behalf of (b) (7)(C) but $41,148 remained unpaid.

Finally, we compared the checks that we received from PMCI to the copies (b) (7)(C) submitted to NPS as evidence of payments. We confirmed that PMCI received payments for all but one check that was submitted to NPS as proof of payments (check # 42654 in the amount of $4,870.65) (see Attachment 9 page 44).

Bond Payments by Great American Insurance Company (GAIC)

GAIC was the surety bonding company that (b) (7)(C) used for the MCNP project. We requested all documents related to (b) (7)(C) and the MCNP project from GAIC on April 13, 2016. We found that GAIC made 37 individual payments on behalf of (b) (7)(C) to subcontractors/vendors which totaled approximately $499,020 (**Attachment 22**).

Interview of (b) (7)(C)

We requested an interview with (b) (7)(C) but were notified on February 12, 2016, by his retained legal

counsel that (b) (7)(C) declined to be interviewed (b) (7)(C) legal counsel also told us that his client had pending litigation against NPS involving more than $1,000,000. At the time of this report, (b) (7)(C) litigation against NPS was assigned to the U.S Civilian Board of Contract Appeals.

SUBJECT(S)

(b) (7)(C) of (b) (7)(C). Construction Company

DISPOSITION

On February 12, 2015, we presented this case to the U.S. Attorney's Office in the Western District of Kentucky. The Affirmative Civil Enforcement (ACE) Division initially accepted the case for prosecution on March 25, 2015, but later declined the matter. The supporting Assistant U.S. Attorney (AUSA) told us that based on our findings, (b) (7)(C) late payments appeared to be poor business practices, but was not sufficient evidence to prove a violation of the False Claim Act (**Attachment 23**).

We are providing a copy of this report to the NPS for information only.

ATTACHMENTS

1. Final modification to contract No. P10PC76064, dated August 31, 2012.
2. The purpose statement of the MCNP phase II contract.
3. Investigative Activity Report (IAR) - Interview of (b) (7)(C) on January 8, 2015.
4. (b) (7)(C) letter of certified claim for final equitable adjustment, dated June 5, 2014.
5. NPS' response, dated August 1, 2014, addressing (b) (7)(C) certified claim for final equitable adjustment.
6. IAR - Complaint intake, on October 7, 2014.
7. Copies of pay estimates 1 through 29.
8. Copy of (b) (7)(C) letter, dated December 13, 2011, addressing payments to subcontractors for pay estimate no. 17 with signed checks to validate payments.
9. Copies of signed checks to validate payments for pay estimate No. 20.
10. Copies of signed checks to validate payments for pay estimate No. 22.
11. Copy of the 31 U.S.C § 3905 payment provisions relating to construction contracts.
12. Copy of the contractual agreement between (b) (7)(C) and CK Concrete dated April 23, 2010.
13. IAR - Interview of (b) (7)(C) on August 26, 2015.
14. A spreadsheet of CK Concrete's billings and payments.
15. Copy of the contractual agreement between (b) (7)(C) and DDS Engineering dated April 23, 2010.
16. IAR - Interview of (b) (7)(C) on December 15, 2015.
17. IAR - Interview of (b) (7)(C) on December 15, 2015.
18. A spreadsheet of DDS Engineering's billings and payments.
19. Copy of the contractual agreement between (b) (7)(C) and PMCI dated April 23, 2010.
20. IAR - Interview of (b) (7)(C) on August 26, 2015.
21. A spreadsheet of PMCI's billings and payments.
22. A spreadsheet of GAIC payments to subcontractors/vendors on behalf of (b) (7)(C)
23. Copy of the Assistant U.S. Attorney's declination letter, dated February 11, 2016.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
BOEM EMPLOYEE'S PRIVATE BUSINESS RECEIVED FEDRAL CONTRACT AWARDS	**OI-GA-16-0213-I**
Reporting Office **Atlanta Field Office**	**Report Date** **August 9, 2016**
Report Subject **Report of Investigation**	

SYNOPSIS

The U.S. Department of the Interior (DOI), Office of Inspector General (OIG), initiated an investigation into an allegation of a financial Conflict of Interest involving (b) (7)(C) (b) (7)(C) with the Bureau of Ocean Energy Management (BOEM) in New Orleans, LA. This case was initiated based on an anonymous complaint which alleged that (b) (7)(C) conducted his personal (b) (7)(C) business from his government office during BOEM working hours. In addition, the complaint alleged that one of (b) (7)(C) businesses, (b) (7)(C) (b) (7)(C) had been awarded several Federal government contracts by the U.S. Fish and Wildlife Service (FWS) and the U.S. Department of Agriculture (USDA).

We determined through a review of records and interviews that (b) (7)(C) did own and operate (b) (7)(C) and that he held contracts with the Federal government while a Federal employee, which was in apparent violation of federal law.

We found that (b) (7)(C) did report his outside employment with (b) (7)(C) to his supervisors as early as 2010 upon his entry to Federal service, and he also obtained written approval for this outside employment with them and through BOEM ethics officials. However, it was unclear the extent that (b) (7)(C) specifically reported to them that (b) (7)(C) held Federal contracts. The ethics officials who approved his outside employment at the time told us they did not know (b) (7)(C) company held any Federal contracts otherwise they would not have approved his request.

We confirmed that (b) (7)(C) held Federal contracts from before (b) (7)(C) hiring in 2010 through 2012; however, those contracts were no longer active.

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /RAC	Digitally signed.

Authentication Number: 5D42EE55D0CDD0B21771681EA74E4C99

As a result of being made aware of our investigation into this matter, BOEM ethics officials counseled (b) (7)(C) regarding representation prohibitions involving his employment with (b) (7)(C)

Additionally, we also found that (b) (7)(C) had been counseled by BOEM management regarding working on (b) (7)(C) matters during BOEM working hours.

The United States Attorney's Office was briefed on the facts of this case and it declined to seek prosecution of (b) (7)(C)

BACKGROUND

The Code of Federal Regulations (5 C.F.R. § 2634), requires all BOEM employees to seek prior written approval from ethics counselor via a conflict of interest waiver before engaging in outside employment. Further, a Confidential Financial Disclosure Report is required of designated employees within BOEM to avoid involvement in real or apparent conflict of interest.

Title 18, Section 203 of Federal Criminal Code (18 U.S.C 203) prohibits government employees from seeking, receiving, or soliciting compensation for representational services provided personally or by another before the Executive or Judicial branches of the Federal Government.

Title 18, Section 205 of Federal Criminal Code (18 U.S.C 205) prohibits government employees from engaging, with or without compensation, in the prosecution of any claim against the U.S., or receiving any gratuity, or share or interest in a claim for assisting in prosecution of the claim, or representing another before the Executive or Judicial Branches of the Federal government.

DETAILS OF INVESTIGATION

The U.S. Department of the Interior (DOI), Office of Inspector General (OIG), initiated an investigation into an allegation of a financial Conflict of Interest involving (b) (7)(C) (b) (7)(C), Bureau Ocean Energy Management (BOEM), New Orleans, LA **(Attachment 1)**. A review of Federal government contracts revealed several contracts had been awarded to (b) (7)(C) (b) (7)(C) which was owned and operated by (b) (7)(C) Several of those awarded contracts occurred after he became employed with BOEM in 2010.

A review of (b) (7)(C) employee records revealed that he had filed periodic Confidential Financial Disclosure Reports (OGE Form 450 or OGE Form 450-A) since becoming employed by BOEM in accordance with the bureau's policies and procedures. (**Attachment 2**). (b) (7)(C) first filed a Request for Ethics Approval to Engage in Outside Work or Activity (Form MMS-1510) in May, 2010 (**Attachment 3**). This request was for outside work with his personally-owned company, (b) (7)(C) and it was subsequently approved by his supervisor at the time, (b) (7)(C) and also the supporting Ethics (b) (7)(C).

We interviewed (b) (7)(C) who confirmed that he had engaged in outside employment and that his business had been awarded Federal government contracts (**Attachment 4**). (b) (7)(C) told us that he had submitted necessary approval and disclosure forms to engage in the outside employment, and that he never hid any of his business practices from BOEM. (b) (7)(C) believed he had complied with all reporting and approval requirements.

According to (b) (7)(C) he recently received counseling from his current ethics counselor, (b) (7)(C)

(b) (7)(C) advising him against pursuing or working on any Federal contracts through his privately-owned business, as this could amount to a violation of Federal statutes 18 U.S.C. 203 or 18 U.S.C. 205. (b) (7)(C) indicated he would not pursue any Federal contracts.

Outside Employment Approving Officials

We interviewed (b) (7)(C) Supervisor, Office of Leasing and Plans, Bureau of Ocean Energy Management (BOEM), (b) (7)(C), who was (b) (7)(C) supervisor at the time he requested outside employment **(Attachment 5)**. (b) (7)(C) recalled approving (b) (7)(C) request for outside employment and did not believe at the time that there was a conflict of interest with that employment due to the nature of the work. (b) (7)(C) said that she deferred the final approval for (b) (7)(C) outside employment request to the supporting ethics official at the time. (b) (7)(C) did not know that (b) (7)(C) personal contracts with the Federal government while a Federal employee could potentially be a violation of Federal law. She told us that if she was aware of the potential violation at the time she would not have approved his request.

(b) (7)(C) provided us copies of her email correspondence that show she received guidance about what supporting documents ethics officials would need in order to approve the MMS-1510 and who else would need to review the MMS-1510 and its supporting documentation before a final decision was made on the request for outside employment **(Attachment 6).** She received feedback, obtained required documentation, and forwarded the request to the appropriate officials for final determination.

We also interviewed (b) (7)(C) (b) (7)(C) Ethics (b) (7)(C) Bureau of Safety and Environmental Enforcement (BSEE), (b) (7)(C) who was the ethics (b) (7)(C) at the time of (b) (7)(C) request for outside employment (**Attachment 7**). (b) (7)(C) told us that she was unaware of the Federal contracts under (b) (7)(C) business and that had she known about the Federal contracts in 2010, she would have denied his request based on the potential violations of Federal statutes 18 U.S.C. 203 or 18 U.S.C. 205. (b) (7)(C) elaborated by saying that employees must provide appropriate documentation in their requests for outside employment and that both employees and supervisors are trained in these areas during their annual ethics training.

We spoke with (b) (7)(C) Ethics (b) (7)(C) for BOEM, who confirmed that she had verbally counseled (b) (7)(C) around February 2016 regarding his outside employment **(Attachment 8)**. She specifically informed (b) (7)(C) that he could have violated Federal statutes 18 U.S.C. 203 or 18 U.S.C. 205 when he held Federal contracts while concurrently a Federal employee. (b) (7)(C) said that (b) (7)(C) had stopped all Federal contracts associated with his business and that he provided assurances to (b) (7)(C) that he would not pursue any Federal contracts in the future.

Federal Contracts

We spoke with (b) (7)(C) (b) (7)(C) U.S. Fish & Wildlife Service (FWS), (b) (7)(C) (b) (7)(C) (b) (7)(C) who provided clarification to the contracts surrounding (b) (7)(C) specifically while (b) (7)(C) was a full-time federal employee for BOEM (Attachment 9). He provided a Financial and Business Management System (FBMS) printout highlighting the fact that (b) (7)(C) was awarded one contract prior to his employment with BOEM (2005), that required him to complete contractual obligations at a time in the future (2008, 2009, 2010, 2011) which was after he obtained federal employment.

(b) (7)(C) also clarified that approximately eight (8) purchase orders were awarded to (b) (7)(C) in 2011 and were subsequently paid out, de-obligated, or closed out in 2012. Additionally, (b) (7)(C) received approximately seven (7) payments for an approximate total amount of $24,000.00 during the time (b) (7)(C) was employed by BOEM through the various contracts and purchase orders with FWS.

(b) (7)(C) confirmed that the last contract or purchase order associated with (b) (7)(C) was closed out in 2013 and that there has been no activity associated with (b) (7)(C) since that time.

Using Government Resources to Conduct Personal Business

With regard to his use of government resources for personal business, (b) (7)(C) told us that he always tried to conduct his personal business after "working hours" of BOEM, and had only used a limited amount of time during business hours for personal business. (b) (7)(C) said that he checked a limited number of emails or answered a minimum number of personal calls during work hours at BOEM. (b) (7)(C) clarified that he did not conduct personal business at work every day, but only on rare occasions. He also explained that his personal (b) (7)(C) business was not something that required work every day, but that there were some contractual obligations over a period of time.

(b) (7)(C) said that he recently received a verbal counseling from his supervisor, (b) (7)(C) (b) (7)(C) for viewing emails not related to BOEM work products during BOEM work hours and had since complied with her directive.

We interviewed (b) (7)(C) current supervisor, (b) (7)(C) (b) (7)(C) (b) (7)(C) , Bureau of Ocean Energy Management (BOEM), (b) (7)(C) (**Attachment 10**). She confirmed that she previously saw a "document" on (b) (7)(C) computer monitor that was not related to BOEM official work products. After seeing the document, she verbally counseled (b) (7)(C) to not conduct personal work during BOEM work hours. (b) (7)(C) said that she sent (b) (7)(C) a follow up email documenting the verbal counselling.

(b) (7)(C) said that since that time (b) (7)(C) had complied with her directives.

(b) (7)(C) said she was aware of (b) (7)(C) approval for outside employment and was asked if she thought that there was, in any way, a conflict of interest. She said that she did not see a conflict of interest because his employment with BOEM involved (b) (7)(C) and his personal business handled only (b) (7)(C) . She said she could only see a potential conflict of interest if (b) (7)(C) conducted business directly with BOEM or any affiliates, customers or representatives of any entity affiliated with BOEM or its contracts. (b) (7)(C) could not recall a time when she was made aware of a conflict of interest concerning (b) (7)(C)

SUBJECT(S)

(b) (7)(C) , Bureau Ocean Energy Management (BOEM), (b) (7)(C) ,

DISPOSITION

We presented our findings the U.S. Attorney's Office in the Eastern District of Louisiana, which declined prosecution due to the lack of criminal intent and lack of significant federal loss. We are referring our report to BOEM for information only.

ATTACHMENTS

1. OIG Hotline Complaint No. E001042, dated December 27, 2015.
2. Confidential Financial Disclosure Reports (Form OGC 450) pertaining to (b) (7)(C) 2011 – 2015.
3. Request for Ethics Approval to Engage in Outside Work or Activity (Form MMS-1510).
4. IAR – Interview of (b) (7)(C), dated January 26, 2016.
5. IAR – Interview of (b) (7)(C) on June 2, 2016.
6. Copies of Emails from (b) (7)(C)
7. IAR – Interview of (b) (7)(C) on May 26, 2016.
8. IAR – Interview of (b) (7)(C) on May 26, 2016.
9. IAR – Interview of (b) (7)(C) on August 8, 2016.
10. IAR – Interview of (b) (7)(C) on January 26, 2016.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title Canaveral National Seashore	Case Number OI-VA-15-0067-I
Reporting Office Atlanta Field Office	Report Date October 16, 2015
Report Subject Final Report of Investigation	

SYNOPSIS

On October 28, 2014, the U.S. Department of the Interior, Office of Inspector General (DOI-OIG) received a complaint from former National Park Service (NPS) (b) (7)(C) alleging that employees at the Canaveral National Seashore (Canaveral) in Titusville, FL, were violating the Federal Acquisition Regulations (FAR) by making split purchases with their Government charge card to avoid micro-purchase limits, and essentially sole-sourcing with a select group of local vendors, some of which were not registered in the System for Award Management (SAM).

Our investigation found evidence of what appeared to be a series of split purchases executed by Canaveral's (b) (7)(C) (b) (7)(C) (b) (7)(C) in the outfitting of a law enforcement patrol vehicle in Fiscal Year 2014.

We also learned that Canaveral's Visitor's Entrance Fee Booth in the Playalinda District was completely overhauled through a series of micro-purchases, even though the total cost of this construction project exceeded micro-purchase thresholds. This was in direct contravention to proper acquisition procedures under the FAR.

Despite this finding, (b) (7)(C) (b) (7)(C) (b) (7)(C) as well as other maintenance employees, insisted that they were operating within the guidelines of the FAR and DOI Government charge card policy.

BACKGROUND

Applicable FAR and Charge Card Policies, in pertinent part:

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /RAC	Digitally signed.

Authentication Number: 53E79DA81D1A554B0A3F39B2B36E63AD

FAR 13.003(c) (2):

- Do not break down requirements aggregating more than the simplified acquisition threshold…or the micro-purchase threshold into several purchases that are less than the applicable threshold merely to – (i) Permit use of simplified acquisition procedures; or (ii) Avoid any requirements that applies to purchases exceeding the micro-purchase threshold.

FAR Definitions:

- "Construction" means construction, alteration, or repair (including dredging, excavating, and painting) of buildings, structures, or other real property. For purposes of this definition, the terms "buildings, structures, or other real property" include, but are not limited to, improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, cemeteries, pumping stations, railways, airport facilities, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels. Construction does not include the manufacture, production, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft, or other kinds of personal property.

- "Micro-purchase" means an acquisition of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold. "Micro-purchase threshold" means $3,000, except it means—
  (1) For acquisitions of construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), $2,000; and
  (2) For acquisitions of services subject to 41 U.S.C. chapter 67, Service Contract Labor Standards, $2,500.

Department of the Interior Integrated Charge Card Policy, 3.5 Purchase Limits:

- For non-warranted cardholders, the maximum single-purchase spending limit is as follows: $3,000 for supplies, $2,500 for services, and $2,000 for construction. Transactions must not be split into smaller purchases so that each order falls within the single-purchase limit. Purposely splitting a purchase may result in the cancellation of purchasing authority and disciplinary action. Repeated purchases over short periods of time may be considered splitting requirements.

Department of the Interior Integrated Charge Card Policy, 1.4.5.4, Managers, Supervisors and Approving Officials must:

- Review, sign and date cardholder statements of account and supporting documentation within 30 calendar days of the statement date. This signature is an indication of the supervisors' approval of all transactions as needed to support the office mission.

- Make sure employees are correctly trained in the proper use of the charge card.

- Watch spending patterns and vendor sources.

DETAILS OF INVESTIGATION

On October 28, 2014, the U.S. Department of the Interior, Office of Inspector General (DOI-OIG) received a referral from the Government Accountability Office which contained a complaint from (b) (7)(C) National Park Service (NPS) (b) (7)(C) alleging that employees at the Canaveral National Seashore (Canaveral) in Titusville, FL, were violating the Federal Acquisition Regulations (FAR). In [redacted] complaint, (b) (7)(C) alleged that employees were making split purchases to avoid micro-purchase limits while evading the formal contracting process, and only using a select group of vendors, some of which were not registered in the System for Award Management (SAM) **(Attachment 1)**.

(b) (7)(C) comprehensive complaint cited the FAR as it pertained to split purchases, procurement integrity and the definition of "construction." It also included copies of NPS Requisition Logs highlighting what she perceived to be irregular charge card transactions.

Agent's Note: *The OIG conducted an investigation at Canaveral in 2011 (Ref. OIG Investigation No. OI-VA-11-0371-I) consisting of almost identical allegations. That investigation uncovered evidence that* (b) (7)(C) (b) (7)(C) *violated the FAR, DOI policy, and other ethical violations in that he circumvented procurement regulations by splitting requirements of specific projects, also known as making "split purchases," in order to hire vendors directly and without competition. One of the vendors was identified as* (b) (7)(C) *and* (b) (7)(C) *company, which* (b) (7)(C) *hired directly. Moreover,* (b) (7)(C) *failed to maintain proper records concerning the selection process for these vendors. Despite a written request by OIG, NPS did not provide any response as to action taken regarding these findings.*

Policy and Background Discussion with Senior Level NPS Officials

Our initial step in this investigation was to interview NPS senior officials in the Southeast (SERO) and Northeast Regional Offices (NERO), and the Bureau Chief of Procurement in Washington, DC to obtain a greater understanding of the policies, procedures, and the overall culture regarding the Government charge card program and the facilitation and completion of maintenance projects in their respective regions and the bureau as a whole.

We interviewed (b) (7)(C) and (b) (7)(C) , and (b) (7)(C) for the SERO.

(b) (7)(C) estimated that a large number of the cyclic maintenance and repair/rehab projects are completed by using in-house maintenance personnel, day labor, temporary, or seasonal employees, and the procurement of supplies and materials with the Government charge card **(Attachment 2)**. He said it was a common practice and there was no rule that required them to do it one way or the other. (b) (7)(C) said the bureau did not condone split purchases or micro-purchases for construction projects; however, micro-purchases are an appropriate method for them to go out and get what they need.

Additionally, we asked (b) (7)(C) a series of questions regarding the bureau's response to the OIG referral following the prior investigation. (b) (7)(C) told us that he verbally counseled (b) (7)(C) and issued him a formal Letter of Warning regarding the ethical improprieties, and his purchase card privileges were

suspended for a period of time. (b) (7)(C) further stated that he could not definitively say that (b) (7)(C) was told to cease and desist from making micro-purchases to facilitate in-house projects because it was a common practice.

(b) (7)(C) stated that for any construction project costing more than $2,000, the Major Acquisition Buying Officer (MABO) must first be consulted to review the procurement strategy and identify any sourcing issues **(Attachment 3)**. He also acknowledged that it was inappropriate to knowingly use split purchases to facilitate construction projects.

(b) (7)(C) said the cost of the project should be known beforehand, and based on his experience, construction jobs are normally large dollar and it was difficult to have a project that will cost less than $2,000. He said if it looked like a project was completed by using micro-purchases…then it probably was.

(b) (7)(C) told us that each park was responsible for auditing at least one-third of their cardholders, and she was responsible for (b) (7)(C) cardholders in the region **(Attachment 4)**. (b) (7)(C) said Purchase Logs and DI-1's are supposed to be generated and maintained by the cardholder for every transaction, listing the transaction date, vendor identification, item description, purchase justification, and delivery date, and they should always be approved by a supervisor. She stated that the supervisor was responsible for reviewing the monthly statements and any questions or discrepancies should be addressed and resolved at their level.

(b) (7)(C), and (b) (7)(C) NPS - NERO in Philadelphia, PA told us that the Bureau's purchase card program was under the purview of the (b) (7)(C), the (b) (7)(C), in Washington, DC, and their respective charge card program was monitored by the region's comptroller's office under the supervision of (b) (7)(C) (b) (7)(C) and (b) (7)(C) (b) (7)(C) **(Attachment 5)**.

(b) (7)(C) said (b) (7)(C) and (b) (7)(C) monitor PaymentNet for any charge card irregularities and they would contact the cardholder and their immediate supervisor with any potential violations. She said she would only be contacted if it involved a contracting matter.

(b) (7)(C) said he would be "hard-pressed" to concur with (b) (7)(C) statement regarding the volume or frequency in which micro-purchases are used to complete maintenance and construction-related projects. (b) (7)(C) added that it would primarily depend on the skill set at the park level, technical considerations, and whether or not it was an emergency.

(b) (7)(C) said the only person that would notice any potential charge card abuse was the supervisor responsible for approving the monthly charge card statement. She said every purchase should be documented in the purchase log and accompanied by a receipt which is reviewed by the card holder's immediate supervisor.

(b) (7)(C) and (b) (7)(C) both concurred that they have not seen a great deal of construction work being performed by internal employees at the parks in their region other than basic repairs and routine maintenance.

(b) (7)(C), NPS/(b) (7)(C), stated that the parks will routinely do business directly within their gateway or immediate community thus creating an environment to operate

unethically, and micro-purchases are one of the ways this type of behavior can go undetected **(Attachment 6)**. (b) (7)(C) stated that a lot of the cyclical maintenance work is low dollar and employees at the park are probably just going out and getting what they need, swiping the card, and thinking nothing of it.

He said the issue was whether the task should have been a project or not, and that decision should be made at the park level. He also stated that the work being performed at a single location cannot be piecemealed out; if it takes place at the same location then it would be considered one project.

(b) (7)(C) said one of the issues with using charge cards as a method of procurement was that the transactions were subject to commercial codes, terms, and conditions versus the government's terms and conditions under a contracted procurement. (b) (7)(C) said when purchase cards are used for construction there is no vendor accountability or workmanship warranty.

(b) (7)(C) stated that when the government hires a contractor, the contractor accepts all risk and performance guarantees. Conversely, the government loses certain rights when the government uses charge cards. He said the banks will not get involved in any dispute as long as the card was used legally and appropriately.

Agent's Note: *None of the aforementioned interviews produced information that contradicted* (b) (7)(C) *assertion that the use of micro-purchases in construction-related projects did not provide NPS the same level of protections and project oversite as utilizing NPS established contracting mechanisms, procedures and processes.*

Review of PaymentNet Transaction Transcripts of Government Charge Card Holders at Canaveral National Seashore

We collected, prepared, and analyzed FPPS records and charge card transaction data identifying all of the Canaveral employees that had charge card authority; potential split purchases; transactions with third-party payment processors; transactions for items or services purchased from non-GSA suppliers such as Amazon; and, transactions with auction sites (i.e. eBay).

We identified 17 employees at Canaveral that possessed Government charge cards and had suspicious transactions and/or activity according to the aforementioned criteria.

OIG investigators visited Canaveral and collected and reviewed numerous documents, and conducted interviews with relevant personnel, including the complainant. Some of the interviews we conducted with administrative employees at Canaveral did not information relevant to the complaint, nor did they reveal any violations or wrongdoing.

We interviewed the complainant, (b) (7)(C) (b) (7)(C) who told us that (b) (7)(C) discovered that the procurement irregularities were still taking place after she reviewed FY2014 (b) (7)(C) **(Attachment 7)**. (b) (7)(C) said she was not well-versed in the FAR and she did not have firsthand knowledge that they were deliberately circumventing the FAR, and her conclusions were solely based on the expenditures she saw in the (b) (7)(C) .

(b) (7)(C) also stated that, as far as she knew, there was no action taken against the employees at Canaveral as a result of the prior OIG investigation and her FOIA request indicated that it had been

closed out. She stated that NPS officials said they provided the OIG with a letter of some kind but it did not appear to exist.

(b) (7)(C) (b) (7)(C) (b) (7)(C) and (b) (7)(C) Electronics

(b) (7)(C) provided the OIG with documents indicating that Canaveral completed a series of transactions totaling $12,460 with (b) (7)(C) of Cocoa, FL ((b) (7)(C) for what appeared to be the removal and installation of law enforcement equipment for a new patrol vehicle (see Attachment 1).

Our review discovered a series of transactions between (b) (7)(C) and (b) (7)(C) and Park Ranger (b) (7)(C) (b) (7)(C) during the outfitting of Canaveral's new law enforcement patrol vehicle in FY2014. In all, a sum of $6,840 was paid to (b) (7)(C) through a series of four separate transactions. According to (b) (7)(C) charge card statement, three of the transactions occurred on July 1, 2014, and a separate transaction was completed by (b) (7)(C) on August 11, 2014.

On July 1, 2014, (b) (7)(C) paid (b) (7)(C) $2,707 for emergency lights and equipment; $1,541 for a patrol vehicle center console; and, $200 to have the emergency lights and console removed from the old patrol vehicle. On August 11, 2014, (b) (7)(C) paid (b) (7)(C) a sum of $2,392 for labor, plus the installation of gun lock timers.

We were told that the new vehicle, a (b) (7)(C) pickup, was assigned to Park Ranger (b) (7)(C) ((b) (7)(C) (b) (7)(C) When we interviewed (b) (7)(C) she told us that she was instructed by (b) (7)(C) to contact (b) (7)(C) and get quotes for all of the law enforcement equipment and the labor **(Attachment 8)**. She also stated that she felt "hurried" because they had to use the funding within a certain time period. (b) (7)(C) said she and (b) (7)(C) created a list for all the equipment that would be installed and (b) (7)(C) emailed her separate quotes for the radios, lights, and labor **(Attachment 9)**.

(b) (7)(C) also told us that she was aware that the transactions were going to be handled separately but she did not know why. (b) (7)(C) said based on the emails and quotes she received from (b) (7)(C) she and (b) (7)(C) knew beforehand that the aggregate total was going to be around $7,000.

(b) (7)(C) told us that (b) (7)(C) had already taken possession of the vehicle and (b) (7)(C) was looking to have the bill settled and (b) (7)(C) was not available at the time **(Attachment 10)**. He said he did not know why the bill was being paid so late and (b) (7)(C) did not provide him with an explanation.

(b) (7)(C) of (b) (7)(C) told us that he could not recall why Canaveral received three separate bills to outfit one vehicle and he could not recall if the total price was ever discussed beforehand **(Attachment 11)**. (b) (7)(C) said he normally discussed what is going to be installed in the vehicle before he orders the equipment. He said he orders the equipment because he supplies the warranty in case of failure. He said once he has ordered and received the equipment and it is paid for, then he installs it.

(b) (7)(C) said the dates on the invoices probably represent when he submitted the bills for the equipment. He said he was not asked to bill them that way; it's just the way he bills all of his respective customers.

(b) (7)(C) said he normally bills the installation as one job, separate and apart from the procurement of the equipment. (b) (7)(C) reviewed the invoice for $2,392 and confirmed that the $2,300 labor charge

was for the entire installation job.

(b) (7)(C) said he was sure he would have provided Canaveral with a quote for the equipment and an estimate or quote for the labor and he was pretty sure that the aggregate total of the job was discussed at some point with (b) (7)(C)

(b) (7)(C) told us that he never knew or asked about the total cost of the job **(Attachment 12)**. (b) (7)(C) also stated that based on their relationship with (b) (7)(C) payment for the labor was not required upon delivery. He said he didn't question or ask for a breakdown of the labor hours, nor did he question as to whether (b) (7)(C) was marking up the cost of the equipment he purchased.

(b) (7)(C) was asked if Canaveral ever considered placing (b) (7)(C) under some type of formal contract and/or services agreement due to the volume of business he was doing with the park. He said it was never recommended to him and he was completely unaware of that option.

(b) (7)(C) told us that despite the transaction pattern it was not a deliberate attempt to split the purchases.

(b) (7)(C) Canaveral's (b) (7)(C) told us that he reviewed (b) (7)(C) transactions with (b) (7)(C) and he did not know why PaymentNet did not flag them initially. He also admitted that he simply missed them **(Attachment 13)**.

(b) (7)(C) said that in the past when it comes to outfitting law enforcement vehicles they normally purchased the equipment themselves and obtained quotes to have it installed. He said this way the equipment could be transferred to several vehicles throughout its life span. He said the park owns the equipment but they do not own the vehicles, and it was their responsibility to obtain the best price for the government. (b) (7)(C) added that he believed the amount of money spent in parts and labor to outfit the new vehicle in 2014 was excessive.

We also discovered a series of transactions by (b) (7)(C) with (b) (7)(C) and Magnum Electronics, Inc. (Magnum) for what turned out to be a comprehensive overhaul of Canaveral's law enforcement radio communication system, including but not limited to, the purchase and installation of base and repeater antennas; new radio equipment and accessories; and radio frequency reprogramming. The review further disclosed the appearance of a pattern of split purchases, and the overall cost of the project indicated that it probably should have been contracted out.

We interviewed (b) (7)(C) and (b) (7)(C) and learned that the simultaneous transactions that occurred on September 5, 2014 were for services provided at three separate locations on different dates **(Attachment 14)**. We also learned that (b) (7)(C) submitted the bills for payment at the same time.

Alleged Use of Micro-Purchases for Construction by Canaveral Maintenance Personnel

In her complaint, (b) (7)(C) also alleged that personnel in Canaveral's (b) (7)(C); specifically, (b) (7)(C), and (b) (7)(C) were using their Government charge cards to facilitate construction, or construction-related projects through micro-purchases. The complainant specifically identified transactions with Weaver Construction, Edgewater Screen, Coleman Plumbing, M2 Design & Signs, G&W Roofing, and Alfaya Properties as purchases that exceeded the threshold for construction ($2,000) and/or services ($2,500) (see Attachment 1).

We interviewed (b) (7)(C) (b) (7)(C) and (b) (7)(C) on two occasions regarding their charge card transactions and the allegations.

(b) (7)(C) told us that he mainly used his charge card for supplies and he maintained a DI-1 for every individual purchase **(Attachment 15)**. (b) (7)(C) said he was acutely aware of the micro-purchase thresholds that are stipulated in the FAR and he also described a split purchase as voluntarily dividing a purchase in order to "screw up" the threshold limits.

(b) (7)(C) said he has been in construction all of his life and defined construction as increasing a building's footprint. (b) (7)(C) stated that it was his opinion that a renovation is considered an improvement or upgrade and may not fall under the definition of construction.

When asked about the critical thinking or decision making involved to complete a project in-house versus a construction contract, he said the first criteria is to determine if they have the expertise and manpower available to do the job; and if the answer is yes, then they decide to do it in-house.

(b) (7)(C) stated that the transaction with Alfaya Properties on April 11, 2014 in the amount of $1,675 was for a storage room addition at the Playalinda District entrance station or fee booth. He said this was considered construction, but it was under the threshold and their decision to use Alfaya represented the best value for the government.

(b) (7)(C) said halfway through the project, it was decided that they would change the location of the cash register in the fee booth to face the incoming traffic, which required the construction of an additional wall. The cost of that project was $1,250 and he decided to use Alfaya for this task as well. (b) (7)(C) insisted that when he entered into the original contract with Alfaya in March 2014, this alteration was never considered as being part of the same project.

Agent's Note: *Alfaya also received a purchase order in the amount of $7,263 to replace all of the doors and windows at the fee booth. Based on documents provided by* (b) (7)(C) *there were no readily apparent issues with the integrity of the competitive contracting process.*

(b) (7)(C) told OIG investigators that he was responsible for making the purchases from Edgewater Screen and G&W Roofing **(Attachment 16).** He said the purchase for Edgewater Screen, LLC on August 28, 2014 in the amount of $2,230 was for the acquisition and installation of copper insect screens at the Seminole Rest House. He stated that the Seminole Rest House was a historical site and specifically required copper screening and there was only one vendor in the entire area that worked with copper screening.

(b) (7)(C) said the purchase from G&W Roofing on August 14, 2014 in the amount of $1,500 was for the purchase and installation wooden shingles for the Seminole Rest House. He said a particular type of shingle was required in order to maintain its' historical significance. (b) (7)(C) also stated that the second purchase from G&W Roofing on September 4, 2014 in the amount of $1,950 was for services to repair a leak in the roof at the Eldora State House, which was also a historical site.

(b) (7)(C) stated that you simply do not find contractors in the Titusville area that can do all of these tasks, and the ones listed in the SAM normally have to travel to Titusville creating additional expenses and making it difficult to enforce a warranty if necessary.

(b) (7)(C) said he didn't consider these types of services as construction, nor did he consider a repair/rehab or cyclic maintenance job as construction by definition. He told us that he defined construction as building an entire structure or at the very least a room addition to a building.

(b) (7)(C) said Canaveral keeps repair/rehab, cyclic maintenance, and historic preservation tasks in-house "as much as possible".

When we first interviewed (b) (7)(C) he told us that cyclic maintenance consisted of routine maintenance of facilities; that repair/rehab is the rehabilitation of the infrastructure; and that construction is considered a line-item project such as building something from the ground up **(Attachment 17)**.

We asked (b) (7)(C) to explain the decision-making process that his division implemented when deciding to complete a construction project. (b) (7)(C) stated that the primary factors were cost, the availability of in-house expertise or skill, and whether it is an emergency.

(b) (7)(C) stated that when they decide to use micro-purchases, they perform a comprehensive market analysis by contacting vendors for price comparisons for goods and services. He said they also try to utilize multiple sources and consult the GSA Supply Schedule depending on the item.

We then asked (b) (7)(C) to explain a series of transactions that were specifically cited in the most recent OIG complaint.

(b) (7)(C) stated that in March 2014, Weaver Construction removed a building from a slab for a cost of $2,100. (b) (7)(C) determined it was a service and did not exceed the micro-purchase threshold and therefore was permissible.

We then referenced the transaction with Coleman Plumbing. (b) (7)(C) explained that Feller's House had a septic or aerobic sewer system and the State of Florida mandates that they first obtain a permit to operate the system; and secondly, Volusia County chooses the vendor for the maintenance services contract for the system. He said the selection is done through a lottery system from registered vendors to avoid having one plumbing company monopolize all of the agreements. (b) (7)(C) said that the state chose (b) (7)(C) as the contractor for the aerobic maintenance agreement.

He also pointed out that the Schultz House and El Dora State House also have aerobic septic sewer systems and the state selected a different maintenance agreement vendor for those locations as well.

We then discussed the series of multiple transactions with M2 Design & Signs (M2). (b) (7)(C) said that NPS Headquarters had allotted them $61,000 in PMIS funding to replace all regulatory signage throughout Canaveral. He said the cost was based on labor, supplies, and materials projections and he had oversight of the entire project.

He stated that each individual transaction was for a separate project paid out of separate accounts. He said the $8,800 in transactions listed in the allegation was only a portion of the total project and they actually ended up returning money to the bureau at the end of the fiscal year.

(b) (7)(C) said he did not know how much of the actual project was completed by M2 and pointed out that there were several other vendors used as well. (b) (7)(C) said the project could not have been done by using one vendor because there was no way they could have anticipated when a particular sign was

going to be needed in a particular area of the park. He said they purchased signs from eight different companies on an as-needed basis.

(b) (7)(C) further stated that there were costs associated with this project that rose above the threshold and they were put out to bid. (b) (7)(C) provided us with documentation to support the purchase of a large concrete sign for the Apollo Visitor's Center. He said it was considered construction and was actually contracted out.

When asked about Alfaya properties, (b) (7)(C) confirmed what (b) (7)(C) had told us and provided us with the entire bid packet for every task involved with the renovation of the fee booth in the Playalinda District (**Attachment 18**). The documents consisted of quotes, DI-1's, and a comprehensive list of completed work orders and correlated costs documented in the Facility Management Software System (FMSS). The cumulative cost of the micro-purchases associated with the project was $11,808, and the contracts totaled $11,383; thus bringing the overall cost of the project to $23,191.

A review of the documents indicated that Canaveral solicited and received three bids for the construction of the storage room and Alfaya was the lowest at $1,450. (b) (7)(C) insisted that all of the work done by Alfaya at this one location could not be considered one in the same job due to the fact that the contract was awarded through a bid, and the other smaller tasks were within the micro-purchase threshold for services **(Attachment 19)**.

(b) (7)(C) said (b) (7)(C) performed some of the work himself, and pointed out that they proceeded to get quotes even for tasks that were beneath the threshold. He said this was the most cost-effective way to get it done and he did not feel as if he violated the FAR. (b) (7)(C) said he never sought a quote for the entire project because he was not required to.

(b) (7)(C) said it would have been more expensive if they hired a contractor to complete all of the work that was done at the fee booth, and they issued a contract for the window replacement because that was the only task associated with this project that needed one. (b) (7)(C) stated that the contract to replace the windows and doors was awarded through a competitive bid and Alfaya did not receive an unfair advantage.

(b) (7)(C) said the matter was discussed with their management team and the fee operations personnel, and the project met with the approval of (b) (7)(C). He also stated that the regional office did not have any input on the project because it was not required.

(b) (7)(C) said they never had the intention of doing everything they did to the building at one time **(Attachment 20)**. He said the intention was to clean up the building and repaint it and he originally presented the project to (b) (7)(C) with the intention of doing everything in-house.

(b) (7)(C) said that there were never any discussions regarding developing a statement of work or getting the work done through a contract. He said they only considered using a contract when they decided to replace all of the doors and windows.

(b) (7)(C) said they were saving the government money by doing most of the work in-house and (b) (7)(C) approved every single transaction. He also said (b) (7)(C) was aware of what he was doing and he was trying to get it done one piece at a time so that they wouldn't disrupt the operations at the fee booth.

He said never intended to split anything to get under any threshold, and when the project took place it never occurred to him that he was doing anything wrong. In light of the prior investigation, he was told by (b) (7)(C) that they have to be completely transparent and ensure they are following the rules explicitly.

Canaveral (b) (7)(C) told us that (b) (7)(C) collects the monthly charge card statements and supporting documentation from all of the division chiefs and presents them to her to review and sign **(Attachment 21)**. She said her role is to review them for accuracy and she looks for irregularities such as split purchases.

When we reviewed (b) (7)(C) charge card activity with her, she said since the prior OIG investigation they should have looked at the tasks "holistically." She said that when she reviewed statements she made sure that they did not exceed the thresholds and in hindsight, the outfitting of the vehicle should have been done differently taking everything into consideration.

(b) (7)(C) said the employees at Canaveral are doing their due diligence and they had no bad intentions. She recalled that, at one point, (b) (7)(C) raised the question as to whether (b) (7)(C) was overcharging the government; however, no further action was taken following that conversation.

When asked about (b) (7)(C) spending patterns during the communications overhaul, she said all aspects of this project were completed under the guidance of NPS headquarters in Washington, DC, and they even recommended the vendor. She also admitted that she did not catch the same-day transactions in (b) (7)(C) statement during that billing cycle.

(b) (7)(C) confirmed that she had asked (b) (7)(C) to perform an assessment of the fee booth in the Playalinda District and it was determined that it was an unattractive and uncomfortable place to work and it needed to be renovated.

She said (b) (7)(C) provided her with a binder which included a breakdown of what needed to be done and his assessment documented most of the tasks that were listed in the market analysis. She said the assessment did not include some things, such as the addition of the storage room.

(b) (7)(C) said they looked at the project and decided that some of the tasks would have to be completed through a contract, and others could be completed using maintenance personnel.

(b) (7)(C) said she did not expect everything to be done at once because there was no money available. She said they looked at the project holistically and then identified and prioritized the tasks that they could complete internally.

(b) (7)(C) said the fee booth project was not submitted as a PMIS project, and the fee program was used as a source of funding for this project along with some ONPS or base funding.

We reminded (b) (7)(C) that the FAR specifically prohibits the breaking down of requirements, and that was also one of the allegations that were addressed in the OIG's prior investigation. (b) (7)(C) insisted there was nothing wrong with the way they decided to complete the project and they went "above and beyond" by obtaining three quotes for tasks that did not exceed the micro-purchase thresholds. (b) (7)(C) further stated that every park in the service maintains personnel that are capable of painting, carpentry, and building repairs and if they decided to contract everything out then they would have no need for these employees.

(b) (7)(C) said that a thorough cost analysis should be performed before a decision was made, and went on to say that even if she had the funding to do the entire fee booth project she still would have first considered the most cost effective way. She said she would have consulted with their MABO and asked if it was more fiscally prudent to hire a contractor and several sub-contractors versus doing it their way. She said she believed that the MABO would have approved of their course of action.

Lastly, we interviewed (b) (7)(C), Everglades National Park in Homestead, FL **(Attachment 22)**. We explained the circumstances regarding the renovation of the Playalinda Fee Booth at Canaveral. (b)(7)(C) said it was common for some parks to purchase the materials and perform the labor in house if they have the personnel and that he would not have had any knowledge of what they were doing at Canaveral unless his office received the [contracting] action. (b)(7)(C) stated that his office had absolutely no exposure to micro-purchases taking place at the park level.

He went on to say that if it was considered one project then it should have been submitted to his office and the region under the PMIS provisions. He also stated that the park also had the option of having his office purchase the materials and the park could use day labor to perform the task.

(b)(7)(C) told OIG that, based on what was described to him regarding how Canaveral handled the fee booth renovation, the project sounded like "poor planning." He said from his perspective, if you're doing individual projects at the same building at the same time then it could be one project and they should have foreseen the need to rehabilitate the entire building.

Agent's Note: *(b)(7)(C) statements supported (b) (7)(C) assertion that the use of micro-purchases in construction related projects do not provide NPS the same level of project oversite as utilizing NPS established contracting mechanisms, procedures and processes.*

SUBJECT(S)

(b) (7)(C), Canaveral National Seashore, NPS

(b) (7)(C), Canaveral National Seashore, NPS

DISPOSITION

The findings of this investigation will be referred to the NPS for any action deemed appropriate.

ATTACHMENTS

1. Complaint from (b) (7)(C) dated October 22, 2014, received through the U.S. Government Accountability Office on October 28, 2014.
2. IAR – Interview of (b) (7)(C) on November 24, 2014.
3. IAR – Interview of (b) (7)(C) on November 12, 2014.
4. IAR – Interview of (b) (7)(C) on November 19, 2014.
5. IAR – Interview of (b) (7)(C) and (b) (7)(C) on December 10, 2014.
6. IAR – Interview (b) (7)(C) on December 11, 2014.
7. IAR – Interview of (b) (7)(C) on January 12, 2015.
8. IAR – Interview of (b) (7)(C) on February 17, 2015.

9. Documents provided by (b) (7)(C) regarding the installation of emergency responder equipment for a law enforcement vehicle including but not limited to, quotes and emails with (b) (7)(C), Owner of (b) (7)(C).
10. IAR – Interview of (b) (7)(C) on February 17, 2015.
11. IAR – Interview of (b) (7)(C) on February 17, 2015.
12. IAR – Interview of (b) (7)(C) on February 17, 2015.
13. IAR – Interview of (b) (7)(C) on February 17, 2015.
14. IAR – Interview of (b) (7)(C) on January 15, 2015.
15. IAR – Interview of (b) (7)(C) on January 14, 2015.
16. IAR – Interview of (b) (7)(C) on January 14, 2015.
17. IAR – Interview of (b) (7)(C) on January 14, 2015.
18. Documents provided by (b) (7)(C) regarding the micro-purchase transactions referenced in this investigation.
19. IAR – Interview of (b) (7)(C) on February 18, 2015.
20. IAR – Interview of (b) (7)(C) on February 18, 2015.
21. IAR – Interview of (b) (7)(C) on February 18, 2015.
22. IAR – Interview of (b) (7)(C) on March 24, 2015.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Collusion and Misconduct by Presidio Trust Employees	**OI-CA-16-0131-I**
Reporting Office	**Report Date**
Sacramento, CA	**July 20, 2016**
Report Subject	
Report of Investigation	

SYNOPSIS

In late July 2015, the U.S. Department of the Interior (DOI) Office of Inspector General (OIG) received a congressional complaint letter from Congresswoman Jackie Speier, U.S. Representative for California's 14th Congressional District, alleging that Presidio Trust (Trust) employees improperly influenced the Trust's decisions during the evaluation of proposals to build a cultural facility in the Mid-Crissy area of the Presidio in San Francisco, CA. Based on internal Trust emails obtained from a Freedom of Information Act (FOIA) request, the complaint alleged that Trust employees privately ruled out filmmaker George Lucas' proposal before the bidding process had begun, plotted against Lucas' bid throughout the evaluation process, and colluded with the Golden Gate National Parks Conservancy by encouraging that organization to submit a proposal. Congresswoman Speier requested that OIG investigate whether any Trust employees engaged in misconduct, the Trust's bidding process was fair and followed relevant policies and procedures, and the Trust had sufficient safeguards to prevent the alleged misconduct from occurring in future contracting processes.

We did not substantiate the allegations against the Trust employees. The Trust followed its project policies and procedures, published all project documentation on its official website, and sought public input throughout the process. Lucas' proposal failed to meet the Mid-Crissy Area Design Guidelines (Guidelines), which were published in the request for concept proposals and request for proposals as well as on the Trust's public website. The board notified Lucas it would not select his project if his proposed building did not conform to the Guidelines. Further, the employee emails collected during the FOIA process were revealed after the board canceled the project; the board, therefore, was unaware of the negative comments between the Mid-Crissy project manager and the contracted advisor until after it had rendered its decision. The project manager subsequently resigned from her position at the Trust and the advisor's contract ended when the project was canceled. We referred this report to the Presidio

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Trust for information only.

BACKGROUND

Presidio Trust

The Presidio Trust's (Trust) key partners are NPS and the nonprofit Golden Gate National Parks Conservancy (GGNPC). The Trust is managed by a seven-member board of directors. The President of the United States appoints six members of the board, and the Secretary of the Interior designates the seventh member.

Federal laws and regulations governing procurement by Federal agencies, including the Federal Acquisition Regulations, do not apply to the Trust. Instead, the Presidio Trust Act mandates that the Trust obtain "reasonable competition" before entering into leases and other use and occupancy agreements with third parties (**Attachment 1**). The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities to carry out its duties. In 2013, the Trust became financially self-sustaining, as mandated by Congress.

DETAILS OF INVESTIGATION

In late July 2015, DOI OIG received a complaint letter from the office of Congresswoman Jackie Speier, 14th District, CA, alleging that Trust employees improperly influenced the Trust's decisions during the evaluation of proposals to build a cultural facility in the Mid-Crissy area of the Presidio in San Francisco, CA (**Attachment 2**). Based on internal Trust emails obtained from a Freedom of Information Act (FOIA) request, the letter alleged that two Trust employees—former Trust Project Manager (b) (7)(C) and contracted advisor (b) (7)(C) —privately ruled out filmmaker George Lucas' proposal before the bidding process had begun, plotted against Lucas' bid throughout the evaluation process, and colluded with GGNPC by encouraging it to submit a proposal. Congresswoman Speier requested that OIG investigate whether—

- any Trust employees engaged in misconduct;
- the Trust's bidding process was fair and followed relevant policies and procedures; and
- the Trust had sufficient safeguards to prevent the alleged misconduct from occurring in future contracting processes.

In 2010, Lucas presented the Trust board with an unsolicited conceptual proposal to build a digital arts museum, which would house Lucas' digital arts collection, on the Mid-Crissy site. While Lucas' proposal had no drawings because he wanted to hold an international competition for the final building design, the proposed building concept was an ornate Beaux-Arts architecture.[1] The Trust was not offering the Mid-Crissy site at that time, but it notified Lucas that it would solicit and evaluate any proposals through a competitive process. Lucas Project Manager (b) (7)(C) told us that, because Lucas had successfully navigated the competitive and historic review processes to build the Letterman Digital Arts Center on Presidio grounds, they felt comfortable with the process (**Attachment 3**).

[1] A French style of architecture that influenced American architecture from 1880 – 1920. The San Francisco War Memorial Opera House, constructed in 1932, is an example of Beaux-Arts architecture. Characteristics include a flat roof, arched windows, arched and pedimented doors, statuary, and classical architectural details. *Source:* https://en.wikipedia.org/wiki/Beaux-Arts_architecture

Former Trust Executive Director (b) (7)(C) said that the Trust had learned from a failed project that damaged its credibility with the public that the best way to earn and keep the public trust was to adhere to a competitive process for new projects, seek public participation, and provide transparency regarding Trust actions and decisions. In the case of the failed project, the Trust had created guidelines after accepting the project proposal. For the Mid-Crissy project, the Trust gathered input from NPS, the National Trust for Historic Preservation, and the public to develop the Mid-Crissy Area Design Guidelines prior to reviewing any proposals for the Mid-Crissy site (**Attachment 4**). (b) (7)(C) told us that the Guidelines indicated appropriate architectural parameters for the site and were met with enthusiasm and support by the Trust staff and community stakeholders (**Attachment 5**).

According to Chief of Strategy and Communications (b) (7)(C), the Trust wanted to generate enthusiasm and wide participation from as many proponents as possible to gather the best project ideas because it had been entrusted with ensuring the best use of the public land (**Attachment 6**). In December 2011, the Trust published the Guidelines on its official website and hired (b) (7)(C) to assist with the project solicitation and evaluation processes (**Attachments 7 and 8**).

The Trust ensured that the project solicitation and selection process was fair and transparent by holding public meetings, setting clear guidelines and goals, seeking competition, and deliberating in a public setting (see Attachment 6). At the outset, the board explicitly reserved the authority to not accept any proposals and suspend the project (**Attachment 9**).

The Trust initiated the request-for-concept-proposal (RFCP) process in November 2012 by advertising the project on its website, in press releases, and through presentations at conferences that (b) (7)(C) and (b) (7)(C) conducted (see Attachment 6 and **Attachment 10**). The Trust actively sought proposals from entities other than Lucas to ensure a robust competitive process (see Attachment 4). There was no particular emphasis to solicit a proposal specifically from GGNPC. According to DOI-designated board member John Reynolds, contacting GGNPC to gauge its interest in the project would have been "perfectly legitimate" and aligned with the Trust's goal of reaching potential bidders and obtaining the best proposals from which to choose (see Attachment 9).

Using the goals stated in the RFCP and the Guidelines to review and evaluate the proposals, the Trust board winnowed the submissions received in response to the RFCP from 16 to 5. The Trust board interviewed the five semifinalist proponents, including Lucas, and selected three finalists, again including Lucas (see Attachments 6, 10, and **Attachments 11 and 12**). The Trust issued a request for proposals directed only at the three finalists on May 2013 (see Attachment 12).

In September 2013, Middleton removed (b) (7)(C) from the Mid-Crissy project manager position based on a complaint of a board member and others that (b) (7)(C) was not as objective as she should be (see Attachment 4). (b) (7)(C) allegedly told museum directors at a conference that the Trust did not want Lucas' project; one of the attending museum directors later relayed this comment to Lucas' "front person," (b) (7)(C) (see Attachment 3). Although Middleton did not believe that (b) (7)(C) personal opinion of the Lucas proposal affected how she conducted the process, he felt that even the hint of bias was sufficient cause to remove her (see Attachment 4). Later in September 2013, the Trust received and posted the three final proposals, and the finalists publicly presented and answered questions.

The Trust board met with the finalists to provide feedback about the strengths and weaknesses of each of their proposals. Several Trust staff members described the Lucas team as being the least responsive

and cooperative of the three finalists, believing the Lucas team delayed providing building schematics because they knew that the building height exceeded the limit stated in the Guidelines (see Attachments 4 and 6). (b) (7)(C) acknowledged that the renderings of the proposed Lucas museum had probably been submitted late because the team felt that the Trust did not want the project at the Mid-Crissy site (see Attachment 3).

The Trust board and staff met with Lucas' team twice as often as they met with the other two finalists because of the "recalcitrance of the Lucas folks to consider the information . . . [the Trust's] requirements". Reynolds stated that Lucas was "not amenable in any way" to addressing the issues identified by the board and completely ignored the board's suggestions. He felt that the other two finalists were not only receptive, but anxious to incorporate the board's suggestions regarding their projects (see Attachment 9).

In November 2013, the board extended the deadline for finalized proposals to mid-January 2014, because the Lucas team had not submitted the finalized project plans in time (Attachment 7). The public criticized the Trust for what it perceived as a bias in favor of Lucas due to the additional time allowed for Lucas to produce his building plans (see Attachment 4).

Lucas was inflexible and unwilling to modify the architecture to meet the Guidelines, which limited building height in the Mid-Crissy area to 45 feet and stated that the architecture must be compatible with the setting. Lucas' 65-foot building would have obscured the view of the Golden Gate Bridge from the Presidio main post and other public areas (see Attachment 6). The ornate style of the building also concerned the board members, who believed the architectural style was inappropriate for the Presidio and would not pass the historic review process (see Attachment 4).

(b) (7)(C) acknowledged that the building proposal was a reaction to the Trust's rejection of Lucas' idea to hold an international architectural competition for the design of his museums (see Attachment 3). He admitted there was "no doubt" that the Lucas team tried to exceed the building height limit, but he felt that the building itself incorporated elements from other buildings at the Presidio. After the initial proposal was rejected, the Lucas team hired a second architect and the Trust gave the firm building designs that met its specifications. (b) (7)(C) felt that the Trust wanted Lucas to pay for a museum that they designed, but said Lucas was not willing to pay $300 million for what Trust Acting Executive Director Michael Boland wanted. The board offered Lucas an alternate site in the Presidio where he would have fewer restrictions on the building, but Lucas did not respond to the offer (Attachments 4, 6, and 9).

In January 2014, NPS sent the Trust a letter encouraging it to delay action on the Mid-Crissy project and to reject any project that did not meet the Guidelines (**Attachment 13**). Other foundations and associations that were already investing money in the Presidio also recommended that the board defer making any decisions about the project at that time (see Attachment 7).

(b) (7)(C) told us that Lucas' team launched a campaign to convince local politicians and high-powered business people that his project was "the best, perfect thing" for San Francisco; Lucas hoped the external pressure would sway the Trust to select his project (see Attachment 3). Middleton felt that the "political stakes were quite high" on this project because Lucas pressured the Trust to do what he wanted through his influential supporters, including California Senator Dianne Feinstein, San Francisco Mayor Ed Lee, and California Governor Jerry Brown (see Attachment 4). (b) (7)(C) noted that

it probably had been the wrong decision to create pressure from outside the process to try to change the minds of the board members and commented that it didn't work (see Attachment 3).

The board announced its decision not to proceed with any of the proposals at a press conference on February 3, 2014 (**Attachment 14**). (b) (7)(C) believed that Lucas had "compelling" personal reasons to want his project on the Mid-Crissy site, but his proposed museum's lack of connection to the Presidio and the non-conforming architectural style created an impasse between Lucas and the board (see Attachment 6). Reynolds stated that, of the three finalists, the board had favored the Lucas proposal, but did not award the project to Lucas because his building failed to meet the Guidelines (see Attachment 9).

(b) (7)(C) felt that the Trust "bent over backwards" to accommodate Lucas and that it had been his "project to lose" (see Attachment 5). Middleton believed that the Trust had gone as far as it could to accommodate Lucas while still keeping the process fair for the other proponents. In the end, the board voted unanimously against the project (see Attachment 4). The board also voted unanimously to postpone the project indefinitely; it had publicly stated from the beginning that if no proposal was deemed acceptable for the site, it would not go through with the project (see Attachment 6).

On February 10, 2014, the Trust received a FOIA request regarding the project evaluation process (**Attachment 15**). Trust FOIA Officer (b) (7)(C) told us that Lucas supporters made the FOIA request for internal Trust communications and believed that the underlying reason was to prove that the Trust had decided prematurely and unfairly to reject Lucas' proposal (see Attachment 11).

(b) (7)(C) believed that the FOIA response documents actually showed that the Trust board had "gone out of its way" to accommodate Lucas, even providing board members' personal emails, which were not subject to FOIA requests. Within the approximately 37,000 emails gathered by (b) (7)(C) was a short series of emails sent between (b) (7)(C) and (b) (7)(C) which he felt undermined the transparency of the proposal evaluation process—a process he described as the most open, honest, and scrupulous process he had witnessed during his 17-year tenure with the Trust (**Attachment 16**).

In one email, (b) (7)(C) commented that the Lucas building would "NEVER" (emphasis in original) be built (**Attachment 17**); (b) (7)(C) felt that, while perhaps the sentiment may have been inappropriately communicated, the statement accurately reflected (b) (7)(C) experience and knowledge of Trust projects and the Guidelines (see Attachment 6). He stated that, in reality, the proposed Lucas project would never have been approved by the board for the Mid-Crissy site because it did not meet the Guidelines. He added that (b) (7)(C) had taken no actions to "thwart or sabotage" the Lucas project and that she was not a decision maker at the Trust. (b) (7)(C) admitted to sending a couple of "irritated or snarky" remarks, but she did not believe the email exchange contained anything of major significance (see Attachment 5). She added that her input's effect on the board was next to nothing. She added that no one was privy to her emails to (b) (7)(C) and comments regarding the Lucas project until the FOIA response was released, months after the board's decision to cancel the project.

Middleton also believed that the emails—which he categorized as a "gossip session" between two individuals—had no effect on the board's final determination because it had rendered its decision to postpone the project months before the emails were revealed (see Attachment 6). He attributed (b) (7)(C) comments to (b) (7)(C) to a lapse in judgment, reflecting his exasperation with the Lucas team's lack of responsiveness throughout the process. While the email exchange had not violated any specific

Trust policy, their existence created an embarrassment for the Trust and the potential to generate questions about the fairness and integrity of the process (see Attachments 4 and 6).

Reynolds commented that the board was "not reticent at all to reach its own opinions and conclusions". He emphasized that (b) (7)(C) and (b) (7)(C) email exchange had no effect on the board's decision making process because the members made their own decisions, remained unaware of the comments at the time, and adhered to the Guidelines (see Attachment 9).

We attempted to contact the five members of the Presidio Trust board who were appointed by the president and were members during 2012 through 2015—William R. Hambrecht, Charlene Harvey, Paula Collins, Alex Mehran and Nancy Hellman Bechtle. Harvey, Collins, and Mehran stated that (b) (7)(C) and (b) (7)(C) derogatory comments did not affect their decisions (**Attachments 18, 19, and 20**). (b) (7)(C) and (b) (7)(C) did not respond.

In the spring of 2015, (b) (7)(C) resigned from her position at the Trust (see Attachment 5). (b) (7)(C) contracted employment with the Trust ended when the board canceled the Mid-Crissy project (see Attachment 6).

SUBJECT(S)

(b) (7)(C), former Public Affairs Officer and Mid-Crissy Project Manager, Presidio Trust
(b) (7)(C), former contractor for the Presidio Trust

DISPOSITION

We briefed Congresswoman Speier's staff on the results of our investigation and referred our findings to the Secretary of the Interior for appropriate action.

ATTACHMENTS

1. The Presidio Trust Act, enacted November 12, 1996, as amended through December 28, 2001.
2. Complaint letter from Congresswoman Speier, dated July 27, 2015.
3. Investigative Activity Report (IAR): Interview of (b) (7)(C), dated March 7, 2016.
4. IAR: Interview of (b) (7)(C), dated February 2, 2016.
5. IAR: Interview of (b) (7)(C), dated February 3, 2016.
6. IAR: Interview of (b) (7)(C), dated January 15, 2016.
7. IAR: Interview of (b) (7)(C), dated March 4, 2016.
8. Mid-Crissy Area Design Guidelines, dated December 2011.
9. IAR: Interview of John Reynolds, dated February 29, 2016.
10. Request-For-Concept-Proposal, dated November 15, 2012.
11. IAR: Interview of (b) (7)(C), dated February 5, 2016.
12. Request-For-Proposal, dated May 2013.
13. NPS letter to the Presidio Trust Board Members, dated January 29, 2014.
14. SFGate article on "Presidio Trust shoots down George Lucas' plan, 2 others," dated February 3, 2014.
15. FOIA Request Letter sent to Presidio Trust, dated February 10, 2015
16. IAR: Interview of (b) (7)(C), dated December 9, 2015.
17. Emails between (b) (7)(C) and (b) (7)(C) dating January 15 and 16, 2013.

18. Email from Harvey, dated June 20, 2016.
19. Email from Collins, dated June 20, 2016.
20. Email from Mehran, dated June 30, 2016.

OFFICE OF
INSPECTOR
U.S. DEPARTMENT OF

REPORT OF INVESTIGATION

Case Title	Case Number
NPS Possible Destruction of Evidence	OI-CA-13-0235-I
Reporting Office	**Report Date**
Sacramento, CA	December 9, 2015
Report Subject	
Report of Investigation	

SYNOPSIS

In September 2014, the U.S. Department of the Interior (DOI) Office of Inspector General (OIG) received an inquiry from Congresswoman Jackie Speier, U.S. Representative for California's 14th Congressional District, requesting our assistance with resolving allegations surrounding the 2009 fatality of the Botell family's 9-year-old son at the National Park Service's (NPS) Lassen Volcanic National Park (LAVO) in Mineral, CA. We were referred to the Botell family's lawyer, who presented allegations of employee misconduct by LAVO staff for violating NPS policy and failing to preserve evidence following the 2009 fatality, which affected litigation of the family's original claim. Based on the request for assistance and information presented, we reopened our 2013 investigation of the fatal LAVO accident that addressed similar allegations, but was closed in an effort to not interfere with the civil lawsuit against the Government being litigated in U.S. District Court.

In 2013, the Botells filed a motion in the U.S. District Court seeking sanctions against the government based on allegations against NPS of spoliation of evidence. The District Court judge presiding over the lawsuit entered an order adopting the finding of the Magistrate that the government had intentionally removed the broken portion of the retaining wall and, as a sanction, should be deemed negligent in the death of the Botells' son, but otherwise deferred ruling on the motion or allegations. The lawsuit was settled in February 2014 without convening an evidentiary hearing to address the Botell's allegations of spoliation of evidence. A stipulation was incorporated into the settlement agreement, in which the Botells and other interested parties released the Government and its agents from any further claims or causes of action.

The civil lawsuit stemming from the 2009 fatality involved several U.S. Attorneys who represented the Government and Federal judges that presided over the matters, however, none of the alleged acts were referred for further investigation or action.

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Our investigation into the alleged violations of NPS policy revealed that several of the claims referred to or cited policies and forms that had been superseded, replaced, or were no longer in circulation at the time of the fatal accident. Certain procedural aspects of NPS policy were not followed, but these actions did not appear to alter the outcome of NPS' investigation. Regarding the alleged destruction of evidence and documents, our investigation determined these actions were not intentional and stemmed from miscommunications between LAVO staff. Our investigation did not corroborate the allegations.

We briefed Congresswoman Speier's staff on the results of our investigation and referred our findings to the NPS Director for appropriate action.

BACKGROUND

Lassen Volcanic National Park

The Lassen Volcanic National Park (LAVO), located 70 miles east of Redding, CA, encompasses over 100,000 acres of the Cascade Range in northeastern California. [1] LAVO is home to Lassen Peak, one of the largest active dome volcanoes in the world. In October 1972, Congress designated nearly 75 percent of LAVO as the Lassen Volcanic Wilderness.[2] The Wilderness Act of 1964 provides guidance to Federal agencies with respect to managing wilderness areas and restricts the construction of roads, buildings, and other manmade improvements, as well as the use of motorized vehicles within wilderness areas.[3] All proposed improvements to wilderness areas require the initiative to undergo the processes established by the National Environmental Policy Act (NEPA) of 1969.[4]

Lassen Peak Trail

In the 1930s, LAVO's Lassen Peak Trail was constructed from the original 1920s social trail (i.e., a trail caused by erosion from visitor foot traffic).[5] Approximately 400,000 people visit LAVO annually, with 30,000 hikers climbing the peak trail, primarily during the 90-day summer season. During the summer season, up to 600 hikers climb the trail each weekend. Due to the volume of visitor traffic on the trail since its creation, the trail has undergone numerous rehabilitation and construction efforts spanning from the 1920s to present day. Most notably, the peak trail's original construction in the 1930s by the Civilian Conservation Corps, the construction of wet-mortared retaining walls in 1979 by the California Conservation Corps, and a $3 million rehabilitation project from 2010 – 2014 (**Attachment 1)**.

Despite the volume of visitors over the course of the trail's history, until 2009 there were no reported fatalities or injuries associated with failing retaining walls on the Lassen trail.[6]

Prior Trail Assessments

In 2002, U.S. Department of the Interior (DOI) National Park Service (NPS) conducted a Trail

[1] "Reach the Peak: Lassen Peak Trail Rehabilitation, Environmental Assessment." (EA) http://www.nps.gov/lavo/learn/management/upload/Lassen%20Peak%20Trail%20Rehabilitation%20Project%20Environmental%20Assessment.pdf
[2] Pub. L. No. 92-511
[3] Pub. L. No. 88-577
[4] 42 U.S.C. § 4321 et. seq.
[5] EA
[6] NPS Article Lassen Peak Accident - http://www nps.gov/lavo/learn/news/botell-incident-3-15-10.htm

Condition Assessment Survey on LAVO's trail system (**Attachment 2**). The survey found that heavy snow, water run-off, and the high volume of hikers short-cutting off the trail led to increased erosion and scarring of the concrete reinforced retaining walls along the peak trail. The surveyors, however, felt the retaining walls were "holding quite well" and listed the peak trail, among other sections, as priorities for rehabilitation projects. The 2002 survey offered no warnings nor identified hazards to visitors or park staff.

NPS Projects for the Lassen Peak Trail

In 2004, NPS' "Peak Protection Plan" campaign was initiated to discourage hikers from off-trail travel, which creates social trails like the one from which the peak trail originated (**Attachment 3**). These social trails accelerate trail and rock wall deterioration by displacing material away from the base of the retaining walls.

LAVO's administrative files and historical trail documents revealed that the condition of the 100-year-old trail was in need of rehabilitation and maintenance (**Attachments 4 and 5**). LAVO began internal scoping assessments in spring 2007, wherein LAVO's initial trail rehabilitation proposal was presented to NPS Pacific West Regional Mangers as a potential NPS Centennial Project. The proposal outlined the 5-year, $3 million project. In 2008, LAVO launched a public campaign titled "Reach the Peak" with the goal of raising funds and awareness for the Lassen Peak Trail project.[7] .

Based on the scope of the NPS' proposed rehabilitation efforts being within a wilderness area, NEPA required that an environmental assessment be conducted before proposed actions could be implemented.[8] The NEPA process requires all Federal agencies to document and evaluate potential impacts resulting from the proposed actions on lands under Federal jurisdiction, disclose the potential environmental consequences of implementing the proposed action, and identify reasonable and feasible alternatives. Based on the NEPA requirements, LAVO initiated formal meetings to develop alternatives for the proposed project beginning in July 2008, and the public scoping process began on August 1, 2008.

In February 2009, NPS published a "Findings of No Significant Impact" statement based on the environmental assessment and indicated the selection of Alternative C, "Modest Improvements in Lassen Peak Trail Visitor Experience," of the "Reach the Peak" project (**Attachment 6**). These improvements included widening of the trails, adding turn outs and a loop around the summit, designating a route with stabilized tread, and adding a cable leading to the true summit. In December 2009, NPS' environmental assessment was finalized, which described the purpose and need for Alternative C.

2009 Lassen Peak Trail Fatality

On July 29, 2009, a 9-year-old boy, Thomas Botell Jr., and his family were hiking the Lassen Peak Trail (**Attachment 7**). While he and his siblings were sitting and resting on a wet-mortared rock retaining wall along the trail, the rock wall failed and fell away from the foundation. The dislodged portion of the retaining wall subsequently struck the Botell children, injuring them and ultimately leading to Thomas Botell Jr.'s death. The Botells, fellow hikers, and LAVO park rangers provided care for and coordinated the aerial evacuation of the injured children.

[7] Reach the Peak Public Campaign - https://www.youtube.com/watch?v=yIM5Xy5Mn3M Reach the Peak Video June 2009
[8] EA

LAVO Park Ranger (b) (7)(C) a seasoned ranger who had conducted several fatality investigations at the Grand Canyon National Park, responded to the accident and helped to provide first-aid to the Botells (see Attachment 5). The LAVO park rangers initiated their investigation immediately after the Botell children were evacuated, and (b) (7)(C) documented the condition of the scene and gathered vital information and evidence from witnesses (see Attachment 7). The LAVO park rangers interviewed 57 witnesses, photographed the scene, and obtained hikers' photographs and videos of the scene.

LAVO staff notified their servicing NPS Investigative Services Bureau (ISB) representative, ISB Special Agent (b) (7)(C), of the fatal accident. (b) (7)(C) responded and assisted, but the LAVO park rangers retained and continued the investigation until LAVO management and rangers requested ISB's assistance. On August 24, 2009, LAVO rangers transferred the investigation to ISB; (b) (7)(C) completed the investigation and issued the final report of investigation in January 2010.

Botell Family's Administrative Claim and Federal Tort Claim

According to LAVO's administrative files and court records, the Botell family's legal representative contacted NPS on August 18, 2009, via letter, requesting the accident scene and all evidence be preserved (**Attachment 8**). In November 2010, the Botell family filed administrative claims (specifically, personal injury and wrongful death) with NPS, which NPS denied in May 2011 (**Attachment 9**). In June 2011, the Botells filed a complaint for wrongful death and personal injury with the U.S. District Court, Eastern District of California initiating the lawsuit under the Federal Tort Claims Act (FCTA) (28 U.S.C. § 1346(b)) (**Attachment 10**). The FCTA prescribes a uniform procedure for handling claims against the United States for damage, loss of property, personal injury, or death caused by the negligent or wrongful act or omission of a Government employee while acting within the scope of his or her employment. FCTA guidelines require claimants to submit an administrative claim to the appropriate agency within 2 years of the incident or file a suit within 6 months of an agency denial of the administrative claim.

Civil Lawsuit, Findings, and Recommendations

In March 2013, U.S. Magistrate Judge Gregory G. Hollows, U.S. District Court, Eastern District of California, issued his findings and recommendations after presiding over the civil matter (**Attachment 11**). Magistrate Judge Hollow's submitted findings and recommendations noting certain contradictory statements, but not determining whether or not LAVO's Superintendent Darlene M. Koontz perjured herself in depositions. The Magistrate also found that another LAVO employee had shredded trail-related documents that should have been maintained, and that NPS had failed to close Lassen's trail in 2009 for investigative purposes—and also that LAVO staff, at Koontz's behest, had knocked down, the remaining broken portion of the retaining wall responsible for the 2009 fatality. The Government objected to the matters submitted by Judge Hollows and requested the court conduct a de novo review (new review) of the record and reject the findings and recommendations (**Attachment 12**). On May 13, 2013, U.S. District Judge Troy Nunley, Eastern District of California, adopted Magistrate Judge Hollows' findings and recommendations, but deferred ruling on the other allegations of spoliation until the court resolved the Botell's motions (**Attachment 13**). Judge Nunley's order stated an evidentiary hearing regarding the spoliation of evidence would be held later if necessary.

The Office of Inspector General's Investigation

In March 2013, NPS' Office of Personnel Reliability referred Magistrate Judge Hollows' findings and

recommendations to us, and we initiated an official investigation (**Attachment 14**). We obtained copies of all the filings, orders, depositions, and records associated with the lawsuit from the U.S. Attorney's Office, Eastern District of California. We also obtained a copy of ISB's 2010 report of investigation and associated attachments and interviewed ISB's lead investigator, (b) (7)(C) who retired from NPS in 2011, reported the alleged destruction of the retaining wall was pursued and was beyond the scope of ISB's investigation (see Attachment 7).

Based on this matter being litigated in the U.S. District Court, we did not interview any of the involved parties (see Attachment 14). Further, the judge presiding over the matter had not convened an evidentiary hearing to address the alleged misconduct by LAVO's staff. We attempted to interview Judge Hollows regarding the allegations listed in his findings and recommendations, but his legal assistant told us that the judge respectfully declined the interview to prevent affecting the active lawsuit. In addition, his legal assistant told us Federal judges have a duty to refer any criminal allegation of merit presented before them for further investigation.

Lawsuit Settlement, Stipulations, and Evidentiary Hearing

On February 13, 2014, the Government and the Botell family reached a settlement agreement, which was accepted by Judge Nunley (**Attachment 15**). The settlement was accompanied by a stipulation titled, "Stipulation for Compromise Settlement and Release of Federal Tort Claims Act." Section 4 of the settlement and stipulation states:

> Plaintiffs and their guardians, heirs, executors, administrators, or assigns do hereby accept the cash sums set forth above in paragraph 3.a and the purchase of the annuity contract(s) set forth above in paragraphs 3.b and 3.c in full settlement, satisfaction, and release of any and all claims, demands, rights, and causes of action of whatsoever kind and nature, including any claims for fees, costs and expenses, arising from, and by reason of, any and all known and unknown, foreseen and unforeseen, bodily and personal injuries, death, or damage to property, and the consequences thereof, which the plaintiffs or their heirs, executors, administrators, or assigns may have or hereafter acquire against the United States, its agents, servants and employees on account of the same subject matter that gave rise to the above-captioned action. Plaintiffs and their guardians, heirs, executors, administrators, and assigns do hereby further agree to reimburse, indemnify and hold harmless the United States and its agents, servants, and employees from and against any and all such claims, causes of action, liens, rights, or subrogated or contribution interests incident to or resulting or arising from the acts or omissions that gave rise to the above-captioned action, including claims or causes of action for wrongful death.

U.S. District Court records indicate that the allegations the Botell's legal counsel presented to us in September 2014 were also presented to the court on February 7, 2013, in a document titled "Spoliation of Evidence and Bad Faith Acts Timeline" (**Attachment 16**). Judge Nunley deferred ruling on these allegations, and the lawsuit was settled without the convening of an evidentiary hearing to address the allegations (see Attachments 13 and 15). We attempted to interview Judge Nunley regarding the allegations against NPS staff, but we were advised he respectfully declined to comment on the matter.[9]

[9] On June 9, 2015, Judge Nunley's assistant advised he respectfully declined to be interviewed.

The aforementioned claims and civil lawsuit involved several Assistant U.S. Attorneys, DOI Solicitors and Federal judges that presided over the matters, however, none of the alleged acts of misconduct were referred for further investigation or action.

DETAILS OF INVESTIGATION

In September 2014, we received an inquiry from Congresswoman Jackie Speier, U.S. Representative for California's 14th Congressional District, who requested the OIG's assistance in resolving an outstanding issue pertaining to the 2009 fatality of 9-year-old Thomas Botell Jr. at LAVO (**Attachment 17**). Congresswoman Speier's request pertained to the allegations of LAVO staff misconduct that were raised during the civil lawsuit court proceedings, specifically the allegations against Superintendent Koontz. Based on congresswoman's request, we reopened our 2013 investigation in an effort to resolve outstanding issue pertaining to 2009 fatality.

In November 2014, Steven Campora of Dreyer, Babich, Buccola, Wood and Campora, LLP, sent us an inquiry regarding our investigation (**Attachment 18**). Campora, who represented the Botell family during the civil lawsuit against the Government, offered his cooperation and information relevant to the allegations made against LAVO's staff. We contacted Campora, who provided us the "Spoliation of Evidence and Bad Faith Acts Timeline" complaint document that had been presented to the U.S. District Court on February 7, 2013, as part of the Botell's civil lawsuit (see Attachment 16). From November 2014 to February 2015, Campora sent us information, documents, and a copy of the NPS' January 1991 version of regulation NPS-50, "Loss Control Management," which was cited as the basis of the alleged LAVO staff misconduct and policy violations.

Campora alleged that LAVO park rangers mishandled the scene of the fatal accident and the subsequent investigation, which, he alleged, compromised ISB's investigation. He also alleged that LAVO staff violated NPS policy by failing to make the appropriate notifications or convene a post-incident board to address the event. The allegations further claimed that LAVO staff and the DOI Solicitor failed to issue a litigation hold or preserve NPS documents relevant to the fatality after NPS received a 2009 letter from the Botell's initial legal representative. In addition, Koontz allegedly failed to make the trail safe after becoming aware of perceived hazards prior to the 2009 accident, ordered the destruction of evidence (specifically, the trail retaining wall) and documents, and refused to be interviewed by ISB.

NPS' Investigation of the Botell Fatality

According to Campora's complaint document, the LAVO park rangers' decision to conduct an "in-house" fatality investigation after allegedly dismissing ISB investigators was a violation of NPS policy and also compromised ISB's investigation by delaying its involvement (see Attachment 16). In addition, the LAVO park rangers who responded to and processed the accident scene allegedly failed to safeguard the scene by restricting public access to the trail after the accident.

We determined that from July 29, 2009, to August 24, 2009, the LAVO park rangers conducted the initial fatality investigation. During their investigation, they documented the conditions of the scene and obtained vital information and evidence from eye witness interviews. According to NPS and ISB, ISB becomes involved in NPS investigations only when NPS site managers request their involvement, therefore LAVO's decision to retain the investigation did not violate NPS policy. According to ISB

senior managers, LAVO park rangers conducted a thorough initial investigation and ISB's investigation was not compromised or affected by the ranger's initial investigative steps.

The complaint alleged that LAVO park rangers violated NPS policy regarding safeguarding incident scenes and investigating significant matters. The referenced NPS policy, however, had been superseded and the active NPS' law enforcement policies do not include specific instructions regarding which element of NPS law enforcement must conduct the investigation. In addition, NPS policy does not offer guidance for preserving a crime scene and offers only vague language for recommended initial actions associated to a serious crime. The details of our investigation are described below.

NPS Investigative Authority

LAVO staff allegedly violated NPS policy by dismissing ISB's investigator on the day of the accident and subsequently not allowing ISB to investigate the fatality (see Attachment 16). In the complaint documents, Campora referred to NPS-50 and (b) (7)(C) deposition (he was retired at the time of his deposition). We reviewed the January 1991 version of NPS-50 that Campora provided and the superseding NPS policies, finding that NPS-50 was NPS' former occupational health and safety guidance prior to the 2009 accident. In addition, NPS-50 contains no guidance for law enforcement functions, jurisdiction, authority, and incident scene management or preservation methods.

NPS Deputy Chief of Law Enforcement Operations and Policy (b) (7)(C) explained that NPS' law enforcement authority is derived from the Secretary of the Interior through the United States Code (U.S.C.) and is further described in DOI Departmental Manuals (DM) 205 and 446 (**Attachment 19**).[10] NPS' law enforcement functions and roles are addressed in NPS Director's Order 9 and specific law enforcement operational guidance is covered in the May 2009 Law Enforcement Reference Manual 9 (RM-9).

RM-9 does not differentiate between park rangers and special agents, but rather Type 1 and 2 commissions.[11] Type 1 commissioned employees are permanent personnel, whereas Type 2 commissions are for seasonal employees or staff awaiting formal training. RM-9 also states all Type 1 commissions have the same authority to perform law enforcement functions and conduct investigations. The policy does not require or specify that certain offenses or occurrences be investigated by either park rangers or special agents, but encourages collaboration and mutual cooperation. (b) (7)(C) further explained that Type 1 commissioned employees are not offered specialized fatality investigation training, and most full-time law enforcement officers gain experience through exposure or assisting on investigations (see Attachment 19).

RM-9 does not specify that the parks and sites must relinquish an investigation to ISB unless there are mitigating circumstances.[12] The policy states that rangers shall notify the appropriate special agent in charge for investigations of crimes involving—

- homicide or attempted homicide;
- sexual assaults;
- kidnapping, abductions, and missing persons (not including search and rescue);

[10] 16 U.S.C. §§ 1 – 6, "Law Enforcement Personnel within National Park System."
[11] RM-9, Chapter 2, "Law Enforcement Authority," § 2, "Commissioned Employees."
[12] RM-9, Chapter 15 "Law Enforcement Operations," § 5.1, "Designation of Case Agents for Major Investigations."

- serial crimes;
- criminal organizations;
- armed robbery;
- drug distribution operations;
- assault of an officer involving injury;
- assault resulting in great bodily injury;
- arson;
- resource violations involving commercial interests;
- fee fraud or theft of monies from the fee program; or
- complex or severe civil investigations.

In addition, RM-9 does not list a visitor fatality as a circumstance in which a special agent or regional law enforcement specialist may be the preferred case agent.

(b) (7)(C) explained that national parks and sites are, however, required to contact and notify ISB when fatalities occur on NPS property (see Attachment 19). He related that ISB has less than 20 special agents nationwide and, in some cases, if a national park or site requested ISB's assistance it may take 2 to 3 days for them to respond. Based on this potential delay in response time, the park rangers (Type 1 commissioned employees) onsite are expected to process the scene of the incident, document the conditions, preserve evidence, and gather information surrounding the event. (b) (7)(C) reiterated that NPS views all Type 1 officers the same, but if NPS believes there is a potential for a claim, ISB's assistance may be requested. Requesting ISB's assistance, however, is not required.

Koontz told us that LAVO park rangers initiated and conducted the fatality investigation because they were Type 1 certified to perform complex investigations, which include fatality investigations (see Attachment 5). She expressed being comfortable with the park rangers' abilities. In addition, LAVO's lead investigator for the fatality, (b) (7)(C) was previously stationed at the Grand Canyon National Park, where he led several fatality investigations for NPS.

According to (b) (7)(C) deposition, he became involved in the investigation shortly after the fatality occurred (**Attachment 20**). LAVO Chief Park Ranger (b) (7)(C) contacted (b) (7)(C) briefed him on the circumstances, and requested that he meet with the coroner in Redding, CA (**Attachment 21**). During his deposition, (b) (7)(C) did not mention that he was dismissed by LAVO, but he did report that LAVO park rangers made the decision to retain the investigation. (b) (7)(C) stated: "I advised my supervisory chain of command what had occurred, and they were of the opinion, and I concurred, that a case of this magnitude was, pursuant to our policies and common practices, something that should be handled by Investigative Services Branch."

(b) (7)(C) told us that he had been an ISB Special Agent for his entire career before retiring in December 2011 **(**see Attachment 21). His last duty station was the Whiskeytown National Recreation Area in Shasta, CA, where a portion of his duties included providing law enforcement related training to park rangers aligned with NPS' RM-9. (b) (7)(C) personally trained the LAVO park rangers and worked with them to draft revisions of RM-9 prior to the incident in 2009.

ISB's Assistant Special Agent-in-Charge (b) (7)(C), who supervised (b) (7)(C) during the course of the 2009 fatality investigation, explained that NPS law enforcement regulations and policies do not differentiate between the different forms of Type 1 commissioned officers and their abilities

(**Attachment 22**). NPS park rangers are allowed and encouraged to perform all law enforcement related tasks. Park rangers, however, also have countless other assigned duties, which sometimes restricts their ability to pursue the various leads outside of the park that typical investigations generate. They possess the knowledge and skill to initiate an investigation and know how to preserve information, interview witnesses, and document all related matters. (b) (7)(C) stated that (b) (7)(C) was experienced in conducting fatality investigations.

ISB's former Special Agent-in-Charge (b) (7)(C), who supervised (b) (7)(C) during the 2009 fatality investigation, explained that NPS had more than 2,000 park rangers and fewer than 40 ISB agents nationwide (**Attachment 23**). Therefore, it was standard practice for park rangers to initiate an investigation and either complete the case themselves, or to transfer the case to ISB at a later date. ISB's involvement in an investigation at an NPS site depends on whether or not ISB's assistance is requested by the park management, ISB's workload, and the severity of the matter to be investigated. An investigation is either ISB's to conduct or they have no involvement.

Processing the Fatality Scene

LAVO park rangers allegedly failed to properly process and preserve the fatality scene (see Attachment 16). In the complaint documents, Campora refers to (b) (7)(C) deposition and his response to the question of whether the LAVO staff failed to document or capture the condition of the scene before LAVO trail crew dislodged the intact portion of the retaining wall (see Attachment 20). (b) (7)(C) answered:

> It was documented insofar as (b) (7)(C) captured digital images of the site immediately after (b) (7)(C) was medevaced. Tommy Botell was removed. And all of the first responders and members of the public, members of the family left the area, (b) (7)(C) stayed behind and took photographs. (b) (7)(C) and other National Park Service personnel were able to acquire digital imagery from park visitors who had also taken photographs there. That was how I was able to determine that the site, as it was when I arrived, was different from how it had been immediately following the event involving the Botell children. So there was documentation. It was my opinion, professional opinion, that it was necessary to more closely photograph, document, measure, capture global positioning system coordinates of the site in order to preserve it in perpetuity as to the greatest extent possible. So some work had been done but not work to the level that I felt needed to be.

We reviewed the ISB 2010 report of investigation and found that it was derived from a combination of efforts by the LAVO park rangers and ISB investigators (see Attachment 7 and **Attachment 24**). The report reflects that LAVO park rangers initiated their investigation immediately after the Botell children were airlifted out of the park. LAVO park rangers subsequently interviewed 57 witnesses as they departed the trail. The park rangers also obtained copies of the witnesses' photos and videos of the scene. In addition, (b) (7)(C) documented the scene and captured 32 photos of the scene's condition, which included the point of origin for the failed portion the retaining wall as well as where the failed retaining wall had come to rest (approximately 700 feet downhill from the scene) (see Attachment 24 and **Attachment 25**).

RM-9 establishes how park rangers or special agents should conduct investigations involving "serious

crimes, complex long-term investigations."[13] RM-9 does not provide specific scene management guidance or instructions, but rather offers generic guidance for initial actions: "Respond to the scene to protect human life, preserve the crime scene, including evidence and the location of witnesses." RM-9 does not address the length of time a scene should be considered active. According to (b) (7)(C) none of the NPS' law enforcement policies offer detailed incident scene management guidance and NPS has no templates or guides regarding how to process incident scenes. Each lead investigator processes scenes differently based on their experience and knowledge (see Attachment 19).

(b) (7)(C) recalled (b) (7)(C) commenting that the LAVO park rangers had documented the accident scene "pretty well" and there were no issues that would have forced ISB to attempt reconstruct the scene for processing **(**see Attachment 22). (b) (7)(C) related (b) (7)(C) reviewed the LAVO park rangers' investigative work that had been completed prior to ISB's involvement and said that matters had been handled well. After (b) (7)(C) became involved, he began to conduct interviews and continue on with the investigation that the park rangers had initiated. According to (b) (7)(C) the LAVO accident site was a difficult scene to process and manage because it was within a designated wilderness area and, therefore, governed by the restrictions to preserve wilderness areas.

The Assistant U.S. Attorneys (AUSA) who represented the Government in the lawsuit reported that the LAVO park rangers had thoroughly investigated and documented the scene of the accident in photos, notes, and videos (**Attachment 26**).

Koontz told us that she was not a part of the conversations regarding how the scene of the accident was secured (see Attachment 5). Those conversations would have been led by (b) (7)(C) who never voiced any concerns to her regarding the need for additional time to process the scene of the accident or about preserving the scene. Koontz was under the impression the scene of the accident had been processed properly and was well documented.

Safeguarding the Accident Scene

LAVO park rangers allegedly violated NPS-50 by failing to safeguard the scene post-incident and before ISB assumed the investigation (see Attachment 16). The complaint documents referred to (b) (7)(C) deposition and his response to whether LAVO staff failed to secure and preserve the scene of the accident (see Attachment 20). (b) (7)(C) stated:

> Correct. There was no -- aside from a barrier closing the trail, which consisted of some plastic safety fencing stretched between fence posts and a sign indicating that the area was closed to the public, there was no restriction otherwise within that area that would mark it as consistent with, for instance, a crime scene to preserve it and keep people out of it.

The fatality investigation was initiated by LAVO park rangers on July 29, 2009, and was actively conducted until August 24, 2009, when the investigation and associated documents were transferred to ISB (see Attachment 21). On approximately August 25, 2009, (b) (7)(C) reviewed the park rangers' investigative files and traveled to the site. (b) (7)(C) noticed that the conditions of the scene differed from the photographs taken after the incident.

[13] RM-9, Chapter 15, "Investigations Management."

(b) (7)(C) explained that LAVO would be impossible to close off from the public and that same statement is true for most NPS trails (see Attachment 22). Investigators are always concerned that park visitors will walk around the temporary barrier closing the trail and access the hazardous portion of a trail.

Koontz told us the trail was closed immediately following the accident while she and her staff were focused on a contingency plan (see Attachment 5). Koontz and her staff discussed whether they should reopen the trail and eventually reached an agreement to open the trail, but restrict visitor access to the lower half of the trail. LAVO's trail was later reopened, keeping it open up to the 1.3 mile mark, allowing visitors a good experience but keeping them away from the accident site. Koontz explained there was no logistical way to completely close the trail because it ascended a volcanic mountain. Barriers were put in place at the 1.3 mile marker, but determined visitors could navigate around the temporary barriers and go to the hazardous accident site. In addition, LAVO's staff was no given instructions regarding how to treat the accident scene or whether or not to disturb remaining artifacts at the scene. Koontz stated that, in hindsight, some sort of announcement should have been sent out to her staff.

According to DOI Regional Solicitor (b) (7)(C), any long-term decision to close a trail or restrict access to any NPS main attraction is not made at the local park leadership level (**Attachment 27**). Any such related action would have required NPS regional leadership approval. LAVO's Chief of Maintenance (b) (7)(C) told (b) (7)(C) during the 2009 investigation that "public enjoyment and the demands of the public have outweighed any idea of closing the trail. Removing or closing the trail would not keep people off the mountain, it would make conditions worse" (see Attachment 3).

ISB's Investigation

LAVO staff's removal of the remaining portion of the retaining wall, allegedly "compromised" ISB's investigation (see Attachment 16). The complaint documents refer to (b) (7)(C) deposition as the basis for the allegation. In his deposition, however, (b) (7)(C) made no statement or assertion that LAVO staff or their actions had compromised ISB's investigation (see Attachment 20).

(b) (7)(C) told us that, at the end of August 2009, he and (b) (7)(C) traveled to the site of the accident after the investigation was transferred from LAVO's park rangers to ISB. During that visit, (b) (7)(C) noticed differences between the remaining portion of the rock wall and the photos captured during the initial investigation (see Attachment 21). ISB and LAVO park rangers later determined that LAVO trail crew members had dislodged the remaining loose portions of the retaining wall. (b) (7)(C) made no reference that any action by LAVO's park rangers or staff compromised his investigation or interfered with what he reported in the final report of investigation.

According to ASAC (b) (7)(C) he nor SA (b) (7)(C) viewed the dismantling of the retaining wall as an action that compromised ISB's investigation **(**see Attachment 22). He explained that not much would have been gained by collecting the wall and they never viewed this act as tampering with the accident scene or destruction of evidence. They viewed the wall dismantling as the LAVO staff's attempt to mitigate further injuries and render the trail safe for the staff and future visitors. (b) (7)(C) and (b) (7)(C) never considered the retaining wall to be evidence. It was not until the magistrate judge's 2013 findings and recommendations were made public that the idea of the wall as evidence was raised.

(b) (7)(C) recalled being informed that a LAVO retaining wall had been dismantled and that (b) (7)(C) and

(b) (7)(C) were upset by the act (see Attachment 23). He reiterated that dismantling the retaining wall did not compromise ISB's investigation. (b) (7)(C) was frustrated that ISB inherited the investigation from LAVO weeks after the incident and felt "behind the curve" because the scene had been processed and the evidence collected. During the weeks that LAVO park rangers conducted their investigation, (b) (7)(C) was assigned other unrelated investigations.

(b) (7)(C) never voiced or elevated concerns to (b) (7)(C) about the LAVO park rangers' ability, how LAVO conducted the investigation, or whether LAVO's actions compromised his investigation. (b) (7)(C) told us that there were some personal differences in how (b) (7)(C) would have run the investigation. (b) (7)(C) was a very detail oriented investigator who likely took issue with the way the LAVO park rangers conducted certain aspects of the investigation. While (b) (7)(C) and his rangers likely did things differently than (b) (7)(C) would have preferred, (b) (7)(C) clarified that the rangers did nothing wrong; their actions were simply different from (b) (7)(C) preferred method.

We interviewed the ISB agents involved in this investigation and found that none of the alleged acts warranted pursuit or referral for further action (see Attachments 21, 22 and 23).

Alleged Violations of NPS Policy by LAVO

According to Campora's complaints, LAVO staff allegedly violated NPS policy by failing to make the appropriate fatality notifications, file the proper documents, and convene a post-incident board (Board of Inquiry or Board of Review) to address the event and make recommendations to mitigate future incidents (see Attachment 16).

We determined that LAVO immediately notified ISB—a branch of the Washington Support Office (*WASO*)—of the fatal accident and also completed incident documents. NPS policy, however, also required that the fatality be reported to the NPS' Emergency Incident Communication Center (EICC) and the Deputy Chief of Law Enforcement Operations and Policy. There were no recorded notifications in the EICC system, but EICC staff explained that not all notifications are recorded, therefore there was no definitive way to determine whether or not LAVO reported the fatality.

The complaint document refers to the superseded NPS-50 regarding the requirement for LAVO to convene a post-incident board (Board of Inquiry) and complete the associated Form DI-134, "Report of Accident/Incident." Campora told us that the NPS policies he referred to during depositions, in court documents, and in the complaint documents were the versions that he either downloaded from the NPS website or obtained from the AUSA. The AUSA stated that her office did not provide the Botells' lawyer with any Government policies, but recalled she had addressed the references to outdated policy with the Botells' lawyer.

The NPS policies and forms addressing visitor safety and post-incident boards underwent a series of modifications, updates, and partitions to specifically address each related NPS program. The policy referred to in the complaint documents had been superseded several times before the 2009 fatality and NPS' current policy on post-incident Boards of Review was not in effect until 2010. This gap in policy would result in guidance being sought from ascending policies, such as director's orders or DOI manuals, but would not revert back to superseded policies. Former NPS policies on convening post-incident boards stated that the boards are to be sensitive of and not interfere with ongoing investigations. In addition, the policies refer park managers to the DOI Solicitors Office for further guidance. The DOI Solicitor's Office informed us they advise against convening a Board of Review

when the matter is being actively litigated. Based on the NPS policies at the time of the incident, there were no apparent violations of policy regarding convening a post-incident board. The details of our investigation are described below.

Fatality Notifications

RM-9 offers guidance to NPS law enforcement employees on how to report Level 2 incidents, which include "Visitor/Public Fatalities."[14] This policy requires the park or site to report the fatality to the Deputy Chief of Law Enforcement Operations and Policy via email within 3 days and to call EICC and follow up with a written report.

NPS EICC Center Manager (b) (7)(C) explained that parks can notify EICC via a phone call, email, or the established Serious Incident Report System (SIRS) (**Attachment 28**). Written notifications are printed and filed at the EICC, but not all calls and emails are kept since EICC did not generate the documents. (b) (7)(C) queried the SIRS for notifications associated to the 2009 LAVO fatality and found no record. The absence of a report in SIRS could be a result of either the park not notifying EICC, an EICC dispatcher neglecting to print and file the notification, or a dispatcher misfiling the notification. An absent report is not unusual, and it is also not unusual for parks to not report incidents to the EICC for various reasons.

When (b) (7)(C) and (b) (7)(C) were deposed, they were both presented with the 1991 version of NPS-50 and referred to sections that addressed notification Form DI-134s (see Attachment 20 and **Attachment 29**). Both employees were asked if DI-134s were generated for the fatality and whether a failure to generate a Form DI-134 would be a violation of NPS policy, to which they both responded that no DI-134 was generated.

We reviewed NPS-50 and superseding policy and found that the last reference to Form DI-134 was in the 1991 version of NPS-50 and newer versions referred to Standard Form 95 "Claim for Damage, Injury, or Death" to file claims (**Attachment 30**).

NPS' Office of Risk Management (ORM), formerly known as *WASO* Loss Control Management, explained that Form DI-134 "Report of Accident/Incident" was the previous method to report and document accidents on public lands prior to the creation of SIRS. . Form DI-134 was also used to capture data associated to potential worker's compensation claims filed by employees injured on duty. Form DI-134 was replaced by Standard Form 95 "Claim for Damage, Injury, or Death" and Form DI-570 "Employee Claim for Loss or Damage to Personal Property."

LAVO's administrative file contains a series of letters exchanged between LAVO and the Botells' lawyer. In a letter dated September 24, 2010, (b) (7)(C) provides the Botell family's lawyers with a Standard Form 95 and instruction to complete the claim (**Attachment 31**).

Post-Incident Board

LAVO allegedly violated NPS-50 by not convening a post-incident Board of Inquiry for the fatality (see Attachment 16). Our investigation determined that the complaint documents referred to the superseded NPS-50 regarding the requirement for LAVO to convene a post-incident board.

[14] RM-9, Chapter 36, "Incident Notification Requirement and Procedures" Section 2.2

In an effort to solidify the evolution of related NPS policy and the requirements that were in effect at the time of the incident, we coordinated with NPS Chief of ORM (b) (7)(C) and ORM's Public Risk Management Program Managers, (b) (7)(C) and (b) (7)(C), U.S. Public Health Service, who were detailed to NPS (see Attachment 30). ORM explained that the policies receive their authority from executive orders or national-level policies. ORM's authority is derived from the Code of Federal Regulations (C.F.R.) "Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters," which also includes serious accident processes and reporting requirements.[15] DOI develops departmental manuals and regulations to ensure internal program are compliant with the C.F.R., such as Departmental Manual (DM) part 485, Chapter 7, "Incident/Accident Reporting/Serious Accident Investigations." Each DOI bureau also develops bureau-specific guidance, such as NPS Director's Orders and reference manuals. In the occurrence that there are gaps or items not addressed in bureau-specific guidance, staff seeks clarification from departmental manuals or the C.F.R.

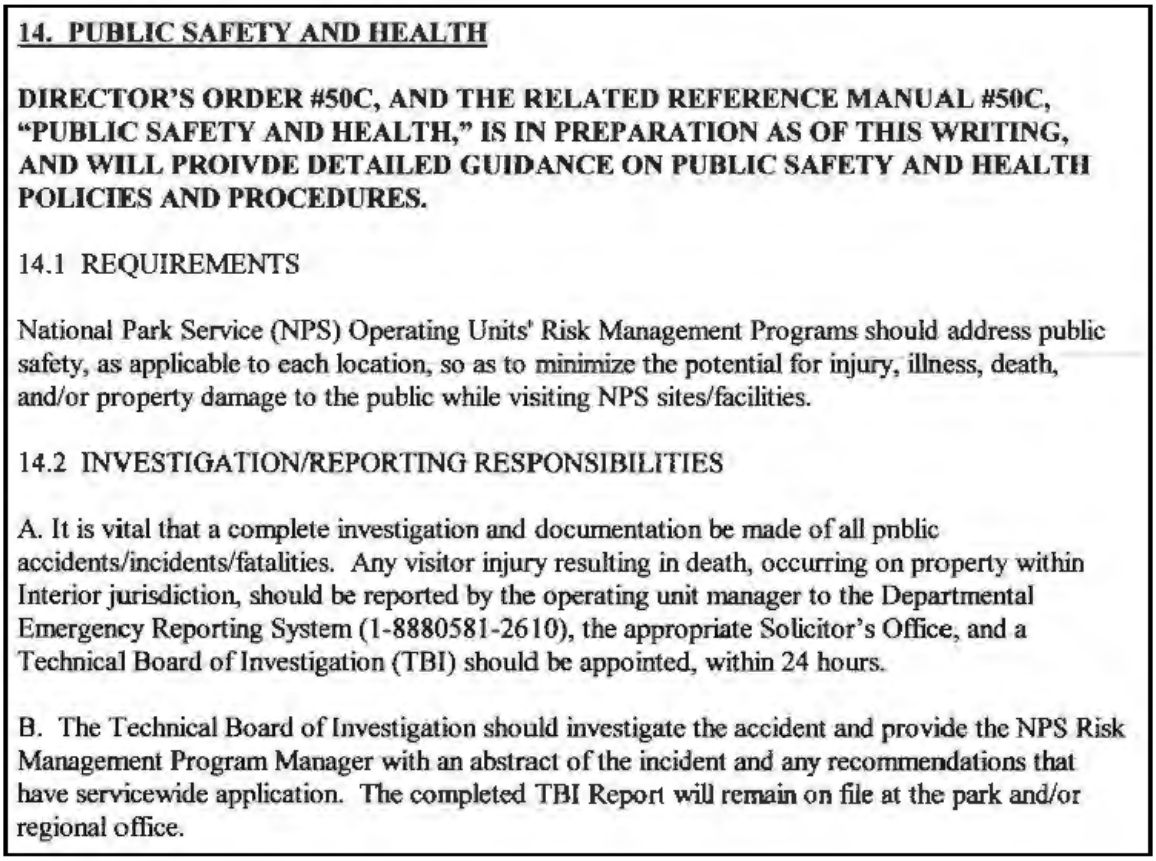
NPS-50, "Loss Control Management," dates back to 1983 and was revised in 1991 and again in 1993. When in circulation, the policy addressed a wide variety of topics within the realm of safety and occupational health matters for both NPS employees and the public. On December 21, 1999, NPS-50 was superseded by NPS Director's Order 50B, "Occupational Safety and Health," and Reference Manual 50B, "Occupational Safety and Health/Risk Management Program." The Director's Order explains how the new series of policy would be arranged:

> The overall purposes of the NPS risk management program are to establish and implement a continuously improving and measurable risk management process that: (1) provides for the occupational safety and health of NPS employees; (2) provides for the safety and health of the visiting public; and (3) maximizes the utilization of NPS human and physical resources, and minimizes monetary losses through effective workers' compensation case management. The primary focus of this Director's Order 50B is the occupational safety and health of NPS employees. Visitor safety and health is the primary focus of Director's Order 50C (in preparation as of this writing); and worker's compensation case management is the primary focus of Director's Order 50A.
>
> NPS Guideline NPS-50 is superseded and replaced by this Director's Order, and by Reference Manual 50B, which provides more detailed guidance on how the NPS will implement occupational safety and health management policies and procedures.
>
> Special Directive 95-4 (governing automatic sprinkler and smoke detection requirements) is superseded and replaced by the policies, requirements, and responsibilities contained in this Director's Order, and by the Fire Safety section of Reference Manual 50B.

Figure 1. Director's Order 50B, 1999. Excerpt from the "Background and Purpose" section of the policy.

The 1999 versions of Director's Order and Reference Manual 50B further divide the areas once addressed by NPS-50 into two additional sections: Director's Order 50A, "Worker's Compensation Case Management," and Director's Order 50C, "Visitor Safety and Health." The 1999 version of NPS Reference Manual 50B §14, "Public Safety and Health," addresses post-incident requirements:

[15] 29 C.F.R. part 1960.



14. PUBLIC SAFETY AND HEALTH

DIRECTOR'S ORDER #50C, AND THE RELATED REFERENCE MANUAL #50C, "PUBLIC SAFETY AND HEALTH," IS IN PREPARATION AS OF THIS WRITING, AND WILL PROIVDE DETAILED GUIDANCE ON PUBLIC SAFETY AND HEALTH POLICIES AND PROCEDURES.

14.1 REQUIREMENTS

National Park Service (NPS) Operating Units' Risk Management Programs should address public safety, as applicable to each location, so as to minimize the potential for injury, illness, death, and/or property damage to the public while visiting NPS sites/facilities.

14.2 INVESTIGATION/REPORTING RESPONSIBILITIES

A. It is vital that a complete investigation and documentation be made of all public accidents/incidents/fatalities. Any visitor injury resulting in death, occurring on property within Interior jurisdiction, should be reported by the operating unit manager to the Departmental Emergency Reporting System (1-8880581-2610), the appropriate Solicitor's Office, and a Technical Board of Investigation (TBI) should be appointed, within 24 hours.

B. The Technical Board of Investigation should investigate the accident and provide the NPS Risk Management Program Manager with an abstract of the incident and any recommendations that have servicewide application. The completed TBI Report will remain on file at the park and/or regional office.

Figure 2. Reference Manual 50B §14 excerpt, dated 1999.

The 1999 version of Director's Order and Reference Manual 50B were revised in September 2008, which would have been the active NPS policy at the time of the 2009 LAVO fatality. The 2008 versions offer no guidance for public safety or visitor fatalities and refer to Director's Order 50C for all public risk management matters. Director's Order and Reference Manual 50C were being drafted in 2009 and were finalized in May 2010, therefore Director's Order 50C was not an active policy at the time of the incident. The 2008 versions primarily address the safety and health of NPS employees or occupational safety and health and refers to Boards of Review when addressing an employee fatality.

The delay between the 2008 Director's Order 50B being published and the 2010 publication of Director's Order 50C created a gap in policy regarding Boards of Review. Guidance or clarification would therefore be sought from the next level of guidance: NPS management policies or departmental manuals. NPS' 2006 "Management Policies" briefly addresses visitor safety, but refers to Director's Order 50B and C for further guidance. DM part 485, Chapter 7 § J, "Accident Reviews" offers the following guidance:

> Bureaus will establish appropriate procedures for review of accidents. For individual accidents, this will include second level management and/or safety management review of the [Safety Management Information System] Accident/ Incident Reports as they are entered into SMIS. Bureaus, at their discretion, should establish procedures for review of organization-wide accident information.

The terminology used to address post-incident boards in NPS policy underwent several revisions between 1991 and 2010:

- NPS-50 (1991): Boards of Inquiry required for all serious accidents (superseded).
- Director's Order 50B (1999): Technical Boards of Investigation should be convened post-incident to provide ORM with service wide recommendations.
- Director's Order 50B (2008): Post-incident boards are not addressed.
- Reference Manual 50B (2008): Boards of Review should be convened for serious accidents involving NPS employees. Serious accidents involving park visitors are not addressed.
- RM-9 (2009): Boards of Inquiry should be convened when employees are suspected of misconduct.

We reviewed NPS policies and guidance that specifically address post-incident boards following a visitor fatality and found that they contain nearly identical language in both the 1991 version of NPS-50 and the 2010 Reference Manual 50C: "NOTE: The [Board of Review] should be sensitive to the possibility of internal or criminal investigations by authorized authorities. In such cases, the [Board of Review] is not to interfere with any investigation of this kind." The policies also recommend park staff consult with DOI Solicitors before conducting a Board of Review.

DOI Regional Solicitor (b) (7)(C) told us that she would not have allowed a Board of Review to convene until after the statutes on the tort claim had expired or passed because of the potential for interference with NPS' investigation (see Attachment 27). Once litigation has begun, Boards of Review are not initiated for disclosure purposes. Once litigation has concluded, Boards of Review can be used to look at the situation in an attempt to mitigate or prevent the incident from reoccurring.

Koontz told us that LAVO did not conduct a formal post-incident board proceeding to ensure that her staff did not interfere with the ongoing investigation (see Attachment 5). Based on lessons learned during in her 30-year career with NPS, Koontz avoided interfering with investigations or duplicating investigative efforts through a formal board process. Koontz and her staff did perform an informal After Action Report (AAR) to identify actions for immediate improvement and implementation. The AAR generated three immediate corrective actions that she and her staff identified: inspecting trails by physically pushing and pulling on retaining walls to look for movement; providing first-aid training and additional training for the LAVO visitor center staff; and stationing seasonal LAVO park rangers closer to both the trail and visitor center.

LAVO's administrative files contained a letter from LAVO's chief park ranger to the AUSA alerting the U.S. Attorney's Office that the Botells' lawyer was incorrectly referencing NPS-50, which the chief park ranger referred to as being obsolete (**Attachment 32**). Campora indicated to us that he had found the policy on the NPS website or the AUSA emailed it to him (**Attachment 33**). The AUSA told us that her office did not provide Campora with any Government policies (see Attachment 27).

Alleged Failure to Preserve Records and Produce Discovery Information

According to Campora's complaint document, NPS staff, LAVO staff, and the DOI Regional Solicitor allegedly failed to act accordingly after they were contacted by the Botell's lawyer in August 2009 (see Attachments 8 and 16). They allegedly failed to issue preservation or litigation holds to preserve incident- and trail-related documentation related to the fatality. In addition, LAVO staff allegedly shredded relevant documents that were requested during the production and discovery period of the lawsuit.

We determined that NPS and the Solicitor's Office received a letter from the Botell family's former

lawyer requesting that LAVO preserve evidence. The Solicitor viewed the letter from the Botell family's lawyer as a letter of representation and not an indication of intent to file a lawsuit. When the letter was received, the Botells had not filed a claim or indicated an intent to seek litigation for the fatality. The Solicitor's Office cannot issue a litigation hold without the intent to file or a filed lawsuit and does not instruct DOI bureaus to arbitrarily hold records without justification. The Solicitor was confident that the Government safeguards in place preserve the records during the allowable time a claimant has to file a claim or lawsuit.

The allegation that discovery documents were shredded surfaced after a LAVO clerk reported witnessing (b) (7)(C) shredding the documents they collected in response to a discovery request. The clerk's deposition, however, revealed that she was unable to observe what (b) (7)(C) shredded. The clerk subsequently retrieved the shredded pieces from LAVO and produced them during her deposition with the Botell's lawyers and the AUSAs. According to the AUSA who defended the Government during the lawsuit, she examined the shredded pieces in the presence of the Botell's lawyers and stated there appeared to be no original documentation or handwritten notes. The AUSA was confident that LAVO produced everything requested during the discovery process and explained no discovery instructions were provided to LAVO regarding the culling of documents. In his deposition, (b) (7)(C) stated he shredded duplicates and items that were deemed not relevant to the discovery requests. The details of our investigation are described below.

Preservation Orders

DOI allegedly failed to issue a preservation order or litigation hold following receipt of a letter from the Botell's legal representative (see Attachment 16**)**. The Botell's initial law firm, Patrick W. Steinfeld & Associates, sent Koontz and (b) (7)(C) a letter dated August 12, 2009, stating that the Botells had retained the firm's services and requested a status of the investigation (see Attachment 8). In the letter, Steinfeld & Associates also requested that the firm's expert observe or participate if the investigation was ongoing and that "adequate measures to preserve evidence of the subject rock retaining" wall be implemented. In addition, the law firm stated in the letter that "spoliation of evidence may result in sanctions including monetary, issues and evidence as well as an inference that the evidence was adverse to your department's interests."

On August 18, 2009, (b) (7)(C) responded in a letter to the Steinfeld & Associates' inquiry, stating that the investigation was ongoing and that "at this stage of the investigation there is nothing for your expert to observe as the site visits and interviews have concluded. You will be provided a copy of the accident report as soon as it is completed" **(Attachment 34**). (b) (7)(C) response further advised: "With respect to preserving evidence, the piece of retaining wall which dislodged fell approximately 1000 ft. below the trail, where it still lays. In addition, the section of trail at which the accident occurred is presently closed to visitors." In the letter, (b) (7)(C) also explained that the trail was frequently closed due to inclement weather and there was a trail renovation project pending. (b) (7)(C) then referred the Botell's lawyer to LAVO's secretary to make arrangements to view the accident site.

The Solicitor's response to the Steinfeld & Associates letter was allegedly "wholly untruthful" and meant to mislead the Botells' lawyer (see Attachment 16). According to the complaint, by August 18, 2009, (b) (7)(C) investigation had not begun, preventing the Botells' lawyer and the law firm's expert from participating. Further, the Solicitor allegedly failed to mention that LAVO had dislodged the remaining portion of retaining wall.

(b) (7)(C) told us that the intent of her response to the Steinfeld & Associates' letter was to update the Botells' lawyer on the status of the ongoing investigation, the status of the retaining wall, and to offer to make arrangements for the law firm's expert (see Attachment 27). She attempted to coordinate the law firm's experts' visit to LAVO because the area was approaching inclement weather months, which can make portions of the trail impassable. (b) (7)(C) did not recall the Government ever receiving a response after she sent the August 18, 2009 letter or confirmation after the firm was provided a copy of ISB's report of investigation in January 2010. The next contact the Government received was when the tort claim was filed by the Botell's new law firm, Dreyer, Babich, Buccola, Wood LLP.[16] To her knowledge, no expert representing the Botells traveled to LAVO to inspect the site of the accident.

(b) (7)(C) told us that the Steinfeld & Associate letter was viewed as a notification of representation and not a litigation hold or preservation notice. At that point, the Botells had not filed a claim or a lawsuit, therefore no litigation was pending that would have warranted the initiation of a litigation hold. Because no claim or lawsuit had been filed identifying the basis of the claim or which records needed to be preserved, the Government did not issue a preservation order. LAVO was not required to take any action aside from forwarding the letter to the Solicitor to verify the letter's authenticity and intent.

According to (b) (7)(C) the Government does not automatically preserve information after an accident because it would be unaware of a claimant's intentions until a claim or lawsuit is filed. Further, not all fatalities or injuries on public lands result in a claim or lawsuit. Records can be preserved on a case-by-case basis if the Government is made aware of the basis of the tort or lawsuit, claimants can file the claim up to 2 years from the date of the event. (b) (7)(C) expressed that it is unrealistic for the Government to attempt to preserve all data for potential claims and there are established schedules for preserving and disposing of Government data. (b) (7)(C) was not fearful of losing LAVO records or data pertaining to the incident, based on the cycle or scheduled destruction of Government records established by DOI and reinforced in the Federal Information System Security Awareness training for all DOI employees.

(b) (7)(C) explained that records retention within DOI as a whole has been problematic in the past, partially due to the amount of time it takes for some claims or lawsuits to be filed. (b) (7)(C) did not see the 30-day auto delete email function as an issue at LAVO and explained that DOI's former email system, Lotus Notes, automatically archived emails making them accessible at a later date. After the Botells' lawsuit was filed against the Government, the U.S. Attorney's Office led the Government's defense efforts and all subsequent matters were addressed through the AUSAs. Once the litigation started, all litigation holds and preservation orders were routed directly to the Solicitor's Office ((b) (7)(C) or the AUSA for review and action.

According to the complaint, the absence of a preservation order led to the loss of relevant trail and safety documents when (b) (7)(C) (LAVO's former chief of maintenance) destroyed his library of personal files before retiring (see Attachment 16).

During (b) (7)(C) deposition, he said that he disposed of items in his personal library upon retirement in December 2009, while the remaining LAVO-related documents were left in his office (**Attachment 35**). In addition, his retirement predated the Botell's claim and lawsuit.

[16] According to the administrative file for this incident, Dreyer, Babich, Buccola, Wood LLP initiated contact with LAVO on September 21, 2010, regarding the process of filing a tort claim; the Botell's tort claim was filed in November 2010.

Our Forensic and Analysis Unit captured and processed official DOI emails associated to this investigation, specifically searching for correspondences involving LAVO employees and the 2009 fatality (**Attachment 36**). Based on the complainant's allegations, key word searches were conducted on the captured emails; the review generated no relevant correspondence.

Discovery Documents

LAVO staff, specifically [redacted] allegedly shredded documents responsive to discovery requests (see Attachment 16). The alleged act was witnessed by former LAVO clerk (b) (7)(C), who helped [redacted] collect documents relevant to discovery requests.

According to her deposition, (b) (7)(C) began assisting [redacted] gather and make copies of LAVO documents relevant to the 2009 fatality to fulfill production and discovery requests for the lawsuit (**Attachment 37**). (b) (7)(C) collected documents, such as meeting minutes, notes, and emails, and provided them to [redacted] In March 2012, (b) (7)(C) assisted in a second request for documents associated to discovery request and again provided the documents to [redacted] According to (b) (7)(C) [redacted] voiced concern over the documents she had gathered because he felt they were not relevant to the production request. (b) (7)(C) recalled that [redacted] and Koontz had a meeting after she collected the LAVO documents. Upon returning from his meeting, he pulled documents from the collection and shredded the items. (b) (7)(C) could not see which documents [redacted] shredded or the quantity, other than it appeared to be a stack of paper. She did not engage Roth to determine what he had shredded, but returned to work the following day and retrieved the shreds of paper from the waste bin. During her November 30, 2012 deposition, (b) (7)(C) turned the shredded papers over to the court reporter.

AUSA (b) (7)(C) was present when (b) (7)(C) presented the paper shreds. (b) (7)(C) reviewed the shredded papers during (b) (7)(C) deposition and in the presence of the Botell and (b) (7)(C) lawyers (see Attachment 26). During her review, (b) (7)(C) did not find the alleged original documentation or handwritten notes. (b) (7)(C) believed no handwritten notes or agendas were located because of the nature of NPS culture in which the staff meet and communicate in person while out working in the park. (b) (7)(C) was confident that LAVO produced everything requested during discovery. (b) (7)(C) office did not provide LAVO with discovery instructions regarding culling procedures and all discovery requests were forwarded directly to LAVO for production.

Koontz recalled that (b) (7)(C) assisted [redacted] in compiling documents requested for discovery (see Attachment 5). After the documents were complied, Koontz, [redacted] and LAVO's secretary [redacted] (b) (7)(C) reviewed the complied documents together and removed anything that was not relevant to the discovery request. She stated that LAVO produced everything pertinent to the accident, and she never gave any orders to shred or withhold information from discovery.

In [redacted] deposition, he stated that the documents removed during production and later shredded were either duplicates or not relevant to the discovery requests (**Attachment 38**). Koontz, (b) (7)(C) and [redacted] culled through the collected documents and removed documents that they believed to be outside the scope of the discovery requests. [redacted] denied shredding any copy or original document bearing handwritten notes, but recalled removing an unsigned safety plan and LAVO financial documents that were not relevant to the discovery requests.

(b) (7)(C) explained that the preservation and retention of NPS records and records management was an issue during this lawsuit, but noted that related deficiencies occurred in several other Government

departments and was not a LAVO- or NPS- specific issue (see Attachment 26). She reiterated being confident that the Government produced everything requested during discovery.

With regards to misconduct, AUSA (b) (7)(C) stated she was not presented with any evidence or information that led her to believe that any NPS employee had committed a crime. AUSA (b) (7)(C) expressed that the U.S. Attorney's Office has a duty to report merited misconduct for further action.

Alleged Misconduct by LAVO's Superintendent

Koontz allegedly ordered the retaining wall destroyed and later refused to cooperate with ISB investigators (see Attachment 16). Koontz also allegedly had knowledge of LAVO's trail hazards prior to the 2009 fatality, failed to act accordingly, and removed "strong language" from an unrelated post-incident official report pertaining to the condition of the LAVO trail.

Witness testimony and LAVO staff statements to ISB revealed conflicting accounts regarding who ordered the trail crew members to dismantle the intact portion of the retaining wall. On July 29, 2009, the retaining wall responsible for the fatal accident was pushed off the trail tread and descended the volcano. The wall LAVO's trail crews allegedly destroyed was a portion that had remained intact on the trail until early August 2009 when trail crew members dislodged it due to unstable footing. None of the individuals interviewed or who provided testimony could attest that they received an order from Koontz to dismantle the intact portion of the retaining wall. Koontz denied ordering the destruction of the wall and stated that she learned of the event only it happened. In addition, Koontz told both us and the DOI Regional Solicitor (b) (7)(C) that ISB and NPS park rangers never attempted to interview her. While we found conflicting accounts regarding whether ISB attempted to contact and interview Koontz, ISB was never under the impression Koontz refused to be interviewed.

The 2009 fatality was the first incident of its kind at LAVO, and Koontz had no reason to believe the trail's retaining walls would fail. She denied being previously advised by LAVO staff of the potential hazards or that the trail should have been closed prior to the fatality. The funding issues predated Koontz's time at LAVO, and LAVO's chief of maintenance had fought for funding to rehabilitate the trail for more than 20 years. Because there was no evidence that the trail should be closed to the public, it remained open until the 2009 fatality and then was partially closed to restrict access to the site of the accident until the rehabilitation project was completed. Koontz had requested that certain statements made in a post-incident historic architectural inventory be removed because the comments in question were beyond the scope of the architectural inventory or the purpose of the report. The details of our investigation are described below.

Retaining Wall

The retaining wall responsible for the fatal accident on July 29, 2009, came to rest approximately 700 feet below the site of the accident (see Attachment 24). Thomas Botell Sr. told the LAVO rangers he was able to move the failed portion of wall to gain access to his children, and the failed portion of wall then descended the volcano (**Attachment 39**).

On approximately August 4, 2009, LAVO seasonal trail maintenance crew members, (b) (7)(C) and (b) (7)(C), hiked up the Lassen Peak Trail under the direction of LAVO Trails Supervisor (b) (7)(C) (b) (7)(C) (**Attachment 40**). (b) (7)(C) told them to assist LAVO Facility Manager (b) (7)(C) and NPS Historic Landscape Architect and Cultural Landscape Inventory Coordinator (b) (7)(C) with a

trail inventory. (b) (7)(C) and (b) (7)(C) met with (b) (7)(C) near the site of the Botell accident, and (b) (7)(C) allegedly advised them to dislodge a portion of retaining wall that was "hanging" off the trail (**Attachments 41 and 42**). (b) (7)(C) and (b) (7)(C) used their legs to push the loose portion of retaining wall off the trail and down the slope of the volcano; the dislodged portion of retaining wall came to rest close to the portion that failed on July 29, 2009. According to (b) (7)(C) and (b) (7)(C) (b) (7)(C) and (b) (7)(C) continued on with the trail inventory, while (b) (7)(C) and (b) (7)(C) went on to perform unrelated trail work, later reporting to (b) (7)(C) on their trail work for the day.

ISB's report of investigation and associated supplements revealed conflicting information from all of the LAVO staff involved in this matter, resulting in an unclear chain of events that led to the dislodging of the intact portion of the retaining wall (see Attachments 40, 41, and 42, **Attachments 43, 44, 45, and 46**). (b) (7)(C) reported that the trail crew members were acting under either (b) (7)(C) or (b) (7)(C) guidance, while (b) (7)(C) reported he had no involvement or knowledge of the event. (b) (7)(C) confirmed he sent the trail crew to assist (b) (7)(C) with a trail inventory.

Koontz denied ordering the destruction of the intact portion of the retaining wall or being a part of any conversation with LAVO staff about removing remaining portion of the wall (see Attachment 5). She only became aware of the event after it had occurred and immediately reported the event to the Solicitor. Koontz and her staff were mainly focused on ensuring the trail was safe and whether to reopen the trail. Koontz was under the impression that the scene of the accident had already been processed and thoroughly documented by LAVO park rangers. Koontz and the LAVO park rangers never discussed releasing the scene or communicated to park staff that the accident scene was active or still being processed. Before to the matter was litigated, no questions were posed regarding whether the act of dismantling the retaining wall was a violation of law or NPS policy.

Due to conflicting accounts, (b) (7)(C) was unable to determine who ordered the trail crew to dislodge the intact portion of the retaining wall (see Attachment 21 and **Attachment 47**). (b) (7)(C) said that the order to dislodge the retaining wall had to have been given since it was not a task the trail crew would have performed on their own.

Assistant Special Agent-in-Charge (b) (7)(C) reported that neither the remaining portion of the retaining wall nor the portion responsible for the fatal accident had any evidentiary value for ISB's investigation (see Attachment 22**).** It was only when the judge magistrate's findings and recommendations were released in 2013 that the idea the wall as evidence surfaced. Through the many conversations that (b) (7)(C) had with (b) (7)(C) about this investigation, (b) (7)(C) never reported that the dismantling of the remaining portion of wall compromised ISB's investigation; (b) (7)(C) expressed that not much would have been gained by collecting or processing the wall as evidence.

Koontz's Cooperation with ISB

According to (b) (7)(C) deposition, Koontz declined to be interviewed by ISB, therefore (b) (7)(C) was unable to obtain clarification from her on several topics (see Attachment 20). (b) (7)(C) testified that Koontz had the right to decline an interview and explained the process and justification required to compel a witness to be interviewed. (b) (7)(C) discussed compelling Koontz to be interviewed with his ISB supervisors, but was unaware if ISB contacted Koontz's supervisor or regional director about the matter. (b) (7)(C) was unable to recall the details of how Koontz declined the interview, but recalled getting the response through his ISB chain of command:

> I think I got that back from (b) (7)(C) verbally and in telephone conversation. But there is no question in my mind that she didn't wish to be interviewed by me pursuant to this investigation. I just don't recall specifically. I believe that came back through my chain of command. Either I spoke with (b) (7)(C) or (b) (7)(C). My best recollection is it was in a conversation with (b) (7)(C).

(b) (7)(C) told us that his requests to interview Koontz were made directly to Koontz's office and to (b) (7)(C) but went unanswered (see Attachment 21). After receiving no response to his requests, he contacted his ISB supervisors, who subsequently contacted Koontz directly and reported back to (b) (7)(C) that Koontz did not want to comment on the incident.

Sullivan did not recall Koontz declining an interview (see Attachment 22). Special Agent-in-Charge (b) (7)(C) contacted Koontz during the investigation, but did so because they were personal friends (no further information). (b) (7)(C) did not recall ever discussing compelling Koontz to be interviewed by ISB; in hindsight, based on the magnitude of the matter, he felt that ISB should have pursued interviewing Koontz.

(b) (7)(C) recalled (b) (7)(C) wanting to interview Koontz as part of the LAVO fatality investigation (see Attachment 23). (b) (7)(C) was under the impression that the working relationship between ISB and LAVO was congenial and the investigation was moving forward. He was unable to recall talking to Koontz about being interviewed and did not remember Koontz declining to be interviewed. According to (b) (7)(C) (b) (7)(C) told (b) (7)(C) that Koontz did not want to be interviewed. He had no recollection of compelling (b) (7)(C) to be interviewed ever being discussed and how that option would not have been warranted.

Koontz told us that neither the LAVO park rangers nor ISB attempted to interview her; she voiced her concern about not being interviewed to the DOI Regional Solicitor (see Attachment 5).

According to (b) (7)(C) prior to the 2009 fatality, ISB conducted an unrelated theft investigation at LAVO that potentially affected how Koontz viewed ISB's involvement (see Attachment 22). Although (b) (7)(C) was not the case agent on the previous investigation, ISB managers were under the impression that their assistance was not welcomed at LAVO after the previous investigation. According to RM-9, ISB cannot investigate matters at the park level unless the parks and sites request assistance.

(b) (7)(C) recalled that (b) (7)(C) felt passionately that ISB should have led the 2009 investigation. (b) (7)(C) told ISB that LAVO park rangers also wanted ISB assistance with the fatality investigation, but the outcome of a previous ISB investigation at LAVO likely affected the park's decision to request ISB's involvement.

(b) (7)(C) recalled that, during the 2009 ISB fatality investigation, there were several discussions between ISB and LAVO park rangers regarding investigative roles and responsibilities (see Attachment 23). (b) (7)(C) stated that the 2009 investigation caused a rift between Koontz and (b) (7)(C) which he attributed to differences of opinion compounded by Koontz taking (b) (7)(C) advice over (b) (7)(C) (no further information). He explained that (b) (7)(C) was a detail oriented, "by-the-book" investigator and (b) (7)(C) likely took issue with the way the LAVO rangers conducted certain aspects of the investigation. (b) (7)(C) stated that (b) (7)(C) and his park rangers likely did things differently from (b) (7)(C) he clarified that the park rangers did nothing wrong, their actions were just different from (b) (7)(C)

Knowledge of Trail Hazards

(b) (7)(C) told us that several LAVO employees informed him that they attended multiple meetings to discuss the condition of the trails prior to the 2009 fatality, during which witnesses, such as (b) (7)(C) and (b) (7)(C) allegedly, voiced their concerns to Koontz that the trail was dangerous and should be closed (see Attachments 21). LAVO staff informed ISB that Koontz dismissed these concerns and the trail remained open to the public.

Koontz gave us a detailed explanation of the historical conditions of LAVO's 70-year-old trails and how LAVO staff had documented the well-known maintenance issues associated with the trails (see Attachment 5). The maintenance and funding issues predated her becoming LAVO's superintendent. According to Koontz, (b) (7)(C) continuously "fought" for funding during his 20-year career at LAVO. Koontz and (b) (7)(C) had countless conversations about the trail's condition prior to the accidental death, but the topic of closing the trail was never discussed. Koontz said she would have closed the trail if presented with facts or evidence to support that decision.

During (b) (7)(C) deposition, he clarified that the trails were in need of a structural retrofit, which was why he promoted the "Reach the Peak" project to raise awareness and funds for the trail rehabilitation project (see Attachments 3 and 35). (b) (7)(C) was never presented with any concerns and never personally observed any conditions that made the trail unsuitable for public visitors. (b) (7)(C) trusted (b) (7)(C) judgement, but had no recollection of (b) (7)(C) advising him about the fissures (b) (7)(C) allegedly observed in the retaining walls or about various concerns and hazards along the trail before the 2009 fatality.

The historical concerns about inadequate footing for the 50 retaining walls along the Lassen trail and trail conditions were compounded by being built on a volcanic mountain, since the environment limited options to erect a stable footing to support the retaining walls and trail switchback. In addition, the pace of maintenance efforts could not keep up with the pace of the trail erosion, due to insufficient funding for trail crew members and rehabilitation efforts.

During LAVO Environmental Compliance Officer (b) (7)(C) deposition, he said that he became aware of the trail's history and maintenance challenges upon his arrival to LAVO in 2008 (**Attachment 48**). He knew the mortared retaining walls were in poor shape in 2008, but denied knowing that the walls posed a safety hazard to visitors. He was unable to recall whether (b) (7)(C) ever voiced concerns that the trails were unsafe, but recalled (b) (7)(C) stating the retaining walls "needed work." (b) (7)(C) did not recall (b) (7)(C) ever stating that LAVO management failed to listen to him regarding public safety.

LAVO staff members' depositions regarding the known hazards of the trail, as well as who informed Koontz of the issues and recommended trail closure, were conflicting (**Attachments 49, 50, and 51**). In (b) (7)(C) interview with ISB, he stated in 2008 he observed trail hazards that should have required trail closure and reported his observances; in his 2012 deposition, (b) (7)(C) didn't recall providing that language to ISB but noted the trail was in need of rehabilitation (see Attachments 45 and 50). In (b) (7)(C) 2012 depositions, he claimed to have advised Koontz of the trail hazards and recommended the trail be closed. (b) (7)(C) stated that he made Koontz aware of the hazards during a "Reach the Peak" meeting. LAVO Chief of Resources (b) (7)(C) deposition revealed that she was unable to recall whether any LAVO staff voiced their concerns of hazards on the trail to her or LAVO management.

Koontz told us that she had no information or reason to believe additional signs were needed to address hazards other than the known issues associated with hiking the LAVO trails; there were no signs addressing the threat of failing retaining walls since that had never occurred prior to July 2009 (see Attachment 5). There were various signs at the entrance of the trail and the visitor center covering various safety aspects for the public (e.g., environmental hazards of hiking the trail, recommended shoes, staying on the trail's tread, hydration, temperature changes and physical exertion), which were believed to be sufficient.

The LAVO trail is surrounded by wilderness area, which affects LAVO staff's ability to use machinery to repair and maintain the trail.[17] In addition, the steep trail adds difficulty to maintaining an already challenging trail. Further, Koontz said the trail receives a significant amount of snow, restricting trail crews to a narrow window to perform maintenance. The melting snow causes erosion of soil and footing along the trail. The trail is also constantly shifting because it was built on a volcano. Koontz estimated that LAVO experiences between one and three earthquakes per year, which contributes to the earth continuously shifting along the trail.

(b) (7)(C) *Trail Inventory*

In March 2009, LAVO requested assistance from NPS Historic Landscape Architect (b) (7)(C) (b) (7)(C) to conduct a LAVO trail inventory for historical significance and to offer technical assistance associated with the trail rehabilitation efforts, which consisted of guiding LAVO in the application of the laws and policies regarding the treatment of cultural resources (**Attachment 52**). Due to scheduling conflicts, (b) (7)(C) was unable to visit LAVO until August 2009. According to Koontz's and (b) (7)(C) deposition, (b) (7)(C) was helping LAVO evaluate the historic integrity of the retaining walls along the trail to determine the trail's eligibility to become listed in the national register as a national historic trail (see Attachment 48 and **Attachment 53**).

According to Koontz, after (b) (7)(C) conducted her inventory with the assistance of LAVO's (b) (7)(C) and (b) (7)(C) she wrote a draft report summarizing her observations, which included statements regarding the poor construction and condition of the LAVO retaining walls. (b) (7)(C) provided her draft report to (b) (7)(C) for review and comments. After reading (b) (7)(C) report, Koontz told (b) (7)(C) to have (b) (7)(C) remove the statements from her report because they did not relate to the historic integrity of the walls. In her interview with ISB, (b) (7)(C) recalled being advised by (b) (7)(C) to "constrain" her comments to the historic preservation concepts associated with her visit (see Attachments 48 and 52, **Attachment 54**). In (b) (7)(C) deposition, she did not recall the exact verbiage removed from her report, but recalled it pertained to the poor quality and construction of the walls (see Attachment 52).

According to depositions, no copies of (b) (7)(C) draft report were recovered because she edited over the draft, which later became the final version. In December 2009, ISB's (b) (7)(C) interviewed (b) (7)(C) who told him that the LAVO trails were "quite the worst trail I'd ever seen in terms of poor condition and safety hazards" (see Attachment 54). She also told him that after her visit in August 2009, she had recommended the trail be left closed until rehabilitation was completed

[17] Public Law 88-577, also known as the Wilderness Act, was signed into law by President Lyndon B. Johnson on September 3, 1964. This legislation not only protected over 9 million acres of Federal land throughout the United States, it also provided a legal definition for the term "wilderness" as "an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain." Approximately 80,000 acres or 74 percent of LAVO is considered wilderness.

According to (b) (7)(C) deposition, (b) (7)(C) felt that the peak trail retaining walls were in bad shape, but (b) (7)(C) stated that she was not there as a wall expert (see Attachment 48). (b) (7)(C) visited LAVO as a cultural expert to determine the historical value of the trail. (b) (7)(C) visit occurred 5 days after the fatal accident, thus LAVO's staff was already aware of the safety hazards associated to the retaining walls. (b) (7)(C) recalled that Koontz told him that "some of the statements in this report do not deal with the cultural significance of the trail. Therefore, I don't feel they should be in a cultural report." The alleged strong language in (b) (7)(C) report that was subsequently removed pertained to redesigning the retaining walls. Koontz told (b) (7)(C) that (b) (7)(C) recommendations were outside of her expertise and beyond the scope of her visit or historical significance of the trail.

In January 2010, (b) (7)(C) contacted (b) (7)(C) after he reviewed ISB's draft report of investigation on the 2009 fatality (**Attachment 55**). (b) (7)(C) email correspondence with (b) (7)(C) stated (b) (7)(C) comments "regarding the condition of the trail seem inappropriate for this report." (b) (7)(C) requested that (b) (7)(C) role be further clarified and for her comments remain within the scope of her "knowledge and responsibility." (b) (7)(C) replied that (b) (7)(C) role and expertise were addressed in the report and the focus of (b) (7)(C) interview was to "gain insight into the trail history, construction methods, structural integrity and in process actions concerning the rehabilitation efforts" as well as (b) (7)(C) observations post-incident.

According to (b) (7)(C) after (b) (7)(C) wrote his draft report of investigation, Koontz and (b) (7)(C) read the report and asked ISB to clarify certain aspects of the report (see Attachment 22). He recalled having a conversation with (b) (7)(C) about LAVO's request and asked (b) (7)(C) if everything in the report was factual. (b) (7)(C) assured him that the details in the investigative report were factual. Some of the LAVO staff's recollections, however, may not have been accurate, so (b) (7)(C) documented what each of the staff members reported to him. Based on this conversation, (b) (7)(C) advised (b) (7)(C) not to make any changes to the report of investigation and the report was finalized.

According to Koontz's deposition, LAVO was aware of the trail's condition prior to (b) (7)(C) comments and the 2009 fatality; Koontz sated LAVO's knowledge of the trail condition prompted their initiation of the environment assessment process in 2007 and 2008 and the request for funding to rehabilitate the trail. She denied requesting that (b) (7)(C) comments be removed because of the possibility of litigation, but rather to narrow (b) (7)(C) comments to the scope of the site visit.

SUBJECT(S)

National Park Service
Lassen Volcanic National Park
Mineral, CA

DISPOSITION

We briefed Congresswoman Speier's staff on the results of our investigation and referred our findings to the NPS Director for appropriate action.

ATTACHMENTS

1. LAVO Construction Web Article.
2. 2002 NPS Report on LAVO Trail Condition Assessment Survey.
3. LAVO Rangers Interview of (b) (7)(C), July 2009.
4. LAVO Proposal Memorandum to NPS Director, March 2007.
5. Investigative Activity Report (IAR) OIG's Interview of Darlene Koontz.
6. LAVO Finding of No Significant Impact (FONSI) – Reach the Peak, February 2009.
7. ISB's Report of Investigation, January 2010.
8. Steinfeld & Associates Letter to NPS, August 12, 2009.
9. Botell's Standard Form 95 – Claim for Damage, Injury, or Death, November 2010.
10. Botell's Wrongful Death/Personal Injury Lawsuit, Eastern District of California, June 2011.
11. Magistrate Judge Hollows Findings and Recommendations, March 2013.
12. Government's Objections to the Findings and Recommendations April 2013.
13. Judge Nunley's Order Deferring an Evidentiary Hearing, May 2013.
14. DOI OIG's Report of Investigation, July 2013.
15. Stipulation for Compromise Settlement and Release of Federal Tort Claims Act, February 2014.
16. Campora's Spoliation of Evidence and Bad Faith Acts Timeline, February 2013.
17. Congresswoman Speier Inquiry to DOI OIG re: Botell Fatality, September 2014.
18. Campora's Letter to DOI OIG re: Congressional Request for Investigation November 2014.
19. IAR – OIG Coordination with (b) (7)(C), NPS DCOP, March 2015.
20. Deposition Transcript of (b) (7)(C), December 2012.
21. IAR – OIG Interview of (b) (7)(C), April 2013.
22. IAR – OIG Interview of (b) (7)(C), April 2015.
23. IAR – OIG Interview of (b) (7)(C), April 2015.
24. LAVO Rangers Supplemental Report #4, Initial Investigation, August 2009.
25. LAVO Ranger's Accident Scene Photographs and Log, July 29, 2009.
26. IAR – OIG Coordination with AUSAs Defense Litigation Unit, January 2015.
27. IAR – OIG Coordination with DOI Regional Solicitor (b) (7)(C), Mar 2015.
28. IAR – OIG Coordination with NPS' EICC (b) (7)(C), April 2015.
29. Deposition Transcript of (b) (7)(C), December 2012.
30. IAR – OIG Coordination with NPS' Office of Risk Management, Dec 2014-Jun 2015.
31. LAVO Letter to Botell's Lawyer re: Tort Claim SF-95, September 2010.
32. LAVO Letter to AUSA's Office re: NPS 50 in Requests for Production, March 2012.
33. Email Correspondence from Campora, December 2014.
34. (b) (7)(C) Letter/response to Botell's Lawyer, August 2009.
35. Deposition Transcript of (b) (7)(C), Jun 2012.
36. IAR – OIG's Review of Production Emails for LAVO Staff, March 2015.
37. Deposition Transcript of (b) (7)(C), November 2012.
38. Deposition Transcript of (b) (7)(C), January 2013.
39. LAVO Ranger's Interview of Thomas Botell Sr., July 2009.
40. ISB's Interview of (b) (7)(C), December 2009.
41. ISB's Interview of (b) (7)(C), December 2009.
42. ISB's Interview of (b) (7)(C), December 2009.
43. LAVO Rangers Interview of (b) (7)(C), December 2009.
44. ISB's Interview of (b) (7)(C), December 2009.
45. ISB's Interview of (b) (7)(C), December 2009.

46. LAVO Rangers Memorandum re Removal of Retaining Wall, March 2010.
47. ISB's Analysis of Photographic Evidence from the Scene of the Accident, December 2009.
48. Deposition Transcript of (b) (7)(C), February 2013.
49. Deposition Transcript of (b) (7)(C), February 2012.
50. Deposition Transcript of (b) (7)(C), June 2012.
51. Deposition Transcript of (b) (7)(C), June 2012.
52. Deposition Transcript of (b) (7)(C), June 2012.
53. Deposition Transcript of Darlene Koontz, February 2012.
54. ISB's Interview of (b) (7)(C), December 2009.
55. Email Correspondence between LAVO and ISB re: ISB's ROI, January 2011.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
BIA Crow Creek Agency Social Services Program, Child Protection Division	**OI-PI-15-0635-I**
Reporting Office	**Report Date**
Program Integrity Division	**August 20, 2015**
Report Subject	
Report of Investigation	

SYNOPSIS

At the request of the Secretary of the Interior, the Office of Inspector General investigated allegations filed by a former Bureau of Indian Affairs (BIA) (b) (7)(C) against his former (b) (7)(C) (b) (7)(C), Crow Creek Agency, BIA, Fort Thompson, SD. The Secretary received a letter, dated June 18, 2015, from the Office of Special Counsel (OSC) outlining the complainant's allegations that (1) (b) (7)(C) is not a licensed mental health professional and improperly placed children in psychiatric facilities; and (2) (b) (7)(C) repeatedly failed to ensure that required psychological evaluations were completed before children were placed in psychiatric facilities (OSC Referral No. DI-15-1504). The complainant stated that he knew of over 50 cases in which (b) (7)(C) referred children for placement in psychiatric facilities without the requisite psychological evaluations.

We found that while it is true that (b) (7)(C) does not hold the degrees and licenses needed to be a qualified mental health professional (QMHP) in South Dakota, her current position does not require her to be a QMHP. In addition, because (b) (7)(C) is not a QMHP, she cannot place children in psychiatric facilities herself; instead, she refers children who may benefit from placement in a facility to a State Review Team (SRT), which makes a placement decision in accordance with South Dakota statutes and policies. As part of the referral process for each child, (b) (7)(C) must ensure that a psychological evaluation of the child has been completed and submitted to the SRT to support a placement decision.

We were unable to find evidence to support the complainant's statement that (b) (7)(C) had improperly referred 50 children for residential placement. During our investigation, we learned that the Crow Creek Agency had only referred a few children for placement in the past 5 years and (b) (7)(C) only referred one of those children. (This was the child referenced in OSC Referral No. DI-15-1504).

Reporting Official/Title	Signature
(b) (7)(C) (b) (7)(C) /Investigator	Digitally signed.
Approving Official/Title	**Signature**
(b) (7)(C) (b) (7)(C) /ASAC	Digitally signed.

Authentication Number: 0C1A76CC0925E67B97D69167BDD6C50D

DETAILS OF INVESTIGATION

At the request of the Secretary of the Interior, the Office of Inspector General investigated allegations filed with the Office of Special Counsel (OSC) by (b) (7)(C), a former Bureau of Indian Affairs (BIA) (b) (7)(C), against his former (b) (7)(C) (b) (7)(C) Crow Creek Agency, BIA, Fort Thompson, SD. [redacted] alleged that [redacted] is not a licensed mental health professional, that she improperly recommended the placement of children in psychiatric facilities without the requisite authority to do so, and that she repeatedly failed to ensure that psychological evaluations had been performed when she recommended the placement of children in facilities, in violation of State and tribal laws (**Attachment 1**). (b) (7)(C) stated that there were over 50 cases in which [redacted] placed children in facilities without the required psychological evaluations.

In response to these allegations, we interviewed (b) (7)(C) first- and second-line supervisors, and an employee from the South Dakota Department of Social Services. Further, we reviewed documents from files relating to a child (referenced as "Client 1" in the OSC referral) whom [redacted] alleged [redacted] had improperly placed in a psychiatric facility. We also reviewed occupational and classification standards as well as other documents that detailed the duties, responsibilities, and requirements of [redacted] position.

Allegation That [redacted] Is Not a Licensed, Certified, or Qualified Mental Health Professional

In his OSC referral, [redacted] alleged that [redacted] is not a qualified mental health professional (QMHP). When we interviewed him, he explained that South Dakota statutes require that a person involved in making recommendations to the court to remove children from their homes and place them in either foster care or treatment facilities be "a licensed, verified mental health professional" (**Attachment 2**). He stated that [redacted] is not a licensed mental health professional or a licensed social worker because she does not have a master's degree. [redacted] said that around November 2014, [redacted] told him that she did not have a master's degree in social work and that she was going to classes to get a degree. He said he confirmed that [redacted] did not have a license by searching unsuccessfully for her in the South Dakota license database.

We reviewed [redacted] employment history, appointment information, and BIA position description, and found that while it is true that she is not a QMHP, she does not need to be one to fulfill the responsibilities of her current position (**Attachment 3**).

[redacted] has been in her current role as a (b) (7)(C) since (b) (7)(C) 2011 (**Attachment 4**). According to the Individual Occupational Requirements for the (b) (7)(C) series, [redacted] duties include (b) (7)(C) or other (b) (7)(C) and (b) (7)(C) one or more (b) (7)(C) when such work is not classifiable in other series of this occupational group" (**Attachment 5**).

[redacted] immediate supervisor, Crow Creek Agency (b) (7)(C) [redacted] confirmed that (b) (7)(C), [redacted] was only required to have a bachelor's degree in a field related to human services or social services (**Attachment 6**). [redacted] said that [redacted] also had "tons of experience in child welfare," having worked as a social services supervisor for the Tribe and at the State level. According to [redacted] has been detailed to other agencies specifically to assist with child-welfare-related matters.

Crow Creek Agency (b) (7)(C) (b) (7)(C) (b) (7)(C) (b) (7)(C) second-line supervisor, did not know whether (b) (7)(C) position had an education requirement, but he knew that she did not have a master's degree (**Attachment 7**). (b) (7)(C) assumed that a master's degree was not required for (b) (7)(C) position because, if it had been, she would have been screened out when she applied for the job. He said that no one had ever questioned him about whether a master's degree should be required for (b) (7)(C) position.

Allegation That (b) (7)(C) Recommends the Placement of Children in Psychiatric Facilities Without the Requisite Authority

(b) (7)(C) (b) (7)(C) stated that (b) (7)(C) recommends that children be placed in psychiatric facilities even though she does not have the authority to do so (see Attachment 2). According to her position description, however, (b) (7)(C) is authorized to function as the "client advocate in securing a total assistance package (including foster home *and institutional placement)* [emphasis added]" (**Attachment 8**). She also collaborates with "aid organizations, church leaders, school officials, law enforcement, community social services assets, caseworker, agency social service representatives, other social welfare and health agencies and others in order to provide appropriate services."

Because (b) (7)(C) is not a QMHP, she does not perform psychiatric, psychological, or similar evaluations on children, whether for placement in psychiatric facilities or otherwise. When placement of a child may be warranted, (b) (7)(C) acts on behalf of BIA as a referring entity, collecting all pertinent records to support a referral to residential care (**Attachments 9 and 10**). The State of South Dakota Department of Social Services' Medicaid Auxiliary Placement Program State Review Team (SRT), as well as a State Certification Team (CT), reviews the records BIA provides and makes a determination about the appropriate level of care for the child (**Attachment 11**). Both the SRT and the CT have QMHPs who are qualified and authorized to perform and review any evaluations required for consideration of residential care. (b) (7)(C) does not have a role or any influence in the placement decision (**Attachment 12,** and see Attachment 9).

(b) (7)(C) explained that (b) (7)(C) never made assessments that would require her to have the qualifications of a psychologist, psychiatrist, or licensed clinical social worker (see Attachment 6). (b) (7)(C) made referrals to have the requisite assessments completed, but she did not complete the assessments herself. (b) (7)(C) added that (b) (7)(C) could make limited observations, but she could not make medical or behavioral diagnoses or do medical or behavioral assessments, nor were such actions part of (b) (7)(C) job. (b) (7)(C) said that she had no concerns about (b) (7)(C) making referrals to the SRT.

Allegation That (b) (7)(C) Has Repeatedly Failed To Ensure That Children Receive Psychological Evaluations Before They Are Placed in Psychiatric Facilities

(b) (7)(C) (b) (7)(C) stated in his OSC referral and his interview that (b) (7)(C) has not made sure children being referred for placement in psychiatric facilities receive the required psychological evaluations (see Attachments 1 and 2). He alleged that because (b) (7)(C) does not have the requisite qualifications to recommend inpatient treatment for children, she should have ensured that psychiatric evaluations be conducted. (b) (7)(C) (b) (7)(C) cited the Law and Order Code for the Crow Creek Sioux Tribe § 13-1-14, which states: "A petition for treatment shall be accompanied, whenever possible, with a certificate of a qualified mental health professional or physician. If a certificate does not accompany the petition, the petition must set forth the reasons that an examination could not be secured" (**Attachment 13**). Section 13-1-16 further specifies that the certificate must be based on a personal examination of the patient. In addition, (b) (7)(C) (b) (7)(C) noted South Dakota's requirement for a CT to preapprove a child's placement in a

psychiatric facility (S.D. Admin. R. 67:16:47:05 (2014)) (see Attachment 11). This team "must include at least one physician and must be knowledgeable about the diagnosis and treatment of the mental illnesses of children and of the individual's current situation" (S.D. Admin. R. 67:16:47:04:03 (2007)).

(b)(7)(C) (b) (7)(C) asserted that in at least 50 instances since 2010, (b) (7)(C) failed to ensure that children received psychological evaluations before referring them for placement in facilities (see Attachment 1). When we interviewed (b) (7)(C) (b) (7)(C) and the (b) (7)(C) for the SRT, however, we were told that referrals occurred much less frequently than (b) (7)(C) (b) (7)(C) had claimed—just a few cases since 2010 (see Attachments 6, 9, 10, and 12). (b) (7)(C) explained that BIA has been involved in four residential-care placements since she started as (b) (7)(C) in 2011; she said that three of the children involved either had already been in care or were going through the application process for care when she became the (b) (7)(C). Client 1 was the only case for which (b) (7)(C) had to complete the referral paperwork from start to finish.

(b)(7)(C) (b) (7)(C) cited one case ("Client 1" in the OSC complaint as his sole example of (b) (7)(C) alleged failure to ensure that proper evaluations had been completed (see Attachments 1 and 2). He did not provide OSC with any other evidence that 50 cases had been referred improperly. During a follow-up interview with us, (b)(7)(C) (b) (7)(C) maintained that (b) (7)(C) had improperly referred at least 50 cases (**Attachment 14**). He explained that he believed this number was accurate because when he worked for BIA at the Crow Creek Agency, he had reviewed these cases in the Social Services Program's case management system, and he did not see assessments or evaluations in the "Other Notes" section, where information about court proceedings, assessments, treatment plans, and more would be located for each case. He said that he did not have any additional information from the case management system to corroborate his assertion; because he no longer worked for BIA, he said, he no longer had access to the system.

Agent's Note: *According to a complaint filed with the Merit Systems Protection Board,* (b) (7)(C) (b) (7)(C) *resigned from BIA on* (b) (7)(C).

We examined the process (b) (7)(C) followed during Client 1's referral. (b) (7)(C) provided documents delineating her referral efforts, which showed that a psychological evaluation of Client 1 was completed approximately 7 months before Client 1 was placed in the psychiatric facility (**Attachment 15**).

We contacted (b) (7)(C) (b) (7)(C) the SRT (b) (7)(C) who told us that BIA had properly filed the referral application and supporting documentation for Client 1 (see Attachment 12). The SRT and the CT reviewed and approved Client 1's case. (b) (7)(C) said that (b) (7)(C) would not have had any influence on the SRT's review because the SRT members decide the appropriate level of care for each child based on information they receive from a variety of sources.

We also asked (b) (7)(C) and (b) (7)(C) about the process (b) (7)(C) followed during Client 1's referral (see Attachments 6 and 7). (b) (7)(C) confirmed that the referral had gone through the required SRT review and approval process. She noted that (b) (7)(C) did not make medical or behavioral diagnoses to support the referral. (b) (7)(C) stated that a social service employee from another BIA office had independently reviewed Client 1's case file and determined that there were no issues.

We spoke to this employee, (b) (7)(C), who recalled conducting a case file review for the Crow Creek Agency in February 2015 (**Attachment 16**). She said that she

reviewed Client 1's complete case file to make sure that the proper procedures had been followed and that the documentation in the case file was proper and complete. (b) (7)(C) explained that she was asked to do the review because [redacted] had been accused of improperly placing Client 1 into a psychiatric facility.

(b) (7)(C) explained that referrals must be reviewed and approved by the SRT, which includes a psychologist, and the SRT determines whether placing a child in a psychiatric facility is appropriate. According to (b) (7)(C) the SRT would not have accepted [redacted] referral of Client 1 without all of the required documents in the file, including a psychological or psychiatric evaluation. She said that the evaluation could also come from other sources, such as the child's prior treatment facilities. (b) (7)(C) recalled that the SRT's approval was documented in the file.

(b) (7)(C) said that she did not feel there was anything odd about Client 1's case file. She commented that [redacted] "had done everything that she was supposed to do" and had made the right decisions; (b) (7)(C) stated that she would have done the same things [redacted] had done.

Also during his follow-up interview, [redacted] referred to another case in which he believed [redacted] had improperly placed a tribal member's grandson into residential care (**Attachment 17,** and see Attachment 14). On August 17, 2015, [redacted] emailed a copy of a letter from an attorney referencing this complaint (**Attachment 18**). In the letter, dated December 4, 2012, attorney [redacted] asserted on behalf of an unnamed complainant that [redacted] had engaged in "inappropriate wholesale deference to outside residential placement without independent assessment/opinion/oversight, resulting in repeated and ongoing violations over the course of one year, of 'least restrictive alternative' legal standard." The email from [redacted] included no additional documents addressing the disposition of the complaint or the outcome of the case.

We spoke to [redacted] about this second case. [redacted] explained that she had not been the child's primary case manager while the child was under the care of the Social Services Program (**Attachment 19**). [redacted] said she had limited involvement with the case only while the child's primary case manager, [redacted] was on detail. [redacted] stated that she did not have a role in the placement of the child on (b) (7)(C) 2011; in fact, she was not employed by BIA until (b) (7)(C), 2011, which was after the child's placement. [redacted] provided a summary report from the Social Services Program's case management system supporting her explanation.

Agent's Note: *The child's placement date and* [redacted] *employment date were confirmed through BIA's official records* (**Attachment 20,** and see Attachment 4).

In an effort to independently confirm [redacted] statement, we spoke again with [redacted] (**Attachments 21 and 22**). He did not recall any specific details about the case, but he did remember that the child had a long treatment history.

SUBJECT(S)

(b) (7)(C), Crow Creek Agency.

DISPOSITION

We are providing this report to the Secretary of the Interior.

ATTACHMENTS

1. June 18, 2015 letter from the Office of Special Counsel to Secretary Jewell.
2. IAR – Interview of [redacted] on July 10, 2015.
3. IAR – [redacted] qualifications document review.
4. SF-50, Notification of Personnel Action: [redacted] effective date: [redacted], 2011.
5. Handbook of Occupational Groups and Families, 0100, "Social Science, Psychology, and Welfare Group, May 2009," Individual Occupational Requirements for the [redacted] series.
6. IAR – Interview of [redacted] on July 29, 2015.
7. IAR – Interview of [redacted] on July 29, 2015.
8. Position description for social services [redacted].
9. IAR – Interview of [redacted] on July 29, 2015.
10. IAR – Interview of [redacted] on August 11, 2015.
11. South Dakota Administrative Rules regarding the State Review Team.
12. IAR – Interview of [redacted] on August 11, 2015.
13. Law and Order Code, Crow Creek Sioux Tribe.
14. IAR – Interview of [redacted] on August 13, 2015.
15. IAR – Document Review, Client 1 case file.
16. IAR – Interview of [redacted] on August 17, 2015.
17. IAR – Document Review, Reported by [redacted]
18. Letter from attorney referencing second client, dated December 2012.
19. IAR – Document Review, Audit Assignment, dated August 17, 2015.
20. IAR – Document Review of BIA records.
21. IAR – Interview of [redacted] on August 18, 2015.
22. IAR – Interview of [redacted] on August 19, 2015.

OFFICE OF
INSPECTOR
U.S. DEPARTMENT OF

REPORT OF INVESTIGATION

Case Title	Case Number
(b) (7)(C)	OI-PI-14-0525-I
Reporting Office **Program Integrity Division**	**Report Date** **September 8, 2015**
Report Subject **Report of Investigation**	

SYNOPSIS

We investigated allegations that (b) (7)(C) Southeast Regional Director, U.S. Fish and Wildlife Service (FWS), and (b) (7)(C) Florida State Supervisor for Ecological Services, FWS, inappropriately reorganized Florida's three Ecological Services field offices to fall under (b) (7)(C). The complainant, who requested to remain confidential, also alleged that (b) (7)(C) and (b) (7)(C) engaged in several unfair and illegal personnel actions involving employees in the three Florida offices.

We found that (b) (7)(C) was involved in planning the reorganization, but another FWS official made the final decision to implement it. (b) (7)(C) was not directly involved in the reorganization, nor was she aware of the personnel actions referenced in the complaint.

We examined 11 lateral reassignments and transfers that occurred in the 3 field offices and found that all of these personnel actions were conducted in accordance with Federal regulations and U.S. Department of the Interior policy. FWS managers explained to us that they sometimes laterally reassigned current employees into open positions instead of advertising the openings because such reassignments were excluded from the often-lengthy competition process for new positions, and because they gave the managers the flexibility to use existing workforce more effectively.

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /ASAC	Digitally signed.

Authentication Number: B5DE2262B9A8DCAAA7601EFD904DE904

BACKGROUND

Federal regulations authorize Government agencies to promote, demote, or reassign their career or career-conditional employees (5 C.F.R. § 335.102). Under certain circumstances, agencies may also, at their discretion, except these personnel actions from competitive selection procedures (5 C.F.R. § 335.103(c)(2)). A promotion, reassignment, demotion, transfer, reinstatement, or detail of a career or career-conditional employee may be excepted from competitive selection if the new position has a promotion potential no greater than that of the employee's current position, or if the employee is moved to a position he or she previously held permanently in the competitive service.

The U.S. Department of the Interior's (DOI) Departmental Manual and its Merit Promotion and Placement Policy have incorporated the C.F.R. provisions, but they exclude the requirement for competition under certain circumstances. These internal policies provide that DOI bureaus may noncompetitively transfer or reassign a career or career-conditional employee to either a position at the same grade and with the same promotion potential as the employee's current position, or to a previous position or grade that the employee held in the competitive service (**Attachments 1 and 2**). Bureaus may also noncompetitively re-promote or reinstate an employee to a grade no higher than the full performance level of any non-temporary position the employee previously held in the competitive service.

DETAILS OF INVESTIGATION

On July 2, 2014, we received several allegations from a complainant who wished to remain confidential. The complainant alleged that (b) (7)(C), Southeast Regional Director (b) (7)(C) U.S. Fish and Wildlife Service (FWS), and (b) (7)(C), Florida State Supervisor for Ecological Services (GS-15), FWS, reorganized Florida's three Ecological Services field offices, located in Panama City, Jacksonville, and Vero Beach, to fall under (b) (7)(C). The complainant felt that the reason for the reorganization was flawed and that the change has led to operational inefficiencies and proven costly to taxpayers. The complainant also alleged that Dohner and (b) (7)(C) created an extra layer of bureaucracy by centralizing budget tracking, grants, and other programs for these offices. Lastly, the complainant alleged that (b) (7)(C) and (b) (7)(C) (b) (7)(C) were involved in several unfair or illegal personnel actions in Florida.

Reorganizing the Ecological Services Field Offices

We interviewed (b) (7)(C) for Ecological Services, who said that soon after accepting his position in (b) (7)(C) he met with representatives from various Federal and State partner agencies and members of the Ecological Services staff to discuss the need for operational improvements in Florida's three Ecological Services field offices (**Attachments 3 and 4**). During these discussions, a common criticism emerged: The partner agencies felt they had to deal with multiple FWS field supervisors in multiple offices throughout Florida.

To address this concern, the stakeholders discussed the pros and cons of establishing a State supervisor in Florida who could oversee the three field offices and act as a single point of contact for partner agencies. According to (b) (7)(C) FWS had previously used this management model in Florida but had discontinued it by the time he became (b) (7)(C) (**Attachments 5 and 6**). (b) (7)(C) said that of the 12 States in the Southeast Region, only South Carolina was still without a State supervisor.

(b) (7)(C), National Conservation Training Center, who served as the (b) (7)(C) in the Vero Beach field office, said that Florida's State supervisor position was initially created in 1997 to oversee the State's Ecological Services field offices (**Attachment 7**). He said that (b) (7)(C) served in this role from [redacted] until he retired in [redacted] and that the position was then eliminated to reduce costs.

On March 21, 2013, (b) (7)(C) signed a decision memorandum authorizing the reorganization of the three offices to fall under the supervision of a newly created State supervisor (**Attachment 8**). A "charter" attached to the memorandum listed the following potential benefits of reorganizing the offices and creating the State supervisor position (**Attachment 9**):

- to more efficiently use staff and funding by sharing resources and coordinating work efforts Statewide;
- to provide a central point of contact for partner agencies, including the Florida Fish and Wildlife Conservation Commission, Florida Department of Environmental Protection, U.S. Department of Agriculture's Natural Resource Conservation Service, and others;
- to consistently implement authorities such as the Endangered Species Act, Fish and Wildlife Coordination Act, and Marine Mammal Protection Act;
- to centralize coordination with Florida's three landscape conservation cooperatives; and
- to coordinate Statewide efforts to conserve Florida's at-risk species before they become endangered.

The memorandum also identified possible negative impacts of the reorganization, including—

- reduced efficiency because of multiple layers and more convoluted decision making;
- reduced morale and productivity due to lack of local leadership support; and
- real or perceived inequalities between affected offices.

(b) (7)(C) said that while (b) (7)(C) knew of plans for the reorganization, it was ultimately his decision to move forward with it (see Attachments 3 and 4).

With the reorganization, (b) (7)(C), who had previously served as a (b) (7)(C) (also referred to as a (b) (7)(C)) in Vero Beach, received a reassignment to the (b) (7)(C). This was not a promotion; (b) (7)(C) had been the only (b) (7)(C) in the Southeast Region, and (b) (7)(C) made the decision to reassign him to the new position, which was also a (b) (7)(C)

We interviewed (b) (7)(C), who stated that the reorganization consolidated several administrative functions—including budget, human resources, and contracting—at the State level (**Attachments 10 and 11**). He explained that the reorganization was also intended to address Statewide budget cuts. He stated that in fiscal year 2012, the total budget for the three field offices was $13 million, and the offices were authorized approximately 137 positions Statewide. Since the reorganization, he said, the total budget for the three field offices had dropped to between $9 million and $10 million and their authorized staffing levels had dropped to approximately 110 positions.

Allegations of Prohibited Personnel Practices

The complainant alleged that certain FWS employees in Florida were promoted or appointed to positions without competition, or were allowed to retain their supervisory pay grades even though they voluntarily moved to nonsupervisory positions. We examined 10 personnel actions involving Florida FWS employees listed in the complaint, plus another that occurred during this investigation, to see if these actions had been conducted in accordance with Federal regulations and DOI policy.

Use of Lateral Reassignments To Fill Position Vacancies

(b) (7)(C) Division of Human Resources, FWS, explained that in response to sequestration, DOI implemented a Departmentwide hiring freeze in February 2013 in an attempt to reduce spending (**Attachments 12 and 13**). During the hiring freeze, FWS field office managers were required to submit written justifications for new positions to their regional directors, who in turn would forward the justifications to FWS headquarters for Human Resources' review. If the request met FWS' workforce planning goals, Human Resources would send it to FWS (b) (7)(C) Gould, who would then decide whether to grant a waiver allowing the new position.

(b) (7)(C) said that DOI lifted the hiring freeze in approximately August 2013, but FWS chose to continue it internally as a means of restructuring its workforce. FWS also modified its hiring process to focus on workforce planning goals and objectives instead of budget. As part of this change in focus, FWS encouraged internal transfers and reassignments to more effectively use its existing workforce. (b) (7)(C) explained that FWS wanted its managers to identify current employees who had potential and match them with positions where they would be more effective and efficient, as well as giving the managers the ability to move current employees into new roles and to give them as much flexibility as possible in making lateral reassignments.

According to (b) (7)(C) lateral transfers or reassignments are excluded from FWS' hiring waiver process. She said that lateral reassignments could be made from anywhere within FWS and were not restricted to office or region. Approval authority for lateral reassignments has since been delegated to assistant regional directors.

We asked (b) (7)(C) if he thought noncompetitive lateral reassignments were a good practice (see Attachments 5 and 6). He explained that if he needed to fill a position and already had the right person on staff, a lateral reassignment was a management tool that would enable him to fill the position. He said that the hiring freeze made it difficult to advertise and fill position vacancies, even those that were only advertised internally, and lateral transfers were a way to fill vacancies without going through the waiver process, which could take up to 2 months.

Nonsupervisory Employees Made Supervisors Without Competition

The complainant also alleged that (b) (7)(C) (b) (7)(C) were promoted, without competition, from nonsupervisory positions to their current positions. We found that, despite the title change, (b) (7)(C) reassignment was not a promotion, and he remained at the same pay grade with no additional promotion potential. In addition, we found that (b) (7)(C) promotion did not violate Federal or DOI promotion policies.

We reviewed (b) (7)(C) Notifications of Personnel Actions (Standard Form (SF) 50) dating back to April 2013, and found that on (b) (7)(C) 2014, he received a lateral reassignment to a (b) (7)(C) (b) (7)(C) in Jacksonville (**Attachment 14**). (b) (7)(C) had previously worked as a (b) (7)(C) fish and wildlife (b) (7)(C) in Jacksonville, but in April 2013, he competed for and accepted a nonsupervisory (b) (7)(C) position in Arkansas (**Attachment 15**). On (b) (7)(C), 2014, he returned to Jacksonville and received a noncompetitive promotion back to his previous position as a (b) (7)(C) fish and wildlife (b) (7)(C) (**Attachment 16**). Then, on June (b) (7)(C) he was reassigned to the (b) (7)(C) position.

(b) (7)(C), Jacksonville, explained that (b) (7)(C) received a lateral reassignment from Arkansas to Jacksonville after he told (b) (7)(C) and (b) (7)(C) that he was interested in returning to Jacksonville (**Attachments 17 and 18,** and see Attachments 3 and 4). Upon his return, (b) (7)(C) became the regulatory supervisor for Jacksonville. (b) (7)(C) explained that he laterally reassigned (b) (7)(C) with (b) (7)(C) concurrence, to (b) (7)(C) (b) (7)(C) a position that would enable (b) (7)(C) to better serve the field office. (b) (7)(C) (b) (7)(C) also told us that (b) (7)(C) chose (b) (7)(C) because (b) (7)(C) had previously worked in Jacksonville and had the skills and time in grade needed to fill the position (see Attachments 10 and 11).

(b) (7)(C) said that some positions are competed while others are not, and noted that FWS was not advertising position vacancies because of sequestration and the hiring freeze (see Attachments 17 and 18). Employees that were already at the same grade as the vacant position could be laterally reassigned; such reassignments could be authorized at the regional level and did not need prior headquarters approval.

(b) (7)(C) (b) (7)(C) FWS (b) (7)(C) Benefits Specialist, confirmed that (b) (7)(C) reassignment was possible because he was moved into a position at the same pay grade and with the same promotion potential as his previous position (**Attachments 19 and 20**). In addition, (b) (7)(C) Office of Personnel Management (OPM) occupational code and position title remained the same on his SF-50 (see Attachment 14). (b) (7)(C) was merely an internal position title used by FWS.

Regarding (b) (7)(C) reassignment, (b) (7)(C) said that she was noncompetitively reassigned to her current position from FWS' Sacramento Office, where she had been classified as a (b) (7)(C) nonsupervisory fish and wildlife (b) (7)(C) (see Attachments 10 and 11). According to (b) (7)(C) (b) (7)(C) selected (b) (7)(C) for her current position, which is also a (b) (7)(C), with (b) (7)(C) ' approval.

(b) (7)(C) said that (b) (7)(C) was reassigned under DOI's Merit Promotion Plan (see Attachments 19 and 20). He explained that this was permissible under the Merit Promotion Plan because there was no additional compensation or promotion potential. Her SF-50, dated July 13, 2014, confirmed that she became a (b) (7)(C) (although her grade level stayed at GS-13) as part of her reassignment (**Attachment 21**).

(b) (7)(C) *Selected for Reassignment After Threatening To File Grievance*

According to the complainant, (b) (7)(C) was selected to become Jacksonville's (b) (7)(C) even though another employee had already been competitively selected for the position. Allegedly,

(b) (7)(C) threatened to file a grievance if he was not allowed to compete for the (b) (7)(C) position; the position was subsequently announced as a competitive hiring action and (b) (7)(C) was selected. We found no evidence to support the allegation that he had been preselected for the position or that he threatened to file a grievance so that he could compete for the position.

(b) (7)(C) said that he applied for the position of (b) (7)(C) for Jacksonville and was selected for it through a competitive process (see Attachments 17 and 18). At the time he applied, he was already the (b) (7)(C) in Charlestown, SC. He denied that he had been preselected or that he threatened to file a grievance if not allowed to compete for the position.

(b) (7)(C) explained that (b) (7)(C) was selected for the position on (b) (7)(C) 2013 (see Attachments 19 and 20). (b) (7)(C) SF-50 showed that he received a competitive reassignment from South Carolina, where he had been classified as a (b) (7)(C) fish and wildlife (b) (7)(C) to Jacksonville, where he became a (b) (7)(C) fish and wildlife (b) (7)(C) (**Attachment 22**). (b) (7)(C) said that this position had been advertised and was open to all FWS employees serving under permanent career or career-conditional appointments (see Attachment 19 & 20). (b) (7)(C) applied for the position as a noncompetitive candidate (meaning he was already a (b) (7)(C) and was selected. According to (b) (7)(C), while (b) (7)(C) title and position description changed, he remained a (b) (7)(C) with no additional promotion potential.

(b) (7)(C) stated that he sat on a three-member panel that reviewed the resumes of candidates for lateral transfers (see Attachments 10 and 11). This panel selected (b) (7)(C) for the position. We reviewed the list of certified candidates for the position and found (b) (7)(C) name, showing that he competed for the position (**Attachment 23**). We found no evidence that the position had been readvertised.

Unqualified (b) (7)(C) *Promoted Without Competition*

The complainant also alleged that two of (b) (7)(C) and (b) (7)(C), were promoted without competition to (b) (7)(C) positions even though they were not qualified. We found that as part of the reorganization, both (b) (7)(C) and (b) (7)(C) received title changes, but not promotions.

Before the reorganization, (b) (7)(C) had (b) (7)(C) Vero Beach as the (b) (7)(C) (see Attachments 10 and 11). His deputies were (b) (7)(C) who was the (b) (7)(C) for ecological services, and (b) (7)(C) who was the (b) (7)(C) for the Everglades program. (b) (7)(C) (b) (7)(C) explained that when he became the (b) (7)(C), he retained his (b) (7)(C) position level.

(b) (7)(C) and (b) (7)(C) both (b) (7)(C) employees who were classified on their SF-50s as (b) (7)(C) fish and wildlife (b) (7)(C) received title changes—from (b) (7)(C) to (b) (7)(C) —but received no additional compensation. With the reorganization and their new titles, (b) (7)(C) and (b) (7)(C) remained under (b) (7)(C) ' supervision and retained their original duties. According to (b) (7)(C), this was strictly an internal title change, not a promotion, and their duties remained essentially the same.

(b) (7)(C) explained that (b) (7)(C) and (b) (7)(C) received their reassignments to (b) (7)(C) under DOI's Merit Promotion Policy (see Attachments 19 and 20). Since they were already (b) (7)(C) (b) (7)(C) fish and wildlife (b) (7)(C) they could be reassigned to (b) (7)(C) roles because there

was no promotion potential or increased performance level. Despite their internal title changes, their OPM occupational codes and the position titles on their SF-50s remained the same.

Employee Assigned Without Competition to a Newly Created Position in the State Office

According to the complainant, (b) (7)(C) was reassigned without competition into a new (b) (7)(C) position created by (b) (7)(C), who had been a (b) (7)(C) fish and wildlife (b) (7)(C) in Vero Beach, was named (b) (7)(C) to (b) (7)(C), but we did not find evidence that her reassignment violated Federal or DOI hiring policies.

(b) (7)(C) explained that with the reorganization, instead of creating a (b) (7)(C) (b) (7)(C) to assist him, he created a (b) (7)(C) position to provide senior-level assistance and to coordinate with partner agencies throughout Florida (see Attachments 10 and 11). He said that (b) (7)(C) was laterally reassigned to this new position; she had often represented him in meetings with his staff and partner agencies prior to the reorganization. He stated that the position was not competed because there was no promotion associated with (b) (7)(C) reassignment, and that in her new position (b) (7)(C) was no longer a (b) (7)(C) but was still classified as a wildlife (b) (7)(C) at the (b) (7)(C) evel.

(b) (7)(C) also said that (b) (7)(C) reassignment to (b) (7)(C) was a title change and not a promotion; it involved no additional compensation or promotion potential (see Attachments 3 and 4). According to (b) (7)(C) had been (b) (7)(C) assisting him with administrative duties in Vero Beach before the reorganization.

(b) (7)(C) *Allowed To Leave Supervisory Roles While Retaining* (b) (7)(C) *Status*

According to the complainant, three (b) (7)(C) employees, (b) (7)(C), and (b) (7)(C), were permitted to transfer into (b) (7)(C) roles without losing their (b) (7)(C) status. We did not find any law or policy that prohibits lateral transfers from (b) (7)(C) to (b) (7)(C) positions within the same pay grade.

We learned from (b) (7)(C) that (b) (7)(C) who had served as a (b) (7)(C) in Jacksonville, accepted a (b) (7)(C) position as the Florida (b) (7)(C) (see Attachments 3and 4). According to (b) (7)(C)' reassignment was not an adverse action or demotion; rather, the previous (b) (7)(C) (b) (7)(C) had retired, and FWS needed somebody who could step in and immediately take over the program. (b) (7)(C) also said that (b) (7)(C) assignment was temporary because she planned to retire in (b) (7)(C) 2014 (see Attachments 10 and 11). (b) (7)(C) had previously worked on the Florida (b) (7)(C) and was asked to oversee the project until they could select a permanent replacement. (b) (7)(C) retired from FWS on (b) (7)(C) 2015 (**Attachment 24**).

We reviewed (b) (7)(C) SF-50, which showed that when he retired from FWS, effective (b) (7)(C), 2014, he was a (b) (7)(C) fish and wildlife (b) (7)(C) (**Attachment 25**). We also interviewed (b) (7)(C) (b) (7)(C) who said that (b) (7)(C) served as a (b) (7)(C) for project planning in the regulatory program in Vero Beach (**Attachment 26**). In 2009, he received a lateral reassignment to a (b) (7)(C) (b) (7)(C) as a (b) (7)(C) fish and wildlife (b) (7)(C) where he worked on high-profile Ecological Services projects. (b) (7)(C) said that (b) (7)(C) supervisory position was advertised and filled competitively in late 2009. According to (b) (7)(C) retired from FWS as part of the Voluntary Separation Incentive Plan (see Attachments 19 and 20).

Finally, (b) (7)(C) SF-50 showed that he was promoted to (b) (7)(C) fish and wildlife (b) (7)(C) on (b) (7)(C) 2002 (**Attachment 27**). On (b) (7)(C) 2006, he was laterally reassigned to the role of (b) (7)(C) fish and wildlife (b) (7)(C) but remained a (b) (7)(C) (**Attachment 28**). (b) (7)(C) explained to us that in his (b) (7)(C) role, he oversaw (b) (7)(C) people assigned to one of FWS' six Everglades (b) (7)(C) teams (**Attachment 29**). Funding for the program began to dry up, however, and the number of personnel assigned to the teams dropped over time from 102 to fewer than 50, which in turn led to a decreased need for (b) (7)(C) Therefore, (b) (7)(C) said, he was offered a lateral reassignment to a (b) (7)(C) position to oversee an interagency adaptive management team. He also serves as the (b) (7)(C) for the Peninsular Florida Landscape Conservation Cooperative.

Predetermined Candidate Selected for (b) (7)(C) *Position*

When we interviewed the complainant, we were told that (b) (7)(C) would most likely be chosen to fill a (b) (7)(C) vacancy in the Panama City office. The complainant added that the selection process was ongoing and a review board was evaluating candidates. (b) (7)(C) had previously served as the (b) (7)(C) prior to being named the (b) (7)(C).

We found no evidence that (b) (7)(C) was preselected for the position. (b) (7)(C) confirmed that (b) (7)(C) was selected for the position through a competitive process (see Attachments 10 and 11). The position was advertised on the USAJobs.gov website, and a selection panel, which included (b) (7)(C), was convened to make the selection. (b) (7)(C) SF-50, dated September 21, 2014, showed that she received a competitive promotion under DOI's Merit Promotion Policy (**Attachment 30**).

(b) (7)(C) *Selected for Vero Beach Office Without Competition*

On (b) (7)(C) 2015, the complainant alleged that (b) (7)(C) for the Southeast Region (b) (7)(C) received a lateral reassignment to (b) (7)(C) in the Vero Beach office after (b) (7)(C) left that role and transferred to Washington, DC. The position was not advertised or competed. A review of (b) (7)(C) SF-50 confirmed that she was laterally reassigned (**Attachment 31**).

(b) (7)(C) said that he did not advertise the Vero Beach (b) (7)(C) position because he urgently needed to fill it due to the various important programs the position oversees (see Attachments 5 and 6). He said that the two other (b) (7)(C) and (b) (7)(C) had been selected competitively, and that their positions were less critical than Vero Beach.

(b) (7)(C) explained that (b) (7)(C) had been a (b) (7)(C) (also at the (b) (7)(C) level) in (b) (7)(C) and had competed unsuccessfully for the (b) (7)(C) position in one of South Carolina's Ecological Services field offices. According to (b) (7)(C) made the final certification list for the South Carolina position, so he reviewed the certification list to ensure that (b) (7)(C) would be qualified for the Vero Beach position. (b) (7)(C) also explained that as a (b) (7)(C) was eligible for a lateral reassignment. With a lateral reassignment, (b) (7)(C) said, he did not have to justify the position because it was already in place and the employee's salary was already budgeted.

SUBJECT(S)

1. (b) (7)(C) Regional Director, FWS.
2. (b) (7)(C), Florida State (b) (7)(C) for Ecological Services, FWS.

DISPOSITION

We are providing a copy of this report to the FWS Director for his information.

ATTACHMENTS

1. Department of the Interior Manual, Part 370, Chapter 335, Promotion and Internal Placement.
2. U.S. Department of the Interior, Merit Promotion and Placement Policy, February 8, 1996.
3. IAR – Interview of (b) (7)(C) on November 7, 2014
4. Transcript of Interview with (b) (7)(C) on November 7, 2014.
5. IAR – Interview of (b) (7)(C) on May 1, 2015
6. IAR – Transcript of Interview with (b) (7)(C), May 1, 2015.
7. IAR – Interview of (b) (7)(C) on May 15, 2015
8. Decision Memorandum: State (b) (7)(C) for Ecological Services in Florida, March 22, 2013.
9. Charter for Operating the FWS Ecological Services Field offices in Florida with a State (b) (7)(C) March 21, 2013.
10. IAR – Interview of (b) (7)(C) on November 3, 2014.
11. Transcript of Interview with (b) (7)(C) on November 3, 2014.
12. IAR – Interview of (b) (7)(C) on May 26, 2015.
13. Transcript of Interview with (b) (7)(C) on May 26, 2015.
14. Notification of Personnel Action for (b) (7)(C), June 29, 2014.
15. Notification of Personnel Action for (b) (7)(C), April 21, 2013.
16. Notification of Personnel Action for (b) (7)(C), April 6, 2014.
17. IAR - Interview of (b) (7)(C) on May 4, 2015.
18. Transcript of Interview with (b) (7)(C) on May 4, 2015.
19. IAR – Interview of (b) (7)(C) on October 16, 2014.
20. Transcript of Interview with (b) (7)(C) on October 16, 2014.
21. Notification of Personnel Action for (b) (7)(C), July 13, 2014.
22. Notification of Personnel Action for (b) (7)(C), December 1, 2013.
23. Non-Competitive Candidate Referral List, July 30, 2013.
24. Notification of Personnel Action for (b) (7)(C),
25. Notification of Personnel Action for (b) (7)(C), February 28, 2014.
26. Interview of (b) (7)(C) on July 15, 2015.
27. Notification of Personnel Action for (b) (7)(C), August 11, 2002.
28. Notification of Personnel Action for (b) (7)(C) May 14, 2006.
29. IAR – Interview of (b) (7)(C), July 15, 2015.
30. Notification of Personnel Action for (b) (7)(C), September 21, 2014.
31. Notification of Personnel Action for (b) (7)(C), May 31, 2015.

OFFICE OF INSPECTOR
U.S. DEPARTMENT OF

REPORT OF INVESTIGATION

Case Title	Case Number
BLM – Henderson (NV) Land Sale	**PI-PI-13-0189-I**
Reporting Office	**Report Date**
Office of Investigations	**April 28, 2016**
Report Subject	
Report of Investigation	

SYNOPSIS

In response to requests from Ken Salazar, then-Secretary of the U.S. Department of the Interior (DOI); DOI's Office of the Solicitor; and the Honorable Doc Hastings, then-Chairman of the House of Representatives' Natural Resources Committee, the Office of Inspector General and the Federal Bureau of Investigation jointly investigated allegations of potential improprieties surrounding the 2012 sale of 480 acres of land in Henderson, NV, by the Bureau of Land Management (BLM) to land developer Christopher Milam to build a sports stadium complex. The requests for an investigation came after the City of Henderson filed suit against Milam in district court in January 2013, claiming misrepresentation and fraud after Milam attempted to terminate an agreement he had with the City to build the stadium; the City feared that Milam had purchased the land with the actual intent of reselling it at a profit instead of building the stadium. The City further alleged that former BLM Director Robert Abbey might have been inappropriately involved in the land sale process before he left BLM. Our investigation was coordinated with the U.S. Attorney's Office for the District of Nevada.

The investigation revealed that Abbey was personally and substantially involved in the presale process for the land. Abbey stood to benefit personally from the sale because he and Mike Ford, a former BLM employee and Abbey's onetime business partner, had arranged for Abbey to resume his role as a partner in their private consulting firm after he left BLM. This same firm represented Milam's business interests during the sale process and was to receive a $528,000 payment if the sale to Milam was successfully completed. We discovered no evidence that Milam conspired to "flip" the land. We presented these findings to the USAO, which declined the matter for prosecution in September 2015.

We also learned that Ford had an unusually high level of access to BLM personnel and processes before and during the sale. In addition, a BLM realty specialist, (b) (7)(C), told us that she gave precedence to Ford's land applications when he did business with BLM, and that she had shared draft

Reporting Official/Title	Signature
(b) (7)(C) /Investigator	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /SAC	Digitally signed.

Authentication Number: C0D41127E6650A4F46432C8DAADC44A4

documents with him during the Henderson presale process. Her actions appeared to violate Federal regulations that prohibit preferential treatment and the improper use of nonpublic information.

DETAILS OF INVESTIGATION

Robert Abbey served as the Bureau of Land Management's (BLM) Nevada State director from 1997 to 2005. In July 2005, Abbey left BLM to form a land and energy consulting firm, called Abbey, Stubbs & Ford, LLC, with Barry Stubbs and Mike Ford, another former BLM employee. He resigned from Abbey, Stubbs & Ford in August 2009 and returned to BLM as its Director on August 10 of that year. He served in that role until he retired on May 31, 2012.

Abbey issued a formal recusal memorandum on October 26, 2009, almost 3 months after he was confirmed as BLM Director (**Attachment 1**). The recusal confirmed that Abbey had resigned his position with Abbey, Stubbs & Ford on August 7, 2009, and the firm was renamed Robcyn LLC. The recusal also stated that Abbey "expected to rejoin the firm as a member" after his Government service ended and that he would "not participate personally and substantially in any particular matter that had a direct and predictable effect on the financial interests of the firm." The recusal mirrored the elements of the criminal statute 18 U.S.C. § 208(a), "Acts affecting a personal financial interest" (**Attachment 2**).

Abbey's business partner Mike Ford also had a long history with BLM (**Attachment 3**). Over 25 years, from 1974 to 1999, he served in several roles at the Bureau, including Lake Havasu City, AZ area manager; Albuquerque, NM district manager; Nevada's deputy State director; and finally branch chief of the Land and Realty Division in Washington, DC. After Ford retired from BLM, he and Stubbs formed Robcyn, a land consulting firm, before they partnered with Abbey to launch Abbey, Stubbs & Ford. In that business arrangement, Stubbs acted primarily as the office manager and bookkeeper while Abbey and Ford worked with clients. After Abbey became BLM Director in 2009, Ford and Stubbs continued operations under the name Robcyn until Abbey rejoined the firm in June 2012. They then resumed business as Abbey, Stubbs & Ford.

Ford's connections to Abbey did not end with their business partnership. During Ford's tenure at BLM and after his retirement, he and Abbey developed a close personal friendship, which was evidenced in a variety of ways. For example, Ford would occasionally visit Abbey at his BLM office and stay in Abbey's home when he traveled to DC on business (**Attachment 4**).

In 2011, while Ford was doing business as Robcyn, he was introduced to Christopher Milam, a land developer with a long-held interest in developing a stadium and sports complex outside Las Vegas, NV. Milam, who did business through several legal entities,[1] wanted to build a large, multi-facility sports complex that would serve as the home stadium for professional basketball, soccer, and hockey teams.

In an effort to further Milam's stadium vision, one of his associates contacted Andy Hafen, the mayor of Henderson, NV, which is located southeast of Las Vegas, to discuss an opportunity for Milam and the City of Henderson to partner on a stadium project. In June 2011, several City representatives met with Milam and his team to discuss the potential project.

[1] For various aspects of the stadium project, Milam did business under the names Silver State Land, LLC; Las Vegas National Sports Center, LLC; Las Vegas National Sports Center (Holdings), LLC; and IDM LLC. For ease of reference, we will use Milam's name when referring to any of these entities.

In the fall of 2011, after numerous meetings, Milam and the City entered into an agreement for Milam to construct a large mixed-use stadium complex in Henderson, NV. The complex was to be composed of enclosed, covered, distinctive sports venues and mixed-use facilities for public recreation and for commercial uses approved by the City (**Attachment 5**). Under the Southern Nevada Public Lands Management Act, the City had to request that BLM put the 480-acre parcel up for sale; the City agreed to do so on Milam's behalf.

Ford signed agreements with both the City and Milam for Robcyn to provide consulting services to help them navigate the BLM land sale process. According to Ford, his mission during the stadium project was to advance the interests of the City "from cradle to grave." His contract with the City was for $500 per month. Ford had provided land-related consulting services for the City in the past, but he had not worked with Milam before. He agreed to represent Milam's business interests in acquiring the land and obtaining the necessary authorizations and permits, including expedited completion of a Federal land sale. For his consulting services to Milam, Ford was to receive about $528,000 when the Federal land patent (an official document recording a transfer of land title from the Federal Government to individuals) was issued and recorded to Milam.

Abbey retired from BLM on May 31, 2012 (**Attachment 6**). The sale of the land to Milam took place on June 4, 2012 (**Attachment 7**). Milam paid the balance owed on the land on November 28, 2012; that same day, he sent a letter to the City declaring that the stadium project was "not viable" and that he was terminating his stadium agreement with the City (**Attachment 8**). The City believed that Milam had purchased the land for a purpose other than the one he had originally proposed and was attempting to resell the land at a profit ("flipping" the land), so the City contacted BLM and requested that Milam be prevented from assuming ownership of the land. Ultimately, the City filed suit against Milam in Clark County district court for breach of contract (**Attachment 9**).

In February 2013, in response to requests from Ken Salazar, then-Secretary of the U.S. Department of the Interior (DOI); DOI's Office of the Solicitor (SOL); and the Honorable Doc Hastin**gs**, then-Chairman of the House of Representatives' Natural Resources Committee, we opened a joint investigation with the Federal Bureau of Investigation into the Henderson land sale (**Attachments 10 and 11**). The investigation was conducted in consultation with the U.S. Attorney's Office for the District of Nevada. We investigated the sale to determine the extent of Abbey's involvement in the sale process. We also investigated Ford's level of influence on the process and whether any fraud or other improprieties occurred during the sale.

The Presale Process

Abbey's and Ford's Involvement in the City's Request To Sell the Land

Abbey's involvement in the land sale began early in the process. Despite the limitations of his recusal, he conversed or met with Ford on several occasions before and during the initial land sale efforts:

- On March 4, 2011, Ford emailed Abbey, stating: "Glad we had time to catch up yesterday in Reno and happy we were able to visit candidly about issues of mutual interest. I'll keep things to myself and look forward to visiting with you as events continue to unfold. In the meantime,

my trip to [Washington, DC] is set for the week of March 21 – 24." He added that he would accept Abbey's offer to stay in Abbey's home during the trip (see Attachment 4).

- On March 22, 2011, Ford met with Abbey at Abbey's BLM office in Washington, DC (**Attachment 12**).
- On March 23, 2011, Ford emailed Abbey at his DOI address, directing him to check his non-DOI email account for a message (**Attachment 13**).
- On June 23, 2011, Ford met with Abbey and (b) (7)(C) (b) (7)(C) at Abbey's BLM office in DC (**Attachment 14**).

From the beginning of the sale process, Ford also met with BLM employees, from the Southern Nevada District Office (SNDO) level to the Director's level, to shepherd the land sale request through the necessary reviews. On September 7, 2011, he wrote a letter to BLM on behalf of the City, asking BLM to offer the land for direct sale to Milam (**Attachment 15**). Under a direct sale, if approved by BLM, the land would have been sold to Milam at fair market value, but without competition.

On September 9, 2011, Ford met with BLM's Southern Nevada District Manager (b) (7)(C) to deliver the land sale request letter (**Attachment 16**). On September 20, 2011, he emailed (b) (7)(C) and informed her that he had "made the rounds on the Hill and elsewhere on a variety of issues of mutual interest," including the land sale (**Attachment 17**).

(b) (7)(C) reviewed the request and on October 4, 2011, she informed the City that it would not be appropriate to sell the land directly to Milam because another developer had approached BLM about building a stadium there in the past, and because the subject land was not contiguous to other land parcels that Milam already owned in Nevada (**Attachments 18 and 19**). She also reasoned that the economy in the area was very slow at the time and there were no strong indicators that an openly competitive sale would have resulted in increased competition for the land. After meeting with Ford on multiple occasions, (b) (7)(C) instead authorized a "modified competitive" sale.

According to 43 U.S.C. § 1713(f) (see also 43 C.F.R. § 2711.3-2(a)), a parcel of public land may be offered for sale using modified competitive bidding procedures when the authorized officer, usually the manager of the district where the parcel is located, determines that such a sale is necessary to respond to the needs of State or local government, adjoining landowners, historical users, and others (**Attachment 20**). A modified competitive sale would allow interested land developers and other purchasers to bid on the land, but the potential purchaser who initially requested that the land be sold—in this case, Milam—would be the designated bidder and would have the opportunity to meet or exceed the final bid.

(b) (7)(C) explained to us that she authorized a modified competitive sale because it was the best alternative given the slow economy in the area at the time, the absence of strong indicators that a competitive sale would have increased competition, and the fact that the parcel was not contiguous to parcels Milam already owned (see Attachment 19). She explained that a modified competitive sale option complied with regulations and that these sales were offered occasionally, so it was not an exceptional alternative.

After (b) (7)(C) authorized the modified competitive sale process, Ford emailed her and other BLM employees on October 10, 2011, and thanked them for their continued help and support regarding the City's request for a sale (**Attachment 21**). Ford told them that his staff was prepared to assist BLM's Las Vegas Field Office (LVFO) as needed "in order to advance things on a priority basis."

Ford's Potential Influence During the Land Appraisal Process

Once BLM decided to sell the land, a qualified appraiser needed to determine the property's market value. (In accordance with 43 U.S.C. § 1713(d), public lands must be sold for at least fair market value.) Although we determined that the appraisal appeared reasonably accurate, we found numerous documents that suggested Ford had an undue influence in the appraisal process.

Ford's actions included having his company, Robcyn, directly arrange and pay for an appraisal by the appraiser of his choice, with the understanding that Milam would reimburse Robcyn for the appraisal fee (**Attachments 22 and 23**). According to DOI's Office of Valuation Services' (OVS) Valuation Policy Manual (December 14, 2011), appraisals can be procured by the purchasing State or local government entity as long as the appraisal report adheres to the same standards as if it were being completed or procured by a Federal entity (**Attachment 24**).

We asked (b) (7)(C), OVS Review Appraiser, to describe his involvement in the appraisal process. He said that BLM sent him an appraisal request for the Henderson land sale on November 2, 2011, and later that same day he began to get calls from representatives of Robcyn (see Attachment 22). (b) (7)(C) explained that having OVS manage an appraisal—either using its own appraisers or contracting with external appraisers—usually takes 60 to 120 days, but Robcyn wanted the appraisal completed faster than that. Therefore, he said, the company was willing to pay the cost of contracting directly with an appraiser instead of going through OVS. (b) (7)(C) told the Robcyn representatives that they could have a third-party appraisal done. He defended this decision to us, stating that contracting directly with appraisers was a common practice when developers wanted to expedite the appraisal process.

(b) (7)(C) said that he wrote the scope of work for the appraisal and then sent it to Ford, who contracted with (b) (7)(C) to do the appraisal. (b) (7)(C) said that (b) (7)(C) was a "respected firm" that would not give in to pressure, so when Robcyn informed him of the contract, he approved the selection. According to (b) (7)(C) BLM has no official list of appraisal companies from which to choose. He said that he did not know how much the appraisal cost and that BLM's appraisal file contained no record that Robcyn paid for the appraisal.

(b) (7)(C), the owner of (b) (7)(C), confirmed that his company completed the appraisal (see Attachment 23). He said that Robcyn paid the $7,500 appraisal fee even though he had billed the City for the work.

(b) (7)(C) employee who appraised the land, said that the City wanted the appraisal to be completed quickly and that the entire process took about 2 weeks (**Attachment 25**). He said, however, that he wanted the appraisal to be done right and that he did not feel rushed. He believed that the City paid for the appraisal and was not aware of Milam or anyone connected to Milam being involved in the appraisal process. He said that he did not know Milam, but he knew Ford.

(b) (7)(C) said that he appraised the land as a master planned site with no limiting conditions. He said that having a stadium on the land did not affect the appraisal price because a stadium would be the "highest and best use" of the land; he explained that there had been no land sales in that area at all, and that residential development was not the highest and best use because nearby residentially zoned parcels were already in bankruptcy.

(b) (7)(C) sent (b) (7)(C) the completed appraisal to review on December 5, 2011 (see Attachment 7).

The fair market value established by the appraisal was $10,560,000, which equated to about $0.50 per square foot. According to (b) (7)(C) he relied on the information in the appraisal for his review; he did not research the market values of comparable local properties (see Attachment 22). He found no issues related to the land value, and after he finished his review he turned the appraisal over to his supervisor, BLM Client Service Manager (b) (7)(C)

(b) (7)(C) told us that (b) (7)(C) reviewed and signed off on the appraisal without making any changes (**Attachment 26**). (b) (7)(C) said, however, that he identified three pages of deficiencies in the appraisal during his own review. (b) (7)(C) thought that it was somewhat unusual for (b) (7)(C) to approve an appraisal containing so many deficiencies without edits or comments, but said that the defects were unrelated to the appraisal valuation and thus were not "fatal" flaws.

(b) (7)(C) did not know who paid for the appraisal, but stated that if he had known Milam had ultimately paid for it he would have directed the appraisal request to go through a standard competitive contracting process. (b) (7)(C) said that Milam paying for the appraisal would have been "a big red flag" because it would have been a conflict of interest for Milam, as the potential purchaser of the land, to pay to have it appraised.

Ford confirmed that Robcyn paid for the appraisal, but said that the suggestion to use (b) (7)(C) (b) (7)(C) came from BLM because (b) (7)(C) had worked on BLM appraisals numerous times before. He said that it was a standard practice for BLM to ask a third party to pay for the appraisal since it would pass some of the cost of the appraisal process on to the potential purchaser.

Ford said the market at that time was so bad that a seller "couldn't give away dirt." Nevertheless, he said, he had been surprised by the lower-than-expected appraisal value. He acknowledged that he had had casual conversations with (b) (7)(C) about general land values in the area and said he told (b) (7)(C) that he desired or estimated the value of the Henderson land to be $1 to $2 per square foot, but he denied directing (b) (7)(C) to appraise the land at a particular value. He stated that his opinion on the land's value had no impact; (b) (7)(C) had assessed the land at fair market value, he said, and even if he had influenced (b) (7)(C) he would have had to influence (b) (7)(C) also.

BLM Review of the Notice of Realty Action

Once the land's value was established by the appraisal, a notice of the proposed sale, known as a Notice of Realty Action (NORA), had to be published in the Federal Register and local newspapers and sent to interested parties at least 60 days prior to the sale (see Attachment 5). The NORA contained information about the method of sale as well as the terms, covenants, conditions, and reservations that were to be included in the conveyance of the land. It also provided a period for comment by the public and interested parties.

We learned that Ford wrote at least part of the NORA and provided it to BLM to review and process. The NORA was then routed through several levels of review at BLM: LVFO, SNDO, the Nevada State Office (NSO), the Washington Office, and finally the Director's Office. Ford directly contacted employees at each level to guide and expedite the NORA's processing. The BLM employees we spoke to said that Ford contacted them frequently about the NORA's status and asked that they review and finalize it as quickly as possible.

In early September 2011, BLM Realty Specialist (b) (7)(C) of SNDO was assigned to the

Henderson land sale (**Attachment 27**). During her interview, (b) (7)(C) outlined for us the NORA process, stating that a NORA for a Nevada land sale would be drafted at LVFO and then sent to NSO for review by the regional Office of the Solicitor and employees in the Lands and Realty Branch. After review and approval at the State level, the NORA would go to the Washington Office for review, approval, and publication. (b) (7)(C) said that she did not know of any consultant other than Ford who had been allowed to write a NORA, but she was not aware of any particular policy that would prohibit a consultant from doing so (**Attachment 28**).

For the Henderson land sale, (b) (7)(C) said, Ford tasked two of his consultants—(b) (7)(C) and (b) (7)(C)—with helping to speed up the land sale process. She explained that (b) (7)(C) and (b) (7)(C) were assigned because they were both former BLM employees and knew other BLM employees who could help expedite the sale. (b) (7)(C) clarified that (b) (7)(C) and (b) (7)(C) were not involved in determining the type of sale for the Henderson land; that decision had already been made by time the land sale was assigned to her. She said that (b) (7)(C) and (b) (7)(C) helped to write sections of the site's environmental assessment, which was referenced in the NORA. (b) (7)(C) also commented that it was "unusual" for (b) (7)(C) and (b) (7)(C) to assist during the sale process because they worked for the consulting firm, not BLM. She said that they checked the status of the process frequently.

(b) (7)(C) said that the only thing she perceived as unusual about the land sale itself was that it was completed faster than usual. According to (b) (7)(C) a typical land sale takes about 12 to 18 months to complete. The Henderson land sale, however, took about 9 months. She said that after the NORA went to the Washington Office, it only took 1 to 1½ weeks for it to complete the review, approval, and publication stages, which normally take 1 to 2 months.

LVFO Field Manager (b) (7)(C) stated that Ford was a "powerful person" who was working with other powerful people, so (b) (7)(C) wanted to make sure BLM proceeded properly during the sale (**Attachment 29**). (b) (7)(C) knew about Ford's ties to Abbey; he said that Abbey and Ford were influential and had "unusually powerful access to important individuals" in the Federal Government. He said that Ford and Abbey often implicitly reminded others about this influence, which grew when Abbey became the BLM Director. According to (b) (7)(C) other LVFO employees felt intimidated by Abbey and knew of Ford's relationship with him.

(b) (7)(C) recalled a time that Abbey came to visit LVFO as the BLM Director while in town for an event with the Secretary of the Interior. He told us that District Manager (b) (7)(C) also attended the event, but Abbey spent little time with her, choosing instead to spend most of his time with Ford. He said that Ford and Abbey told (b) (7)(C) they had to leave, but unbeknownst to her they returned to the building and Ford began introducing Abbey to BLM employees. (b) (7)(C) said that he was not present at the time, but several employees reported the incident to him and told him how uncomfortable they felt with Ford leading Abbey around the office and acting as his host or tour guide. (b) (7)(C) also explained that he had received complaints about Ford and Stubbs in the past from several LVFO employees who felt that Ford and Stubbs had been intimidating and abusive toward them.

Regarding the NORA, (b) (7)(C) said that Ford was frustrated at how long it was taking to get it published in the Federal Register, so he regularly emailed both (b) (7)(C) and (b) (7)(C) about its progress. In addition to the emails, (b) (7)(C) said, Ford bragged that Abbey and BLM Deputy Director Mike Pool would sign the NORA as soon as it arrived in DC and implied that he had power and influence because of his close connection to Abbey. At times, (b) (7)(C) said, Ford would say that he was going to DC and would discuss any issues he had with the land sale with Abbey while he was there. (b) (7)(C) believed that Ford

actually did have those meetings with Abbey. [redacted] also said that it made him and other BLM employees uncomfortable that Abbey did not recuse himself from Nevada land deals due to his past private employment in Nevada and his close relationship with [redacted] and others in the Nevada land development industry.

Despite the pressure from Ford and the knowledge of Ford's ties to Abbey, [redacted] said, he believed that the LVFO employees did their jobs properly with respect to the land sale and did not break any laws.

The NORA arrived at NSO around January 18, 2012. On January 19, Ford contacted NSO Lead Realty Specialist (b) (7)(C) to inform her that he represented the City of Henderson and to request an update on the progress of the NORA (**Attachment 30**). Ford explained to (b) (7)(C) that "this is an important project that will help the current economic development situation in Las Vegas and create some much needed jobs. Support is high from everyone, including the Nevada congressional delegation and the local public." He also told her that he had already alerted the Washington Office that the NORA would be forthcoming.

(b) (7)(C) informed Ford on January 19 that she and her coworker (b) (7)(C), NSO Realty Specialist, had finalized their reviews and were awaiting action by (b) (7)(C), NSO Public Affairs Specialist. Ford replied: "Many thanks for the quick response and help. We will leave it to you and others to do the needful in terms of final review. . . . I'll pick up the ball once it gets to the [Washington Office] and have alerted others to expect something soon."

Less than an hour after Ford responded to (b) (7)(C) sent an email to him, stating: "This email is just for you, don't share with anybody else" (**Attachment 31**). The email had several draft versions of the NORA attached. Ford assured (b) (7)(C) that he would "hold in confidence" the NORA information that she had provided, and said that (b) (7)(C) was helping as well.

When we interviewed [redacted] she said that she believed it was acceptable to send Ford copies of the draft NORA, even though the information in it was not available to the public, because it was eventually going to be public anyway (**Attachment 32**). [redacted] did not know if other realty specialists shared draft documents with outside parties, nor did she know of any specific policy that precluded her from doing so.

(b) (7)(C) also acknowledged that she gave priority to Ford's land application packages when he conducted business with BLM. She explained that she would move Ford's applications to the top of her stack of files to be reviewed because Ford had often helped her in her career; he had hired her to work at BLM, mentored her, and selected her for a promotion. She said that she could not "just forget" his help over the years. [redacted] stressed that even though she gave precedence to Ford's land files, none of her other assignments suffered. She explained that all of the files had to be processed very quickly—within 1 or 2 weeks—because the escrow companies BLM dealt with expected it.

Agent's Note: *Federal employees who share nonpublic information as a form of preferential treatment violate two significant regulations. As stated in 5 C.F.R. § 2635.703, an employee cannot allow the improper use of nonpublic information to further his or her own private interest or that of another* (**Attachment 33**). *Moreover, 5 C.F.R. § 2635.101(b)(8) states that employees must act impartially and not give preferential treatment to any private organization or individual* (**Attachment 34**). *According to the DOI Table of Penalties, each of the regulations carries potential penalties for violation, ranging from written reprimand to removal.*

On January 24, 2012, (b) (7)(C) sent Ford an updated status of the NORA. She told Ford that NSO was still waiting for electronic files from SNDO and a review by the regional Solicitor's Office (SOL) (**Attachment 35**). Ford replied that he would "nudge" LVFO about the matter. On January 26, Ford emailed (b) (7)(C) and (b) (7)(C) saying that he hoped the review of the NORA could be completed and the NORA moved forward quickly (**Attachment 36**). Ford also thanked them for giving the special request their personal attention, and noted: "We have been in contact with the [Washington Office] and they are prepared to expedite final review of the NORA as soon as it arrives so that it can be immediately sent to the Federal Register."

A week later, on February 3, 2012, (b) (7)(C) contacted DOI Solicitor (b) (7)(C), asking him to review the draft NORA and to expedite his review "as it might already have the attention of the BLM Director" (**Attachment 37**). She later forwarded this email to Ford, and Ford thanked her for sharing it with him "in confidence." (b) (7)(C) told us that Ford did not ask her to forward him the email (see Attachment 32). She also said that he did not tell her that the land sale might have had Abbey's attention; she stated that she had heard this around the office, though she did not recall where or from whom. (b) (7)(C) said that Ford almost never brought up Abbey's name in discussions with her, and she was not aware of any involvement by Abbey in the land sale.

As the review of the NORA continued, Ford's emails began to take on a more urgent tone. On February 20, 2012, Ford emailed (b) (7)(C) and other BLM employees (**Attachment 38**):

> It has now been over 5 weeks since the draft NORA was originally sent to the NSO by the LVFO and hopefully the coordinated review and revisions have been completed to everyone's satisfaction. Considering the time that has elapsed, and the collective effort that has been advanced, we are hopeful things can proceed without further delay. We understand final review and approval must be completed by the [Washington Office] but we have been in regular contact with them as they are prepared to proceed as soon as possible upon receipt of the package.

On March 14, 2012, Ford forwarded Abbey an email that he had sent to (b) (7)(C) on February 27, 2012 (**Attachment 39**). In that email, Ford asked (b) (7)(C) to let him know when the NORA had been sent to the Washington Office.

(b) (7)(C) explained to us that she reviewed the NORA for correctness and accuracy regarding such things as encumbrances, rights of way, and mineral reserves. She stated that Ford traveled to DC to help expedite the NORA process; like (b) (7)(C) she observed that the process took much less time to complete than usual. She said that a NORA approval typically took anywhere from 6 weeks to several months to complete, but approving the Henderson NORA took about 1 week. (b) (7)(C) believed that Ford's involvement led to the expedited processing.

According to (b) (7)(C) Ford was charismatic. In addition, he knew many BLM employees in the Washington Office because of his history with the Bureau. Consequently, when Ford wanted something, the employees acted. She confirmed that he routinely emailed BLM staff at SNDO, NSO, and the Washington Office as part of his efforts to get results, and stated that he would sometimes bully or intimidate people into helping him.

(b) (7)(C) said that LVFO employees told her that Ford had drafted the NORA and then provided it to LVFO to review and process. She said that Ford was allowed to write the NORA because he was a

former BLM employee who knew how to write such a notice, and because of his relationship with Abbey.

NSO Director Amy Lueders told us that Ford contacted her on a few occasions when he got frustrated with the slow processing by LVFO. She said that consultants routinely contacted her regarding issues related to their projects, so Ford's actions were not abnormal, and Ford did not have more access to her because he was a former BLM employee. Ford did not ask for any special treatment, she said, and she did not give him any. Lueders said that the Henderson land sale was not an exceptional project, and thus there would be no reason to "push" the sale to the level of the BLM Director.

Abbey's Intervention in the NORA Process

On March 5, 2012, (b) (7)(C) informed Ford that her office had sent the NORA to the Washington Office for review (**Attachment 40**). On March 7, 2012, (b) (7)(C), Special Assistant to the BLM Chief of Staff, emailed Abbey to let him know that the NORA had arrived. Abbey responded: "Thanks. This land sale is important in bringing jobs to an area of high unemployment. Sooner the better" (**Attachment 41**). The Washington Office began processing the NORA.

About 2 weeks later, SOL Staff Attorney (b) (7)(C) reviewed the NORA and summarized her observations on a surnaming sheet (the review-and-approval routing document that always accompanied such notices) (**Attachment 42**). (b) (7)(C) wrote that the Henderson lands had "known mineral values," including oil, gas, limestone, dolomite, and other mineral materials. She elaborated in her review that in accordance with Section 209 of the Federal Land Policy and Management Act (FLPMA) of 1976, as well as 43 U.S.C. § 1719(b)(l), before BLM could convey the land it had to determine either that the land had no known mineral values or that preserving any existing mineral rights would interfere with or prohibit appropriate development and more beneficial use of the land. The NORA did not address the FLPMA requirement, so (b) (7)(C) indicated "nonconcurrence" on the surnaming sheet and forwarded it to her supervisor, (b) (7)(C), Acting Branch Chief, (b) (7)(C) (b) (7)(C), SOL, for a second-level review.

We interviewed (b) (7)(C) who said that Abbey came to his office and asked him what was delaying the NORA (**Attachment 43**). (This visit occurred on March 23, 2012 (see Attachment 42).) (b) (7)(C) explained the minerals issue to him, but Abbey told (b) (7)(C) that it did not matter because the minerals were never going to be developed, and that he was willing to sign away all of BLM's rights to any minerals on the land. Abbey told (b) (7)(C) that the matter was important to him, but he never indicated that he had a personal interest or stake in it. (b) (7)(C) said that Abbey left his office without the matter being resolved, and he noted Abbey's comments on the NORA's surnaming sheet right after their meeting. (b) (7)(C) told us that he did not find it unusual for Abbey to visit him, but he found it strange that Abbey came to his office to discuss a NORA, as he had never before asked about one.

On March 27, 2012, Abbey contacted (b) (7)(C), BLM Division Chief, (b) (7)(C), and requested that she check on the NORA (**Attachment 44**). He wrote: "I was hoping we could publish that FR [Federal Register] notice this week." The next day, Abbey continued to seek the NORA's status via email. The inquiry led to efforts by more than a dozen officials from BLM and SOL to determine the status of the NORA and to spur its publication. People involved included (b) (7)(C) Deputy Director Michael Nedd, Chief of Staff Janet Lin, Assistant Director of Communications (b) (7)(C) (b) (7)(C) and Associate Solicitor for the Division of Land and Water Resources (b) (7)(C) (**Attachment 45**).

By the afternoon of March 27, 2012, [redacted] had determined that the NORA had been stalled with SOL since March 14 due to the questions about the conveyance of the mineral rights (**Attachment 46**). On March 28, he emailed Abbey stating that SOL had delayed signing off on the NORA because of the potential conflict with FLPMA (see Attachment 45).

[redacted] said that the NORA was eventually corrected so that no mineral rights were given away, and SOL signed off on it on March 29, 2012 (see Attachment 43). The surnaming sheet reflected that BLM revised the notice to retain all mineral rights. The NORA was published in the Federal Register on April 4, 2012 (see Attachment 5).

During his interview, Abbey denied playing a part in the land sale, but when we showed him the series of emails he initiated concerning the status of the NORA and his subsequent visit to [redacted] he said: "Okay. It sort of reflected I had more interest in this than I thought, huh." He said that the NORA had caught his attention because he did not want it to be "sitting in somebody's in-basket." Abbey said that he did not recall meeting with [redacted] or making the comments [redacted] had attributed to him, but he admitted that [redacted] would not have described such a conversation if it had not actually occurred.

We also showed Abbey a copy of the ethics recusal he signed when he became the BLM Director and asked if his actions regarding the NORA had violated the recusal (see Attachment 1). Abbey said that he had been trying to learn the status of the NORA, so he did not believe that his involvement was substantial. He said: "[The] Director of the Bureau of Land Management had no involvement in that decision process. They had—the Director had no involvement in the appraisal process. The Director did not issue the final decision, nor did I play a role in recommending an action to the decision maker. And as far as any role that I might—that I did play, it looked like I was trying to just determine what the status of the Federal Register notice was." Abbey said that he had not acted with the intention of benefiting Robcyn or Abbey, Stubbs & Ford.

Under 18 U.S.C. § 208(a), a Government employee is prohibited from participating personally and substantially in any particular matter that would directly affect his own financial interest or the financial interests of, among others, an organization with which he had an arrangement for future employment (see Attachment 2). By inserting himself in the land sale process, advocating for the urgency of this specific NORA publication, setting deadlines, and making recommendations on the minerals-rights issue so the land sale would proceed promptly, Abbey participated personally and substantially in the land sale process. The land sale, which could not have occurred but for the NORA publication in the Federal Register, had a direct effect on the financial interests of Abbey's erstwhile and future consulting firm, which stood to receive about $528,000 once Milam received the land parcel.

The Sale and Its Aftermath

As Milam worked to secure financing to pay the balance owed on the land, BLM worked to finalize the land patent to transfer it to Milam once he paid the balance. On August 22, 2012, [redacted] sent Ford the status of the draft patent process (**Attachment 47**). Ford asked [redacted] for a copy of the draft patent. He wrote: "I will not release it and will maintain in strict confidence." [redacted] sent the draft patent to Ford within minutes.

When asked why she sent Ford the draft patent, [redacted] told us that she would do the same for anyone who asked for one because reviewing a draft patent would enable interested parties to verify that the

information about the land was correct (see Attachment 32). When asked whether the information in the patent was the same as in the published NORA, (b) (7)(C) confirmed that it was. She then acknowledged that it was unnecessary to share the draft patent because an interested party could use the NORA to verify information about the land.

Milam paid the balance owed to BLM on November 28, 2012 (see Attachment 7). That same day, Milam had a letter hand-delivered to Henderson Mayor Andy Hafen declaring that the stadium project was "not viable" and he was terminating his agreement with the City to build it (see Attachment 8).

On November 29, 2012, in response to Milam's notification of his intent to terminate the stadium agreement, the City sent a letter to BLM requesting that BLM immediately refrain from issuing the land patent for the property to Milam. The City explained: "There is currently a dispute relating to the validity of the sale transaction as well as the attempted termination of the [agreement]. . . . The City believes that the transaction may not be valid and appears to be tainted by fraudulent representations by Christopher Milam, his agents, and his entities." In sum, the City stated that the sale of the property was expressly premised on Milam's commitment to develop it as defined in the agreement. "Now, after Milam bids on the property," the letter continued, "he is seeking to change the rules and offer this same encumbered property to others with the potential for no arena to be built and for the tract to be used for residential purposes." City Attorney (b) (7)(C), who authored the letter, explained to us that rumors had surfaced over the past several months that Milam was attempting to flip the land for residential development.

According to Milam, he terminated the agreement because he had concluded that doing so would make future development of the stadium less complicated. He said that he would not have been able to secure an anchor tenant for the stadium complex within the timeframe specified by his lenders, and terminating the agreement would give him more time to secure tenants and thus take advantage of financing options that depended on having them. He said that he planned to return to the City later with a reworked deal.

On January 28, 2013, the City filed a lawsuit against Milam (see Attachment 9). On March 12, 2013, Milam settled the suit on the conditions that he would pay the City $4,500,000; that he would never do business in Henderson again; and that his investors would replace him in the land sale process (**Attachment 48**).

On May 10, 2013, DOI decided to terminate the land sale (**Attachment 49**). In a memorandum, it directed BLM not to issue the patent to Milam, to terminate the sale process, and to return Milam's $2,132,000 purchase deposit and bidder's fee as soon as possible. In a letter explaining its decision, DOI explained to Milam's business associate that its decision was based on "serious questions" that had arisen concerning Milam's agreement with the City, which had been the basis for BLM's decision to use a modified competitive process to sell the land instead of a competitive process. The lenders, in turn, sued DOI for terminating the sale.

Because the sale was terminated, Milam did not pay Ford the $528,000 success fee promised in their agreement. We asked Abbey if he himself had benefited from the land sale. He said that he had not, nor had he received any payments from Robcyn as a result of the sale. "That was one of the issues that I went back and looked at, because . . . I wanted to make sure that when I looked somebody in the eye and said, 'I have not received a penny from Milam,' that it was the truth."

SUBJECT(S)

1. Robert Abbey, former BLM Director.
2. (b) (7)(C), Realty Specialist.

DISPOSITION

We presented this investigation to the District of Nevada U.S. Attorney's Office and that office declined prosecution.

We are forwarding this report to Secretary Sally Jewell for review and action.

ATTACHMENTS

1. Ethics recusal memorandum, dated October 26, 2009.
2. 18 U.S.C. § 208.
3. Profile of Mike Ford (from Abbey, Stubbs & Ford website).
4. Email from Bob Abbey to Mike Ford on March 4, 2011.
5. Federal Register notice: "Notice of Realty Action: Modified Competitive, Sealed-Bid Sale of Public Land in Clark County, NV," # N-90450, April 4, 2012.
6. Bureau Of Land Management News Release, "BLM Director Bob Abbey to Retire After 34 Years of Public Service," May 10, 2012.
7. BLM Case Recordation Serial Register Page, run date/time: 08/20/12 11:55 a.m.
8. Letter from City of Henderson to BLM, dated November 29, 2012.
9. *City of Henderson* v. *Christopher Milam et al.,* Case # A-13-765741-B, District Court, Clark County, NV, filed on January 28, 2013.
10. Request letter from Ken Salazar, dated February 8, 2013.
11. Letter from the Honorable Doc Hastings, dated March 14, 2013.
12. DOI Visitor/Meeting Sign-In Sheet, March 22, 2011.
13. Email from Ford to Abbey, March 23, 2011.
14. DOI Visitor/Meeting Sign-In Sheet, June 23, 2011.
15. Letter from City of Henderson to BLM: "Request for Direct Sale," dated September 7, 2011.
16. Email from Ford to (b) (7)(C) September 9, 2011.
17. Email from Ford to (b) (7)(C) September 20, 2011.
18. Letter from (b) (7)(C) to City of Henderson, dated October 4, 2011.
19. IAR – Interview of (b) (7)(C) on April 23, 2013.
20. 43 U.S.C. § 1713.
21. Email from Ford to (b) (7)(C) et al., October 10, 2011.
22. IAR – Interview of (b) (7)(C) on April 4, 2013.
23. IAR – Interview of (b) (7)(C) on April 11, 2013.
24. DOI's Office of Valuation Services' Valuation Policy Manual (December 14, 2011).
25. IAR – Interview of (b) (7)(C) on April 15, 2013.
26. IAR – Interview of (b) (7)(C) on April 22, 2013.
27. IAR – Interview of (b) (7)(C) on April 4, 2013.
28. IAR – Follow-up Interview of (b) (7)(C) on April 27, 2015.
29. IAR – Interview of (b) (7)(C) on April 4, 2013.
30. Email string between Ford and (b) (7)(C) on January 19, 2012.
31. Email string between Ford and (b) (7)(C) on January 19, 2012.

32. IAR – Interview of (b) (7)(C) on May 5, 2015.
33. 5 C.F.R. § 2635.703.
34. 5 C.F.R. § 2635.101(b)(8).
35. Email string between Ford and (b) (7)(C) on January 24, 2012.
36. Email string between Ford and (b) (7)(C) et al., on January 26, 2012.
37. Email string between (b) (7)(C) and Ford on February 3, 2012.
38. Email from Ford to (b) (7)(C) et al. on February 20, 2012.
39. Email from Ford to Abbey on March 14, 2012.
40. Email from (b) (7)(C) to Ford on March 5, 2012.
41. Emails between Abbey and (b) (7)(C) March 7, 2012.
42. Surnaming Sheet for the Office of the Solicitor, March 22, 2012.
43. IAR – Interview of (b) (7)(C) on June 19, 2013.
44. Email from Abbey to (b) (7)(C) on March 27, 2012.
45. Email string between BLM employees regarding status of the NORA.
46. Emails between Abbey and (b) (7)(C) March 27 and 28, 2012.
47. Email string between (b) (7)(C) and Ford on August 22, 2012.
48. Information on settlement agreement between DOI and Milam, March 12, 2013.
49. Letter from DOI to Milam, dated May 10, 2013.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Improper Hiring in the Office of the Secretary	**OI-PI-15-0535-I**
Reporting Office	**Report Date**
Office of Investigations	**June 6, 2016**
Report Subject	
Report of Investigation	

SYNOPSIS

We initiated this investigation based on an anonymous allegation that Fay Iudicello, Director of the U.S. Department of the Interior's Office of the Executive Secretariat and Regulatory Affairs (ES) (now retired), intervened in Federal hiring practices by hiring (b) (7)(C), a relative of her ex-husband, as a management analyst over qualified applicants with master's degrees and veteran's preference. The complainant further alleged that Iudicello improperly promoted ES employees (b) (7)(C) and (b) (7)(C) based on her personal relationship with them.

Our investigation confirmed that Iudicello used her position and influence to give (b) (7)(C) a hiring advantage. In addition to selecting him for an unpaid internship and intervening in his selection for a contract position, she manipulated a job opportunity announcement with the intent of hiring him. She directed her (b) (7)(C) to edit the announcement in a way that would target (b) (7)(C) experience and directed the hiring process' subject matter expert, (b) (7)(C) (b) (7)(C), to use those criteria in his selection.

We determined that (b) (7)(C) and (b) (7)(C) who were Iudicello's direct subordinates, knew she wanted (b) (7)(C) for the position, and that (b) (7)(C) and (b) (7)(C) knowingly circumvented governmental hiring processes in (b) (7)(C) selection by considering an improper employment recommendation, obstructing other job applicants' right to compete for employment, influencing applicants to withdraw from competition for the position, giving unauthorized preference and advantage to (b) (7)(C) and knowingly violating veterans' preference requirements.

We did not substantiate the allegation that (b) (7)(C) and (b) (7)(C) were improperly promoted.

Reporting Official/Title (b) (7)(C) /Special Agent	Signature Digitally signed.
Approving Official/Title (b) (7)(C) /SAC	Signature Digitally signed.

Authentication Number: 0A1DE939E034DFBCF8D2EA5C352957BB

DETAILS OF INVESTIGATION

On July 9, 2015, the Office of Inspector General opened an investigation based on an anonymous complaint against Fay Iudicello, Director of the Office of the Executive Secretariat and Regulatory Affairs (ES) for the U.S. Department of the Interior (DOI) (now retired). We investigated whether Iudicello and her employees, (b) (7)(C) and (b) (7)(C) (b) (7)(C), intervened in Federal hiring practices to hire (b) (7)(C) for a management analyst position.

We also reviewed Iudicello's involvement in the promotions of two ES employees: (b) (7)(C), from a GS-14 (b) (7)(C) to a newly created GS-15 position as a (b) (7)(C) (b) (7)(C), and (b) (7)(C), from a GS-13 (b) (7)(C) to a GS-14 program analyst.

Description of Relevant Prohibited Personnel Practices

Federal employees with hiring authority cannot grant any preference or advantage not authorized by law, rule, or regulation to any employee or job applicant for the purpose of improving or injuring the employment prospects of a particular person (5 U.S.C. § 2302 (b)(6)). Granting a preference or advantage includes defining the scope or manner of the competition for a position or the position's requirements (**Attachment 1**).

Employees are also prohibited from knowingly taking, recommending, or approving any personnel action if taking such an action would violate a veterans' preference requirement (5 U.S.C. § 2302 (b)(11)). In addition, employees may not knowingly fail to take, recommend, or approve any personnel action if failing to take these actions would violate a veterans' preference requirement.

Iudicello's Intervention in (b) (7)(C) Employment at DOI

Our investigation revealed several occasions where Iudicello intervened, or directed (b) (7)(C) to intervene, in a hiring process to benefit (b) (7)(C) These activities are summarized in the timeline below and are discussed in detail in this section of the report.

Date	Event
Approx. February 2013	Iudicello selects (b) (7)(C) for an unpaid internship in ES.
May 2013 – September 2013	(b) (7)(C) serves as an intern in ES.
September 2013 – December 2013	With help from one of Iudicello's employees, (b) (7)(C) gets a 4-month internship on Capitol Hill.
May 2014	(b) (7)(C) graduates college and asks Iudicello for help finding work in ES.
May 2014	(b) (7)(C) applies for, but does not get, a paid position as a correspondence specialist in ES. The job announcement is canceled even though other qualified candidates apply for it.
August 2014 – May 2015	After a recommendation from Iudicello's office, (b) (7)(C) gets a job with a contractor that places him to work in ES.

Date	Event
February 2015 – March 2015	Iudicello and (b) (7)(C) create a job opportunity announcement for a management analyst position in ES.
March 2015 – April 2015	The correspondence specialist position is reannounced. (b) (7)(C) applies for the job, but more-qualified veterans also apply. (b) (7)(C) contacts some of the veterans and attempts to persuade them to withdraw from consideration. Iudicello later cancels the position.
May 2015	The ES management analyst position is posted, and (b) (7)(C) and others apply. (b) (7)(C), the subject matter expert, eliminated the other candidates based on (b) (7)(C) specialized experience, which closely matched the requirements in the job opportunity announcement. (b) (7)(C) is selected for the position.

Obtaining Internships for (b) (7)(C) During and After College

From May to September 2013, (b) (7)(C) worked for ES as an unpaid intern. He stated during his interview that he obtained the internship through Iudicello, (b) (7)(C), (b) (7)(C) funeral when he was a college freshman (**Attachments 2 and 3**). While at the funeral, he said, they talked about his interest in politics and Iudicello told him that he should contact her if he was ever interested in an internship.

We interviewed (b) (7)(C) who said that while she did not know whether Iudicello and (b) (7)(C) had a personal relationship, she suspected that they did because it seemed that Iudicello had "handpicked" him for the unpaid position (**Attachments 4, 5, 6, and 7**).

Iudicello acknowledged during her interview that she helped (b) (7)(C) obtain the unpaid internship (**Attachments 8, 9, and 10**). While she also acknowledged that (b) (7)(C) was related to her ex-husband, she said that he was not a family friend.

Our review of emails between Iudicello and (b) (7)(C) however, revealed that the two did appear to have gone on family trips together (**Attachment 11**). In an email sent November 14, 2013, (b) (7)(C) wrote to Iudicello: "Just wanted to touch base about Thanksgiving. I just wanted to clarify where and when you want me to meet you on Tuesday [November 26] to leave for Maryland. Also where I should tell my grandmother to pick me up from." Later that day, Iudicello responded: "I'm happy to drive you to OC on Tuesday . . . maybe your Grandmother could meet us somewhere in that area. I'm wondering whether it would be possible for her or one of your parents to bring you up to Bethany around noon for the return trip to DC on Sunday."

In addition, Iudicello said, (b) (7)(C) (b) (7)(C), helped (b) (7)(C) obtain an internship on Capitol Hill after (b) (7)(C) ES internship ended (see Attachments 8, 9, and 10).

We interviewed (b) (7)(C) who recalled that in 2013 he tried unsuccessfully to obtain an internship for (b) (7)(C) with the U.S. House Committee on Natural Resources (**Attachments 12 and 13**). (b) (7)(C) said that he helped (b) (7)(C) "tailor" his resume, and (b) (7)(C) eventually obtained an internship on Capitol Hill.

Iudicello said that after (b) (7)(C) Capitol Hill internship ended and he graduated from college in May

2014, he asked her to help [redacted] get a job or a paid internship with ES (see Attachments 8, 9, and 10). Iudicello said that she tried to find a paid internship position for him in DOI, but none was available. According to Iudicello, she consulted with Mary Pletcher, Deputy Assistant Secretary for Human Capital and Diversity with the Office of Policy, Management and Budget, who suggested that (b) (7)(C) apply for a U.S. Government contractor position, which would provide him with the experience required to obtain a fulltime position at DOI.

We interviewed Pletcher, who denied suggesting that (b) (7)(C) obtain a contractor's job, but did recall suggesting that he seek an internship through the Pathways Program (a Governmentwide internship program for college students and recent college graduates) because DOI had no paid internships available (**Attachments 14 and 15**).

Attempting To Obtain a Correspondence Specialist Position Through Pathways

On May 28, 2014, a Recent Graduate Pathways Program position for a correspondence specialist in ES was posted, and (b) (7)(C) applied for it (**Attachment 16**). He did not make the position's certification (cert) list, however, because qualified veterans had also applied and because (b) (7)(C) did not score high enough on a required exam. On August 18, 2014, (b) (7)(C) returned the cert list "unused" to the Bureau of Safety and Environmental Enforcement (BSEE) Human Resources office, which handles ES' hiring and HR needs.

(b) (7)(C) stated during her interview that (b) (7)(C) did not make the list because of veteran's preference and because his "grades weren't high enough" (see Attachments 4, 5, 6, and 7). She also said that because he did not make the cert list, Iudicello did not select anyone for the position.

(b) (7)(C) explained that in August 2014, (b) (7)(C) was hired by a contractor, Design 2 Delivery, Inc. (D2D), to fill a vacant contract position in ES, and Iudicello decided to readvertise the correspondence specialist position after he gained experience in that role. (b) (7)(C) said that if (b) (7)(C) stayed with D2D for a year, he would have the experience level of a General Schedule (GS) 7 employee, which would then allow him to apply for a Government job at the GS-9 level. (b) (7)(C) said that Iudicello directed her not to advertise any jobs until they were certain that (b) (7)(C) could make a cert list and be hired. (b) (7)(C) said: "We weren't moving on the positions until we found out where (b) (7)(C) was on any given position."

Helping (b) (7)(C) Get a Contract Job

During her interview, Iudicello said that (b) (7)(C) helped (b) (7)(C) contact D2D, which held several administrative support contracts with ES, in an effort to find (b) (7)(C) a job (see Attachments 8, 9, and 10). (b) (7)(C) acknowledged that Iudicello asked him to find (b) (7)(C) a job with a contractor and that he called D2D and gave (b) (7)(C) resume to the company (see Attachments 12 and 13).

When we interviewed (b) (7)(C) she said that Iudicello wanted her to get (b) (7)(C) a job with D2D but because (b) (7)(C) was the contracting officer's technical representative for the D2D contract, (b) (7)(C) knew that such involvement would be improper (see Attachments 4, 5, 6, and 7). According to (b) (7)(C) she told Iudicello that she was "washing her hands" of the situation, but Iudicello continued to pressure her to find a job for (b) (7)(C) in ES.

We interviewed two D2D officials, (b) (7)(C) and (b) (7)(C)

(b) (7)(C), about (b) (7)(C) hiring (**Attachments 17 and 18**). (b) (7)(C) said that D2D had a contract with DOI to provide administrative support for ES. She said that there was a position available in ES under the contract, so she called an ES employee (she could not remember the individual's name), who recommended (b) (7)(C) because (b) (7)(C) had worked in ES as an intern. (b) (7)(C) (b) (7)(C) said that she found (b) (7)(C) contact information on LinkedIn and interviewed him by telephone. She noted that his resume had two "really good" references, (b) (7)(C) and Iudicello, but she did not speak to either of them because someone at ES had already recommended (b) (7)(C) to (b) (7)(C)

(b) (7)(C) said that D2D normally advertised positions on its website. She said that this was the first time ES had referred a potential employee by name to work on the contract, but ES did not direct her to hire (b) (7)(C)

(b) (7)(C) said that he received a call from (b) (7)(C) over the summer of 2014 asking if he would be interested in a contract position with D2D (see Attachments 2 and 3). According to (b) (7)(C) he was interviewed by phone and (b) (7)(C) offered him the job a week later. He stated that he did not know how (b) (7)(C) had gotten his contact information and he never asked about it.

Readvertising the Correspondence Specialist Position in 2015

(b) (7)(C) said that Iudicello directed her to readvertise the correspondence specialist position in April 2015 (see Attachments 4, 5, 6, and 7). (b) (7)(C) applied for the position, she said, but again did not make the cert list because veterans with master's degrees had also applied.

We reviewed the records for the position and found that the position had 36 applicants, of which 6 were veterans (**Attachments 19 and 20**). BSEE HR eliminated four of these veterans early in the process. The remaining two, (b) (7)(C) and (b) (7)(C), were considered qualified because each had a master's degree. Nevertheless, they were listed as "not selected." (b) (7)(C) nonveteran status placed him below (b) (7)(C) and (b) (7)(C) in the rankings.

(b) (7)(C) said that she told Iudicello about the veterans who had applied, but Iudicello did not want to select any of them (see Attachments 4, 5, 6, and 7). When asked why, (b) (7)(C) explained that ES had had an issue with one veteran hired years before. She said that the veteran had "post-traumatic stress," which created some problems with coworkers, and he was eventually "let go." As a result, (b) (7)(C) said, Iudicello did not want to hire a veteran unless she could "see the disability." (b) (7)(C) said that when Iudicello learned that veterans were on the list, Iudicello wanted to know what they could do to get "down to the next" ranking level, where (b) (7)(C) was. (b) (7)(C) stated that Iudicello directed her to try to get (b) (7)(C) onto the cert list, so she contacted some of the veterans who applied and encouraged them to drop out of the hiring process.

Violating Veteran's Preference Requirement To Benefit (b) (7)(C)

Pletcher said during her interview that she had learned from BSEE HR that (b) (7)(C) had allegedly contacted veterans who applied for the correspondence specialist position in 2015 and told them they were not qualified because they did not have the necessary experience in Indian law matters (see Attachments 14 and 15). Pletcher said she had heard that veterans were told to email BSEE HR to withdraw from the hiring process. According to Pletcher, it also appeared that the job announcement was canceled after a veteran was found to be qualified.

We contacted four of the veterans who made the cert list for the position, but only [redacted] and [redacted] (the two who had qualified) recalled being contacted by someone in ES.

[redacted] told us that she had an undergraduate degree in history and a master's of science degree in human resource management (**Attachments 21 and 22**). According to [redacted] after she made the cert list she received a telephone call from a woman (whom we later established was [redacted] who asked about her experience with American Indian matters. [redacted] said that she told [redacted] she was not working in that field, but that she had studied Indian topics as an undergraduate. [redacted] said that [redacted] told her she was not qualified for the position and should not have made the cert list. According to [redacted] [redacted] instructed her to email BSEE HR and ask to be removed from consideration for the position. [redacted] said that she did so, and later received a phone call from a BSEE HR representative who apologized and told her she was qualified for the position and should not have been told to send the email (**Attachment 23**). [redacted] said that she remained in the hiring process, but never received a follow-up telephone call or an interview.

[redacted] said that he held a master's degree in business administration and that he applied for the correspondence specialist position in May 2015 (**Attachments 24 and 25**). He said that after making the cert list, he received a telephone call from a woman—he did not remember her name—who asked why he had applied for the position and told him that she had reviewed his resume and found that he did not qualify. [redacted] said that the caller did not explain why he did not qualify but said that she would "get back with [him]." He said that a few weeks later the woman called again. She said she had "conferred" with someone and determined that, based on the position requirements, [redacted] did not qualify, and he was therefore being removed from consideration.

[redacted] admitted that she contacted the veterans, but she claimed that she was conducting a "preliminary" interview to see if they were still interested in the job and had actual experience in Indian matters (see Attachments 4, 5, 6, and 7). She felt that they had not been truthful about their levels of Indian experience; she claimed that [redacted] told her she had read a book for a class 12 years before with a chapter on Indians, and that another veteran said he had gone to an Indian casino in Florida. [redacted] did not remember calling [redacted] specifically, but she acknowledged calling a male veteran.

[redacted] acknowledged that she suggested [redacted] withdraw her application and that she gave her the email address of [redacted], an HR specialist with BSEE's Delegated Examining Unit (DEU). She later admitted that her intent in calling the veterans was to disqualify them so that the candidates at the "next level" down, including [redacted] would become eligible for consideration.

[redacted] said that she later received a call from someone at BSEE HR who was upset that she had called the veterans. [redacted] said that she told Iudicello what had happened, and Iudicello decided to let the cert list expire. When we asked why, [redacted] said that it was because Iudicello did not want to hire a veteran and because [redacted] had not made the list.

When interviewed, [redacted] said that DEU had concerns about ES' hiring practices (**Attachments 26 and 27**). According to [redacted] emails sent to DEU by [redacted] in 2012 indicated that a veteran or veterans whose names had appeared on cert lists had declined interviews and/or no longer wanted to be considered for positions. [redacted] said it appeared that ES was "coercing" veterans to withdraw from the hiring process. She said that it was not improper to contact job applicants, but it would be inappropriate to tell them they were not qualified for a position. Nevertheless, [redacted] said, DEU's

review determined that each veteran who declined in 2012 had done so voluntarily.

Intervening in Hiring Process for (b) (7)(C) Management Analyst Position

(b) (7)(C) said that in early 2015 (b) (7)(C) requested a subject matter expert (SME) to review applicant resumes received for a management analyst position that ES had opened at the GS-9, 11, and 12 levels. (b) (7)(C) said that "all-sources" job announcements at these levels typically generated a large number of applicants; therefore, the hiring process for this position was limited to the first 50 applicants. She said that no one qualified at the GS-11 or 12 levels, but 15 of the 50 applicants had master's degrees and therefore automatically qualified for the GS-9 cert list. (b) (7)(C) said that another 16 of the 50 applicants, including (b) (7)(C) qualified as GS-9s based on specialized experience. These applicants' resumes were sent to the SME, (b) (7)(C), for evaluation.

(b) (7)(C) said she sent (b) (7)(C) an evaluation sheet template that included the specialized experience criteria used in the job opportunity announcement (JOA). She said that (b) (7)(C) was instructed to use these criteria to assess the applicants. According to (b) (7)(C) the specialized experience criteria for the position included experience performing research and analysis; review and editing of departmental documents; and knowledge of organizational and Government policy regulations related to at least three of the following five areas: public land management, conservation of species, energy, water conservation, and tribal issues. (b) (7)(C) told us that she did not feel that these criteria were too restrictive, and said that as long as the criteria were not restricted only to experience within DOI, it would not have raised a "red flag" to her.

Iudicello said that when the management analyst position became available, she directed (b) (7)(C) to prepare a new position description (PD) for the job, which (b) (7)(C) did with the help of BSEE HR (see Attachments 8, 9, and 10).

(b) (7)(C) said that the PD was not rewritten but that she worked with BSEE HR to fashion the JOA (see Attachments 4, 5, 6, and 7). She also said that Iudicello then personally edited the JOA, directing (b) (7)(C) to insert the specialized experience criteria Iudicello wanted (**Attachment 28**). (b) (7)(C) admitted that these criteria were not essential for a GS-9 management analyst position, but she said that Iudicello wanted them included because (b) (7)(C) had "worked on those issues while he was a contractor." (b) (7)(C) stated that she did not use (b) (7)(C) resume when she wrote the JOA, but she acknowledged that Iudicello knew what experience (b) (7)(C) had gained from his time as an intern and as a contractor with ES. She admitted that she had not used a SME for a GS-9 position before and that Iudicello knew that to hire (b) (7)(C) the specialized experience criteria needed to be specific enough to remove the other candidates from consideration.

During his interview, (b) (7)(C) said that (b) (7)(C) told him that the job was going to be announced, and when it was, he applied (see Attachments 2 and 3). He said that he gave his resume to (b) (7)(C) before the position was advertised to have a "second pair of eyes" review it.

Iudicello said that she was not involved in the job announcement process or the hiring process (see Attachments 8, 9, and 10). According to Iudicello, 16 applicants made the cert list and (b) (7)(C) acted as the SME who evaluated them for the position. Iudicello said that when (b) (7)(C) completed his evaluation, he provided a chart with his evaluation results and notified her and (b) (7)(C) that he was recommending (b) (7)(C) for the position based on those results. According to Iudicello, (b) (7)(C) determined that (b) (7)(C) was the only candidate that met the necessary specialized experience

requirements. She said that her only involvement was at the end, as the selecting official (SO), and that she selected (b) (7)(C) based on (b) (7)(C) and (b) (7)(C) recommendations. When asked if she reviewed the other candidates' resumes, Iudicello said no; she said that she did not know whether any of the applicants held master's degrees.

When informed that according to BSEE HR rules, it was improper for (b) (7)(C) as the SME, to provide his applicant evaluation results to her (the SO), Iudicello recanted her statement (**Attachment 29**). She said that she believed she "misspoke" when she said that (b) (7)(C) recommended (b) (7)(C) for the position.

(b) (7)(C) explained that when his former employee, (b) (7)(C), resigned, he told Iudicello they needed to fill the position (**Attachments 30, 31, 32, and 33**). When the job was advertised, Iudicello asked him to be the SME for the non-master's-degree GS-9 applicants. (b) (7)(C) said that this was his first time serving as a SME, and he asked Iudicello if she was looking to hire someone "in particular." (b) (7)(C) could not remember the specifics of the conversation, but he recalled Iudicello saying: "We need to get our guy," and said she seemed "perturbed" that he did not realize that she was referring to (b) (7)(C) as her "guy." (b) (7)(C) said that she did not tell him directly that she wanted (b) (7)(C) for the position; however, it became clear once he received the package from BSEE HR containing the resumes and specialized experience criteria that (b) (7)(C) and Iudicello had crafted the job requirements to fit (b) (7)(C) resume as closely as possible because "everything was perfectly laid out there in his resume."

Of the 16 resumes (b) (7)(C) reviewed, (b) (7)(C) was the only one that met all of the specialized criteria (**Attachments 34, 35, and 36**). (b) (7)(C) stated that he felt other candidates were better choices but they did not meet all of the specialized criteria, and he was only allowed to use what was written in the resumes for his analysis (see Attachments 32 and 33).

In his second interview, we showed (b) (7)(C) the PD and he acknowledged that the PD and the JOA's specialized experience criteria did not match. He also noted that the original position (as provided in the PD) did not require specialized experience. He stated that it appeared Iudicello and (b) (7)(C) had created the JOA to fit (b) (7)(C) resume in an effort to eliminate the other applicants and influence him to recommend (b) (7)(C) for the position. (b) (7)(C) acknowledged that giving Iudicello the "thumbs up" and telling her that (b) (7)(C) was the only qualified candidate was a violation of HR rules (see Attachment 29). He felt, however, that he had no choice but to recommend (b) (7)(C) based on the specialized criteria and his resume.

(b) (7)(C) acknowledged that she and Iudicello did not follow their normal hiring process for the management analyst position (see Attachments 4, 5, 6, and 7). She admitted that she did not put together a hiring panel, read any resumes, or interview any candidates. She said that they based their justification for hiring (b) (7)(C) on (b) (7)(C) SME recommendation. (b) (7)(C) also admitted that upon learning that (b) (7)(C) had selected (b) (7)(C) she did not give any of the master's degree applicant resumes to Iudicello to review as the SO.

When asked why they deviated from normal hiring procedures, (b) (7)(C) said: "Because the only one she [Iudicello] was interested [in] was (b) (7)(C) making the cert." When asked whether Iudicello had directed her not to follow the regular hiring procedure in order to hire (b) (7)(C) (b) (7)(C) said: "It was implied in every way." (b) (7)(C) said that week after week Iudicello asked her if the cert list had arrived and if (b) (7)(C) was on it. (b) (7)(C) said that once she got the cert list and saw that (b) (7)(C) was on it,

she told Iudicello, and Iudicello said to select him. After Iudicello chose (b) (7)(C) made the selection in the USA Staffing computer system.

Our review of (b) (7)(C) computer logs and email showed that BSEE HR sent her the cert list at 6:45 a.m. on May 5, 2015 (**Attachment 37**). (b) (7)(C) logged on to her computer at 7:38 a.m. and returned the selection of (b) (7)(C) to BSEE HR less than 35 minutes later.

An Environment of Loyalty and Fear

During their interviews, (b) (7)(C) and (b) (7)(C) both admitted that they knew Iudicello was inappropriately directing them to hire (b) (7)(C) and that they were not following proper hiring procedures (see Attachments 4, 5, 6, 7, 30, 31, 32, and 33). In addition, (b) (7)(C) admitted that she encouraged veterans to withdraw their applications in an effort to "get to the next level" of candidates and that she wrote specialized criteria into the JOA in order to eliminate (b) (7)(C) competition.

When we asked (b) (7)(C) if she knew that what she and Iudicello were doing was a prohibited personal practice, (b) (7)(C) acknowledged that she did, but said she was under near-daily pressure from Iudicello to find a position for (b) (7)(C) At one point, (b) (7)(C) said, she called BSEE HR Specialist (b) (7)(C) (b) (7)(C) and stated: "I think I just quit." (b) (7)(C) stated that the improper intervention by Iudicello and the pressure placed on her during the hiring process led her to take 3 days of sick leave due to stress.

When we interviewed (b) (7)(C) she recalled speaking to (b) (7)(C) routinely about HR issues in 2015 (**Attachments 38 and 39**). (b) (7)(C) did not remember a call in which (b) (7)(C) said that she had quit, but she did recall that (b) (7)(C) was upset and expressed frustration about the pressure she received from Iudicello. (b) (7)(C) could not recall the nature of this pressure, but she said that she told her own supervisor about the call and that she contacted (b) (7)(C) the next day to check on her. (b) (7)(C) could not remember that telephone conversation, but she confirmed that (b) (7)(C) took a few days off due to the pressure she was feeling from Iudicello.

When asked why she did not question (b) (7)(C) inappropriate intervention in (b) (7)(C) hiring, (b) (7)(C) said that people simply did not question (b) (7)(C) and that (b) (7)(C) would belittle people who did not agree with her (see Attachments 6 and 7). When we asked (b) (7)(C) why she did not report the violations, she said that she felt loyalty to (b) (7)(C) but also feared retaliation from her.

We also asked (b) (7)(C) if he thought he had handled the hiring of (b) (7)(C) appropriately (see Attachments 32 and 33). (b) (7)(C) said that in hindsight, he should have objected to Iudicello's intervention in the process as soon as he recognized that the hiring process for (b) (7)(C) was a "preselection." When asked why he did not, he stated that Iudicello was his boss, a "tough case," and a strong-willed person with whom he had had conflicts before; these disagreements, he said, had "cost" him. He said that she would simply not listen to what someone had to say if she disagreed. (b) (7)(C) admitted that he should have done things differently.

Promotions for ES Employees

As part of our investigation, we reviewed the promotions of two of Iudicello's staff members, (b) (7)(C) and (b) (7)(C), to determine whether she had been inappropriately involved (**Attachments 40, 41, and 42**). Iudicello denied that either (b) (7)(C) or (b) (7)(C) was promoted because of a personal relationship with her (see Attachments 9 and 10).

On January 5, 2015, Iudicello promoted (b) (7)(C) from a GS-14 (b) (7)(C) to a new GS-15 position: "Program Analyst (b) (7)(C)." Iudicello said that she wanted to promote (b) (7)(C) because (b) (7)(C) had strong (b) (7)(C) skills and because her counterparts in other Federal agencies were GS-15 coordinators. We found that while (b) (7)(C) promotion was a rare occurrence—it was unusual for a GS-15 to have no supervisory responsibilities—it appeared to adhere to DOI policy.

Iudicello promoted (b) (7)(C) on December 14, 2014, from a GS-13 (b) (7)(C) to a GS-14 program analyst. Iudicello said that (b) (7)(C) had asked for a promotion or new career opportunities because his (b) (7)(C) position had "topped out." According to Iudicello, she called various DOI sections looking for a promotion opportunity for (b) (7)(C) She said that eventually another ES employee was assigned to the U.S. Fish and Wildlife Service, which created an opening for (b) (7)(C) and that ES advertised the position internally and (b) (7)(C) applied, made the cert list, and was selected. As with (b) (7)(C) our review of (b) (7)(C) promotion did not reveal any policy violations.

SUBJECT(S)

1. Faye Iudicello, former ES Director.
2. (b) (7)(C).
3. (b) (7)(C).

DISPOSITION

We are providing this report to DOI Chief of Staff Tommy Beaudreau for review and action.

ATTACHMENTS

1. MSPB Prohibited Personnel Practice 5 U.S.C. § 2302.
2. Investigative Activity Report (IAR) – Interview of (b) (7)(C) on January 12, 2016.
3. Transcript of interview of (b) (7)(C) on January 12, 2016.
4. IAR – Interview of (b) (7)(C) on December 29, 2015.
5. Transcript of interview of (b) (7)(C) on December 29, 2015.
6. IAR – Interview of (b) (7)(C) on March 30, 2016.
7. Transcript of interview of (b) (7)(C) on March 30, 2016.
8. IAR – Interview of Fay Iudicello on August 25, 2015.
9. IAR – Interview of Fay Iudicello on December 18, 2015.
10. Transcript of interview of Fay Iudicello on December 18, 2015.
11. Emails between Fay Iudicello and (b) (7)(C).
12. IAR – Interview of (b) (7)(C) on January 12, 2016.
13. Transcript of interview of (b) (7)(C) on January 12, 2016.
14. IAR – Interview of Mary Pletcher on November 10, 2015.
15. Transcript of interview of Mary Pletcher on November 10, 2015.
16. Pathways Program 2014 Correspondence Specialist.
17. IAR – Interview of (b) (7)(C) and (b) (7)(C) on December 3, 2015.
18. Transcript of interview of (b) (7)(C) and (b) (7)(C) on December 3, 2015.
19. IAR – Review of 2015 Correspondence Specialist Position.
20. 2015 Correspondence Specialist Veterans Cert List.
21. IAR – Interview of (b) (7)(C) on December 3, 2015.

22. Transcript of interview of (b) (7)(C) on December 3, 2015.
23. (b) (7)(C) email to (b) (7)(C) .
24. IAR – Interview of (b) (7)(C) on December 8, 2015.
25. Transcript of interview of (b) (7)(C) on December 8, 2015.
26. IAR – Interview of (b) (7)(C) on November 10, 2015.
27. Transcript of interview of (b) (7)(C) on November 10, 2015.
28. Iudicello and (b) (7)(C) JOA-editing emails.
29. (b) (7)(C) SME acknowledgement.
30. IAR – Interview of (b) (7)(C) on December 28, 2015.
31. Transcript of interview of (b) (7)(C) on December 28, 2015.
32. IAR – Interview of (b) (7)(C) on March 30, 2016.
33. Transcript of interview of (b) (7)(C) on March 30, 2016.
34. 2015 Management Analyst JOA.
35. (b) (7)(C) 2015 management analyst evaluation tool.
36. (b) (7)(C) 2015 resume.
37. (b) (7)(C) May 5, 2015 computer logs and email confirmation to BSEE HR.
38. IAR – Interview of (b) (7)(C) on April 22, 2016.
39. Transcript of interview of (b) (7)(C) on April 22, 2016.
40. IAR – Review of (b) (7)(C) and (b) (7)(C) Promotion files.
41. (b) (7)(C) promotion announcement and documentation.
42. (b) (7)(C) promotion announcement and documentation.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Jarvis, Jonathan	**OI-PI-15-0609-I**
Reporting Office	**Report Date**
Program Integrity	**November 19, 2015**
Report Subject	
Report of Investigation	

SYNOPSIS

We initiated this investigation in June 2015 after receiving a memorandum from U.S. Department of the Interior (DOI) Chief of Staff Tommy Beaudreau informing us that Jonathan Jarvis, Director of the National Park Service (NPS), wrote and published a book without consulting DOI's Ethics Office. The book, titled "Guidebook to American Values and Our National Parks," was published by Eastern National, a nonprofit that operates stores and sells merchandise in numerous national parks.

We focused our investigation on whether Jarvis used his public office for private gain by seeking a book deal with Eastern National and whether he misused any U.S. Government resources in the process. We also examined Jarvis' involvement in Eastern National matters at NPS around the time of his book deal, and we reviewed Jarvis' decision not to seek ethics advice from the Ethics Office for the book.

We found that although Jarvis wrote in a note to DOI Secretary Sally Jewell that Eastern National had asked him to write the book, it was in fact Jarvis who contacted Eastern National's Chief Executive Officer, George Minnucci, to see if Minnucci would be interested in publishing it.

According to Jarvis and Eastern National, Jarvis did not receive any money for his book, but he did ask that any royalty he would be due as the author go to the National Park Foundation, a nonprofit that fundraises for NPS. As NPS Director, Jarvis is designated by statute to serve as a Foundation board member. Eastern National and Foundation employees stated that no money has been donated thus far.

Some DOI officials expressed concerns about Jarvis' retention of the book's copyright, as well as the use of the NPS arrowhead logo on the cover and Jarvis' title in some places, giving the appearance of Government endorsement. While Eastern National officials said that it was uncommon to have an NPS

Reporting Official/Title (b) (7)(C) (b) (7)(C) /Special Agent	Signature Digitally signed.
Approving Official/Title (b) (7)(C) (b) (7)(C) /SAC	Signature Digitally signed.

Authentication Number: FA69308993225E24D904A354155FBB77

employee hold the copyright to one of its books, Jarvis said that he asked to have the copyright placed in his name so that he could later donate it to the Foundation. He said that he had no intention of receiving any money from the book in the future by retaining the copyright.

We found that Jarvis approved Eastern National's use of the arrowhead logo on the book cover, believing that one of the nonprofit's cooperating association agreements with NPS allowed this. We did not find any verbiage in these agreements, however, that permitted Eastern National to use the arrowhead logo on its publications. No one at Eastern National or NPS could pinpoint a specific approval process for using the logo in this way, although numerous Eastern National publications have featured it and NPS officials have the authority to approve its use.

Two areas in the book reference Jarvis' Government title: his biography in the back, which highlights various positions that he has held at NPS, and the book's preface, written by writer and producer Dayton Duncan. Jarvis stated that he purposely tried to downplay his Government position in the book by limiting the use of his title and using a photo of himself not wearing his NPS uniform. During his interview, Duncan stated that he, not Jarvis, had included the reference to Jarvis' title in the preface; he also said that he did not feel any pressure when asked to write the preface.

Jarvis acknowledged that he wrote the book on his Government iPad. We found that for the most part, however, his work on the book occurred outside office hours. We also found that after receiving 50 copies of the book from Eastern National, Jarvis had his assistant mail 21 autographed copies of the book back to Eastern National, and he did not pay for the 29 he kept.

While we found that Jarvis signed renewals for both of Eastern National's cooperating association agreements with NPS around the time of his book discussions with Minnucci, staff involved in the agreements said that the book did not influence the agreements.

Jarvis stated that he knew he risked "[getting] in trouble" by not seeking advice on his book from the Ethics Office. He felt, however, that if he had involved the Ethics Office and other DOI officials, the book would probably never have been published due to what he viewed as a lengthy approval process and some content that he believed was controversial.

DETAILS OF INVESTIGATION

On June 26, 2015, we initiated this investigation after receiving a request from U.S. Department of the Interior (DOI) Chief of Staff Tommy Beaudreau (**Attachment 1**). Beaudreau notified us that Jonathan Jarvis, Director of the National Park Service (NPS), had written a book titled "Guidebook to American Values and Our National Parks" and had it published by Eastern National, a nonprofit that operates stores and sells merchandise in numerous national parks. Beaudreau and other DOI officials were concerned because Jarvis wrote the book and had it published without consulting DOI's Ethics Office first.

We focused our investigation on whether Jarvis used his public office for private gain by seeking a book deal with Eastern National, specifically how the book's proceeds were handled; why Jarvis obtained the copyright for the book in his name; Jarvis' request to writer and producer Dayton Duncan to write the preface for the book; Jarvis' approval to use the NPS arrowhead logo, and the logo for NPS' 2016 centennial, on the book cover and to have references to his U.S. Government title in the book; and Jarvis' receiving copies of the book from Eastern National.

We also examined whether Jarvis used Government property, his own official time, the time of his subordinates, or nonpublic information for his book. We further reviewed Jarvis' involvement in Eastern National matters at NPS around the time of his book deal, including Eastern National's cooperating association agreements and Eastern National Chief Executive Officer George Minnucci's receipt of two NPS awards. Finally, we investigated Jarvis' decision not to seek advice about the book from the Ethics Office.

How DOI Officials Learned About Jarvis' Book

According to Beaudreau and members of his staff, they became aware of Jarvis' book at a staff meeting on Friday, June 19, 2015, after Ed Keable, Deputy Solicitor for General Law, relayed the issue (**Attachments 2 through 7**). Keable had found out about the book in early 2015 when Jarvis' chief of staff, Maureen Foster, approached him about it (**Attachments 8 and 9**).

Beaudreau stated that at the staff meeting, Secretary Jewell's administrative assistant, (b) (7)(C), overheard the conversation about Jarvis' book and informed the group that Jarvis had left a copy of it with a note for the Secretary (see Attachments 6 and 7). (b) (7)(C) then retrieved the book from the Secretary's office, he said, but could not find the note. He said that the book appeared to be finished and ready to be published, and that with the NPS arrowhead logo displayed on the cover and the content referencing national parks, it looked like a Government publication. Beaudreau said that a host of ethical issues "leaped" to his mind, in addition to his "profound disappointment" that this was the first time he was made aware of the book.

Beaudreau said that he wondered what arrangement Jarvis had with Eastern National and whether he had cleared it with the Ethics Office. He said that he also wondered if there was a way to "put the brakes" on publishing the book. That day, he said, he spoke with Keable, who agreed to have his staff, including Designated Agency Ethics Official Melinda Loftin, review the matter.

The following Monday, Beaudreau said, Kate Kelly, Senior Advisor to the Secretary, received Eastern National's press release on the book, which confirmed that the book had already been published.

Beaudreau said that he spoke with the Secretary, who gave him the note that Jarvis had left with the book. When asked if the Secretary said anything about the book itself or recalled receiving it, Beaudreau said that she did not. He said that the Secretary agreed the situation raised some ethical concerns, and he told her that the issue might need to be referred to the Office of Inspector General (OIG).

Beaudreau provided us with a copy of Jarvis' book, the note that Jarvis had written to Secretary Jewell, and Eastern National's press release (**Attachments 10 through 13**).

We reviewed the book, which highlights 52 American values, including bravery, hard work, integrity, and patriotism, and describes specific parks to visit that demonstrate these attributes (see Attachment 11). The cover of the book includes the outline of the NPS arrowhead logo; the logo also appears on the back cover along with the centennial logo. Dayton Duncan, the Emmy-Award-winning writer and co-producer of the documentary "The National Parks: America's Best Idea," which aired on PBS, wrote the preface for the book. Jarvis' position as the Director of NPS is referenced twice: in Duncan's preface and in a biography at the back. The dedication section of the book includes a statement that all proceeds from the sale of the book would go to NPS programs through Eastern National and the

National Park Foundation, another nonprofit that fundraises for NPS. The book also notes that Eastern National is the publisher of the book, but Jarvis holds the copyright.

The note from Jarvis to the Secretary read (see Attachment 12):

> Sally,
>
> This book stems from a talk I developed over the last decade around American values. I wrote the book at the request of Eastern National, our largest cooperating association. I wrote it on my own time (snow days!) and all proceeds come back to NPS thru [sic] Eastern and the Foundation, so there are no ethics issues [emphasis in original].
>
> In many ways it reflects how we both feel about the NPS, and our role in helping the Nation live up to its ideals.

The press release from Eastern National stated that the book was published in cooperation with NPS and that Jarvis wrote the manuscript for the book on his personal time and donated it to Eastern National (see Attachment 13). (b) (7)(C), the chief operating officer of Eastern National, was quoted as stating that Eastern National was "pleased to have been asked" to work on the project.

We interviewed Keable, who appeared to have known about Jarvis' book well before Beaudreau and others (see Attachments 4 and 5). He said that in early 2015, Jarvis' chief of staff, Maureen Foster, informed him that Jarvis was writing a book and asked if this was permissible. Keable said he told Foster that Jarvis should contact the Ethics Office to get clearance for the work. According to Keable, he did not hear anything more about Jarvis' book until late June, when Foster stopped by Keable's office and handed him a printed copy of it. He said she told him that she did not think that Jarvis had spoken with the Ethics Office about the book, but she had told him he needed to. Keable said that he informed Deputy Chief of Staff Ben Milakofsky about the issue and that he contacted Loftin, who confirmed that Jarvis had not consulted with the Ethics Office about the book.

Keable was concerned that Jarvis publishing the book could have posed a conflict of interest, explaining that because Eastern National, which managed NPS bookstores and facilities, was involved, the issue "needed to be sorted through." Another question, he said, was whether Jarvis—who was presidentially appointed and Senate confirmed (and thus might be required to be always "on duty")—even had his "own time" in which to write the book.

We also interviewed Loftin, who recalled Keable giving her a copy of Jarvis' book to review on June 19, 2015 (**Attachments 14 and 15**). Loftin noted that the book was selling for $7.95, with $1 of that amount being donated to the Foundation. She questioned the potential tax implications of this for both Jarvis' income and his charitable donations. She said that she had many other concerns about Jarvis writing the book, including him potentially misusing his position as well as Government resources and time. She noted that Duncan, who had worked with filmmaker Ken Burns on a documentary series on the national parks, wrote the preface for Jarvis' book, and she was concerned that Jarvis used a relationship that had sprung from his Government position to further his own personal interests.

Loftin also noted that the press release for the book stated that Eastern National was "pleased to have been asked" to work on the project, which to her implied that Jarvis had asked Eastern National to undertake the book's publication. She said that it would be a problem if the Director of NPS was

asking a nonprofit that had agreements with NPS to publish a book for which he ultimately held the copyright.

We also interviewed Foster, who said that in 2014 or early 2015, Jarvis mentioned to her informally that he was going to take a speech that he had written on how parks tied into American values (the "values speech") and turn it into a book (see Attachments 8 and 9). After she approached Keable about the book, she said, she told Jarvis that he should speak with Loftin and the Ethics Office. Foster could not recall Jarvis' exact response to her, but he appeared concerned about the amount of time it would take to get an ethics opinion and that his work would be edited. She said that Jarvis gave her a copy of the book upon its publication, and she brought it to Keable.

Use of Public Office for Personal Gain

We reviewed Jarvis' potential use of public office for private gain while writing and publishing the book. We specifically examined his seeking the book deal with Eastern National, directing how the book's proceeds were handled, obtaining the copyright for the book in his name, and having an Emmy-Award-winning writer and producer on the subject of national parks write the book's preface. We also reviewed Jarvis' receiving copies of the book from Eastern National and using the NPS arrowhead and centennial logos and his Government title in the book.

Relevant Laws and Regulations

According to 5 C.F.R. § 2635.101, "Basic Obligation of Public Service," and 5 C.F.R. § 2635.702, "Use of Public Office for Private Gain," Federal employees cannot use public office for their personal benefit (**Attachments 16 and 17**). Employees must also "endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards."

Also, 5 C.F.R. § 2635.807, "Teaching, Speaking, and Writing," states that Government employees cannot receive compensation for teaching, speaking, or writing that relates to their duties (**Attachment 18**). Receiving compensation includes designating funds to be paid to someone else, such as a charitable organization. A related regulation, 5 C.F.R. § 2635.804, "Outside Earned Income Limitations," states that presidential appointees cannot receive outside earned income from any employment or activities (**Attachment 19**).

In addition, 18 U.S.C. § 209, "Salary of Government Officials," is a criminal prohibition against a Federal employee's receiving any salary as compensation for services as an officer or employee of the executive branch from a source other than the Government (**Attachment 20**).

Finally, according to 5 C.F.R. part 2635, subpart B, "Gifts From Outside Sources," Federal employees in general must not solicit or accept gifts from prohibited sources or gifts given because of their official position (**Attachment 21**).

The Origin of the Book Deal

Jarvis' June 11, 2015 note to the Secretary stated that Eastern National requested that he write the book. Similarly, two emails from Minnucci to Jarvis made it appear as though Eastern National made the request. On January 27, 2015, Minnucci emailed Jarvis: "Jon, I have an idea for a centennial publication that I would like to discuss with you. If you have some time please give me a call"

(**Attachment 22**). The following day, Minnucci emailed Jarvis that his staff had noticed a "void" in its centennial publications (**Attachment 23**). He said that the publications group was lacking a manuscript that educated the public on the "intrinsic importance" of the national parks, and he could think of only one person to author such a book. He asked if Jarvis had "any free time away from the office" and would be interested in writing a book based on his values speech, which Minnucci had heard.

Minnucci provided us with an earlier email, however, which indicated that Jarvis actually initiated the book conversation with Eastern National. Jarvis had emailed Minnucci on January 22, 2015, informing him that he was "strongly considering" authoring a book on how the parks represented core American values, and he wondered if Eastern National would be interested in publishing it (**Attachment 24**). He noted that there was some "outside interest" in publishing the book, but he thought first of Eastern National. Before his first interview, Jarvis had given us copies of his emails related to the book, but he did not provide the January 22 email.

During Jarvis' first interview, he said that he wrote his values speech in October 2012 during a conference at the Grand Canyon that he attended in his capacity as NPS Director (**Attachments 25 and 26**). He said that one of his "pillars" as the Director was connecting NPS to the next generation in a relevant way, and he wanted to remind the American public that parks were more than a tourist destination and represented a "deeper American set of values." Jarvis said that when he began giving the speech many people requested copies of it, so he placed a copyright symbol at the top of the document to dissuade anyone from republishing it, although he never actually registered a copyright for it (**Attachment 27**).

Jarvis said that (b) (7)(C), who operated the company Historic Tours of America, began to "pester" him about turning his speech into a book and offered to fund the project (see Attachments 25 and 26). Jarvis said that he declined, as it would have been inappropriate to work with someone in the private sector, but he nonetheless began thinking about trying to reach a broader audience with his message by writing a book.

Jarvis stated in his first interview that he called Minnucci, whom he had known for 20 to 25 years, in December 2014 or January 2015 and asked if he was interested in his book concept, and Minnucci said that he was. He said that Minnucci told him he would send Jarvis a letter, which he later did via email, to formalize the arrangement, and, according to Jarvis, to "keep it clean." Jarvis explained that Minnucci was giving him the chance to "respond with something more formal than just a phone call."

When we interviewed Minnucci, we showed him the January 22, 2015 email in which Jarvis told him about his desire to author a book, and Minnucci recalled it as the first contact he had with Jarvis specifically about the book (**Attachments 28 and 29**). Minnucci said that none of the other books that Eastern National had been working on for the NPS centennial would be ready and available for sale in 2015 as he had hoped, so he decided that Jarvis' book could fill that void. Minnucci said that at no time did he feel pressured to publish Jarvis' book.

Minnucci said that it cost Eastern National approximately $11,000 or $12,000 to print, publish, and distribute 2,500 copies of the book, which was being sold through various NPS park stores (for $7.95), but only 228 copies had sold. Minnucci said that while the book was very well written, he did not think that Eastern National would make its money back on it.

We showed Minnucci his January 27, 2015 email to Jarvis stating that he had a publication idea. We

explained to him that the email read as though it was Minnucci who had thought of the idea for Jarvis to write a book, not the other way around. Minnucci said that this email was intended to serve as his "internal approval" to his staff. He explained that he wanted to have an internal record for the Eastern National staff that they were going to be working on Jarvis' book at Minnucci's direction. According to Minnucci, he later forwarded the January 27 email to his staff. When asked if Jarvis had requested that Minnucci send him an email to make it look like the book was Minnucci's idea, Minnucci said: "Not that I remember."

***Agent's Note**: A member of Minnucci's staff provided an email showing that Minnucci forwarded her a copy of the January 28, 2015 email that he sent Jarvis suggesting that he write the book* (**Attachment 30**).

We also showed Minnucci his January 28, 2015 email to Jarvis, in which the language once again appeared to state that the book was Minnucci's idea, not Jarvis' (see Attachments 28 and 29). Minnucci reiterated that Jarvis did not ask him to write the email, and that it was strictly for Minnucci's staff. Minnucci said that he wanted his staff to think the book was his idea and that it was "a CEO decision."

We reinterviewed Jarvis about Minnucci's emails, and he said that during an initial telephone conversation with Minnucci about the book, Minnucci suggested sending Jarvis a request to write it, but Jarvis did not ask why he wanted to do this (**Attachments 31 and 32**). Jarvis said that Minnucci told him: "I've been doing this a long time. Let me send you a request." He surmised that Minnucci was trying to "protect" him and that Minnucci might have had some concern that it would have appeared inappropriate for Jarvis to approach Minnucci about the book. He further opined that Minnucci did not want it to appear that Eastern National was publishing the book only because Jarvis was the Director of NPS.

Jarvis acknowledged that the two emails that Minnucci sent him, making it appear as if the book idea was Minnucci's, did not accurately reflect what happened. He stated, however, that he never asked Minnucci to write them, and he did not know what Minnucci planned to do with them.

We informed Jarvis that it appeared that his note to the Secretary, which stated that Eastern National had asked him to write the book, was not accurate, and he replied: "I guess that's true." He said that he was "following the path that was laid out" in Minnucci's emails.

We showed Jarvis the January 22, 2015 email in which he asked Minnucci if he would be interested in publishing the book, and Jarvis maintained that he spoke with Minnucci about the book by phone prior to this email. We asked Jarvis if he had failed to provide the email to us in an attempt to maintain the illusion that Minnucci had been the one to come to him about writing the book. He stated that not providing the email "wasn't purposeful," adding that he had searched his emails but did not find this one.

The Book's Proceeds

In a January 31, 2015 email to Minnucci, Jarvis stated that he wanted any royalty due to him as the author of the book to go to the Foundation (see Attachment 23). A June 1, 2015 email from Eastern National Chief Operating Officer (b) (7)(C) to Foundation employees stated that Eastern National would donate to the Foundation $1 per copy of each book sold, paid quarterly (**Attachment 33**).

During his interview, Jarvis said he told Minnucci that he wanted all proceeds from the book to go to the Foundation, but Minnucci said that he still had to cover his costs (see Attachments 25 and 26). Jarvis said he then told Minnucci that he wanted any money that would normally come to him as the author to go to the Foundation, and he wanted Eastern National and the Foundation to work out how that would occur.

Jarvis explained that the Foundation was established by Congress as a fundraising charity for NPS, and, by law, he and the Secretary were members of its board. He said that board members were required to donate at least $25,000 per year to the Foundation, but the board did not require him to do so since he was a career Federal employee who could not afford it. Jarvis said that because he was not able to donate money to the Foundation, he wanted the book to essentially be a gift to the group. When asked, Jarvis said that he had no intention of claiming the money provided to the Foundation through the sale of his book as a donation on his tax return.

According to Jarvis, he received no money or anything of value related to the book, and he and Eastern National did not have a formal contract or agreement in place for him to write it. He also said that because of the way NPS' cooperating association agreement was set up with Eastern National, 12 to 17 percent of the profits from the book would go back to NPS.

Minnucci and (b) (7)(C) confirmed that Jarvis was not compensated for writing the book and that he did ask for some of the book's proceeds to go to the Foundation (**Attachments 34 and 35**, and see Attachments 28 and 29). (b) (7)(C) said that no money had been donated to the Foundation thus far, but the plan was to make a quarterly donation by check. He said that normally Eastern National would not "funnel money to the Foundation" unless someone had requested it. (b) (7)(C) said that when Federal employees wrote books for Eastern National during work hours, they did not normally receive a royalty, but individuals in the private sector who wrote books sometimes received a one-time payment, and then Eastern National owned the manuscript.

We interviewed two Foundation employees involved in donation discussions with Eastern National (**Attachments 36 through 39**). The employees said they were aware that Jarvis requested that proceeds from his book go to the Foundation, but they had not yet received any money. They said that while there was no written agreement on the structure of the donation, it would be recorded as coming from Eastern National, not Jarvis. Neither of the employees said that they felt, or knew of anyone feeling, pressured to promote Jarvis' book.

Agent's note: *On October 30, 2015, Minnucci confirmed that as of that date Eastern National had not made or planned any donations to the Foundation from the book's sales.*

According to 5 C.F.R. § 2635.807, Government employees cannot receive compensation from outside sources for teaching, speaking, or writing that relates to their official duties. This prohibition extends to funds paid directly to a charitable organization at the employee's request (see Attachment 18).

The Book's Copyright

Jarvis emailed Minnucci on March 15, 2015, stating that he assumed the copyright for the book would remain in his name and Eastern National would get "first publication rights" (**Attachment 40**).

Jarvis said that he asked Minnucci what Eastern National normally did about copyrights for publications, and Minnucci told him that it normally held them (see Attachments 25 and 26). He said he told Minnucci that he wanted the Foundation to have the copyright because it could be of value to that organization over time, and Minnucci responded that he could register the copyright in Jarvis' name, and then Jarvis could donate it to the Foundation. Jarvis said that he agreed to this, and the copyright was ultimately filed in his name.

Jarvis also said he was concerned that if he left the book without a copyright, the material would be "lost." He said that everything that NPS published was in the public domain and was "usable" by anyone.[1] He provided an example of an NPS brochure that a nonprofit had taken and republished with few changes. Jarvis said that these types of situations bothered him.

We asked Jarvis whether he planned to receive any future proceeds related to the book, given that he held the copyright. He repeated that he planned to grant all publishing rights and proceeds to the Foundation.

Minnucci said that Jarvis preferred to retain the copyright for the book because Jarvis did not know what he wanted to "do with the material in the future" (see Attachments 28 and 29). Minnucci said that based on Jarvis' request, Eastern National filed a registration of the copyright in Jarvis' name. He said that filing for the copyright cost $55, and he planned to send Jarvis the bill (**Attachment 41**). He said that Eastern National normally retained the copyright on books authored by NPS employees (see Attachments 28 and 29). Minnucci could not recall Jarvis ever expressing a desire to have the book copyrighted under the Foundation, which Minnucci said he would not have done anyway.

According to 5 C.F.R. § 2635.804, presidential appointees cannot receive "outside earned income" for outside employment or activities (see Attachment 19). This includes "constructive" receipt of income that is paid to a third party; however, per the regulation, copyright royalties and fees are not considered income.

The Book's Preface

Jarvis said that he was friends with filmmaker Ken Burns and writer Dayton Duncan, who produced a television series on the national parks (see Attachments 25 and 26). He said that he asked Burns if he would write the preface for the book and Burns agreed, but when Jarvis later spoke with Burns' staff, they told him that Burns did not have the time to write it. They suggested that Jarvis contact Duncan to write it instead, he said, so he did. He said that Duncan wrote the preface and Jarvis submitted it to Eastern National. When asked if he ever informed Duncan about how the proceeds for the book were being handled or that he was working on the book on personal (versus official) time, Jarvis said that he did not.

Duncan said that he met Jarvis a couple of times beginning in 2005, when Jarvis was an NPS regional director and Duncan was working on the TV documentary "The National Parks: America's Best Idea" (**Attachments 42 and 43**). Duncan said that he also interacted with Jarvis more recently at five or six meetings for an advisory committee on the NPS centennial, of which Duncan was a member. Duncan said that he would consider Jarvis to be a friend, although the only times they had interacted involved park issues.

[1] There is no copyright protection for a work of the Federal Government, which is defined as a work prepared by an officer or employee of the Government as part of that person's official duties (17 U.S.C. § 101).

Duncan said that he first heard of Jarvis' book when he received an email about it in the spring of 2015. He said Jarvis sent an email to Burns about the book and asked if Burns would write the preface, but because Burns was busy, Duncan agreed to do it. Duncan said that he was in favor of doing anything to promote the NPS centennial. He noted that he had written forewords and prefaces for other books relating to national parks. According to Duncan, he did not feel pressured to write the preface because of Jarvis' position. Duncan said that he wrote the preface quickly and submitted it by email to Jarvis on April 6, 2015.

During his second interview, Jarvis said he did not think that asking Burns or Duncan to write the preface posed a conflict of interest, despite having only met them in his Government capacity, because he was not benefiting financially from the book (see Attachments 31 and 32).

Use of NPS Logos on the Book Cover

On March 15, 2015, Jarvis emailed Minnucci and stated that he had checked with his office, and Eastern National had the right to use both the NPS arrowhead and centennial logos on its publications, so he wanted them to be used for his book (see Attachment 40).

During his interview, Jarvis said that he did not recall actually obtaining advice regarding the use of the NPS logo, but he believed that Eastern National could use it under its cooperating association agreement with NPS (see Attachments 25 and 26). He said that while Eastern National could not sell clothing with the arrowhead logo to anyone but NPS employees, it could use the logo on publications. He said that, as far as he knew, his publication with Eastern National "just fell under the parameters" of the agreement. He also stated that the NPS centennial logo, which also appeared on the cover of the book, was owned by the Foundation, and Eastern National and other NPS cooperating associations were able to use it on products.

Minnucci and (b) (7)(C) said that Eastern National had used the NPS arrowhead logo on many of its publications and normally worked with the superintendents of individual parks to obtain permission to use it (see Attachments 28, 29, 34, and 35). According to Minnucci, since Jarvis was the NPS Director and he had approved the cover design for the book, which included the logo, Jarvis had therefore approved the use of the logo. We asked Minnucci how, since Jarvis allegedly wrote the book in his personal capacity, he could also function as the NPS employee who approved the use of the logo. Minnucci said: "You know what, that's a good question," but had no additional response.

We examined Eastern National's October 7, 2014 cooperating association agreement with NPS to operate stores in various parks and its February 2, 2015 agreement to produce merchandise bearing the arrowhead logo for NPS employees and volunteers to purchase (**Attachments 44 and 45**). Neither addressed Eastern National's use of the arrowhead logo on publications.

According to 36 C.F.R. § 11.2, "Arrowhead and Parkscape Symbols," and NPS Special Directive 93-07, the arrowhead logo may be approved by the Director of NPS for uses that will contribute to education and conservation as they relate to NPS programs. All other uses of the arrowhead logo are prohibited (**Attachments 46 and 47**). NPS Director's Order 52D provides procedures under which lower-level NPS officials may approve the use of the logo (**Attachment 48**).

Use of Jarvis' Title

Two areas of Jarvis' book reference his title as NPS Director: the preface written by Duncan and a biography at the back (see Attachment 11). Duncan's preface states: "In these pages, Jonathan Jarvis, the 18th Director of the National Park Service, adds a new chapter in the evolution of the national park idea." Jarvis' biography states:

> Jonathan B. Jarvis began his career with the National Park Service during the U.S. Bicentennial in 1976. He has served as ranger, biologist, or superintendent in Prince William Forest Park, Guadalupe Mountains National Park, Crater Lake National Park, North Cascades National Park, Craters of the Moon National Monument, Wrangell-St. Elias National Park and Preserve, and Mount Rainier National Park. From 2002 to 2009, he served as the regional director for the Pacific West Region of the NPS, overseeing all of the national parks in Washington, Oregon, Idaho, California, Nevada, Hawaii, and the Pacific Islands. In 2009, he was confirmed by the Senate as the 18th director of the National Park Service.

Jarvis stated that he purposely tried to downplay his Government position in the book, minimizing the references to his current title and using a photo of himself not in uniform (see Attachments 25 and 26).

Jarvis provided a biography that he had written in January 2013 for the preface of a book by a former colleague, which he said the Ethics Office had approved (**Attachment 49**). The biography was similar to the one in Jarvis' book; it talked about his NPS experience and positions held.

Duncan confirmed that he, not Jarvis, had included the reference to Jarvis' title in the preface (see Attachments 42 and 43).

According to 5 C.F.R. § 2635.702(b), "Use of Public Office for Private Gain: Appearance of governmental sanction," when teaching, speaking, or writing in a personal capacity, individuals may refer to their official position as one of several biographical details when the information is given to identify them in connection with their activity (see Attachment 17).

Jarvis' Receipt of Books

In a June 9, 2015 email, Minnucci told Jarvis that he sent him 50 copies of the published book (**Attachment 50**). The following day, Jarvis emailed Minnucci that he had received the books, had signed 21 copies, and would have them mailed back (**Attachment 51**).

When interviewed, Jarvis acknowledged that he had kept 29 copies of the book, some of which he passed out to his staff, and the rest were sitting in his closet (see Attachments 25, 26, 31, and 32). He said that he did not pay Eastern National for the ones he kept.

Use of Government Resources

We investigated whether Jarvis used Government property, his official time and the time of subordinate employees, and nonpublic information for his book.

Relevant Laws and Regulations

According to 5 C.F.R. § 2635.704, "Use of Government Property," Government employees must protect and conserve Government property and not use it for purposes other than those authorized by law or agency regulation (**Attachment 52**). The DOI manual authorizes "limited personal use" of Government equipment so long as it occurs on nonduty time, does not interfere with official business, is of negligible cost, and is not a "commercial gain activity" (**Attachment 53**). Commercial gain activity is defined as relating to buying, selling, advertising, soliciting, leasing, or exchanging products or services for personal profit.

In addition, 5 C.F.R. § 2635.705, "Use of Official Time," states that unless otherwise authorized by law or regulation, an employee must use official time in an honest effort to perform official duties; presidential appointees are also obligated to "expend an honest effort and a reasonable proportion" of time in performance of official duties (**Attachment 54**). This regulation also prohibits employees from encouraging or requesting subordinates to use their official time to perform nonofficial activities.

According to 5 C.F.R. § 2635.703, "Use of Nonpublic Information," Federal employees must not allow the improper use of nonpublic information to further their own private interest or that of another (**Attachment 55**). Nonpublic information is defined as information that employees gain through their Federal employment that the employee knows, or reasonably should know, has not been made available to the general public.

Use of Government Equipment, Official Time, and Nonpublic Information

On January 31, 2015, Jarvis emailed Minnucci that he planned to work on his book on his "own time," and he would use "sources readily available to the public" (see Attachment 23). Jarvis later stated in his June 11, 2015 note to the Secretary that he had worked on his book on "snow days" (see Attachment 12).

On the last page of Jarvis' book, photos that appeared throughout the book were credited to numerous people, 13 of whom appeared to work for NPS in some capacity (see Attachment 11).

During his first interview, Jarvis said that he worked on his book on weekends and "snow days" in February when DC-area Government offices were closed (see Attachments 25 and 26). He said that he chose to communicate with Minnucci via personal email and work on the book outside the office instead of on official time because he did not want the book to be subjected to editing by DOI. He explained that he thought portions of the book were controversial, including sections on immigration, women's rights, and civil rights. Jarvis said that had he written the book on official time, it would have gone through a review process by higher level officials, and it probably never would have been published. He acknowledged using his Government iPad to work on the book.

We later analyzed Jarvis' Government iPhone and iPad, his Government laptop, and a personal thumb drive, and we confirmed that most of Jarvis' work on the book occurred outside office hours, including weeknights, weekends, and holidays (**Attachment 56**). It appears, however, that in nine instances, Jarvis either emailed Minnucci or accessed files related to the book on weekdays when he was not on leave and Government offices were open.

Jarvis said that no Government employees assisted him with writing the book (see Attachments 25 and 26). He said that the book's content came from his personal knowledge of the parks and from public websites, including park sites and Wikipedia. He said that he was not involved in obtaining or choosing the photos for the book.

Minnucci and (b) (7)(C) said that they were not aware of any NPS employee involvement in the book, and the photos used came from Eastern National's collection of images (see Attachments 28, 29, 34, and 35). According to Minnucci, Jarvis wanted to communicate through his personal email because he did not want to "get in trouble internally" and thought any contact about the book should not take place during work hours. He said that Jarvis informed him that he would be writing the book during his personal time, and after the book was published, Minnucci recalled the need to emphasize this.

Both Foster and Jarvis' deputy, Peggy O'Dell, also said that they were unaware of any NPS staff assisting Jarvis with his book (**Attachments 57 and 58,** and see Attachments 8 and 9). (b) (7)(C), Jarvis' assistant, acknowledged during her interview that Jarvis had her ship Eastern National the signed copies of his book (**Attachments 59 and 60**). Although Eastern National included a return UPS shipping label in the package of books that it sent to Jarvis, she said, she used the Government FedEx account so that it would ship faster. During his second interview, Jarvis acknowledged asking (b) (7)(C) to send the signed books back to Eastern National, but he assumed she had used the return label Eastern National had provided (see Attachments 31 and 32).

During our investigation, some DOI officials noted that Jarvis, as a presidentially appointed and Senate-confirmed official, might have more-stringent restrictions for conducting outside activities on "personal" time (see Attachments 4 through 7). Some questioned whether Jarvis was essentially "always on the clock" as a presidentially appointed official. We contacted human resources officials with the Office of the Secretary, who stated that although Jarvis was presidentially appointed, he had retained his Federal career benefits after he was appointed Director; thus, he continued to accrue and take leave (**Attachment 61**).

Jarvis' Involvement in Eastern National Matters

We reviewed Jarvis' involvement in Eastern National matters at NPS around the time of his book deal, including Eastern National's cooperating association agreements with NPS and Minnucci's receipt of two NPS awards.

Relevant Laws and Regulations

According to 5 C.F.R. § 2635.402, "Disqualifying Financial Interests," Federal employees are prohibited by criminal statute (18 U.S.C. § 208) from "participating personally and substantially in an official capacity in any particular matter" in which they or "any person whose interests are imputed to [them]" has a financial interest, if the particular matter will have a "direct and predictable effect on that interest" (**Attachment 62**).

In addition, 5 C.F.R. part 2635, subpart E, § 2635.501, "Impartiality in Performing Official Duties - Overview," states that there may be circumstances in which employees should not perform their official duties in order to avoid the appearance of a loss of impartiality (**Attachment 63**).

Renewal of Cooperating Association Agreements

On October 7, 2014, Jarvis signed a cooperating association agreement between NPS and Eastern National, allowing Eastern National to continue running 138 of NPS' park stores (**Attachments 64 and 65**, and see Attachment 44). The agreement, which was not set to expire until 2015, was thus renewed early, but it appears to have been signed before Jarvis' and Minnucci's discussions about the book began.

Jarvis signed another cooperating association agreement with Eastern National on February 2, 2015, allowing the organization to produce merchandise bearing the arrowhead logo for purchase by NPS employees and volunteers (see Attachment 45). This agreement was signed after Jarvis' and Minnucci's initial email discussions about publishing the book.

Jarvis told us that neither agreement was related to his book deal (see Attachments 25 and 26). He said that both agreements came to him for his signature, and he simply signed them. He said that he did not know why the October 7, 2014 agreement was renewed early.

(b) (7)(C), NPS (b) (7)(C), said that Eastern National had been working under cooperating association agreements with NPS for at least 50 years (see Attachments 64 and 65). She said that the agreements were unrelated to Jarvis' book deal. She said that Minnucci requested that the October 7, 2014 agreement be signed early so that Eastern National could work with its lenders in preparation for the centennial. She brought the renewal to Jarvis to sign, and that was the extent of his involvement as far as she was aware. When asked if Jarvis signed any other agreements related to Eastern National since January 2015, (b) (7)(C) provided a copy of a June 2, 2015 memo showing that Jarvis approved a request for Virgin Islands National Park to change cooperating associations from Eastern National to Friends of Virgin Islands National Park (**Attachments 66 and 6**7).

Minnucci and (b) (7)(C) confirmed that the October 7 agreement was renewed early because Eastern National was obtaining a line of credit with its bank (see Attachments 28, 29, 34, and 35).

We learned during our investigation that on August 7, 2015, (b) (7)(C) wrote a memorandum to Jarvis recommending that he recuse himself from matters involving Eastern National pending the outcome of our investigation. Jarvis subsequently signed a recusal to this effect (**Attachment 68**).

Minnucci's Receipt of NPS Awards

On June 9, 2015, NPS presented Minnucci with the James V. Murfin Award for the "significant and lasting contribution" he made to NPS and cooperating associations over time (**Attachment 69**). Then, on June 23, 2015, Minnucci received an honorary park ranger award from NPS (**Attachment 70**).

Jarvis said that he knew Minnucci had received the honorary park ranger award, which Jarvis had approved, because Minnucci was retiring (see Attachments 25 and 26). Jarvis said that Minnucci's receipt of the ranger award had nothing to do with his book. He did not recall Minnucci receiving the Murfin award.

O'Dell said that the NPS office that oversees cooperating association agreements presented the Murfin award to Minnucci as a way to honor his years of service, and the honorary park ranger award was her

idea (see Attachments 57 and 58). She said that she sought and received Jarvis' approval for the ranger award, but Jarvis' book deal with Eastern National did not affect Minnucci's receipt of the awards.

(b) (7)(C) said that the NPS Midwest Region nominated Minnucci for the Murfin award, and she and two other managers approved the nomination (see Attachments 64 and 65). She said that Jarvis "had no influence" on Minnucci's nomination or receipt of the award.

Minnucci said that he had "no clue" whether Jarvis had anything to do with his awards and referred to them as the "kiss of death award[s]," saying he received them because he was getting ready to retire (see Attachments 28 and 29). He said that he received a plaque for the Murfin award and a park ranger hat for the honorary park ranger award.

Jarvis' Decision Not To Seek Ethics Advice

We interviewed an Ethics Office attorney-advisor regarding her concerns about the book, and discussed with Jarvis his decision not to seek advice about the book from the Ethics Office.

Relevant Laws and Regulations

According to 5 C.F.R. § 3501.105, "Outside Employment and Activities," a DOI employee who wishes to engage in outside employment or an outside activity with a prohibited source—defined in part to include any person or organization doing, or seeking to do, business with DOI—must obtain approval from an agency ethics counselor beforehand (**Attachment 71**). DOI's regulation covers activities done with or without compensation, and specifically includes "writing done under an arrangement with another person for production or publication of the written product." It excludes "participation in the activities of a nonprofit charitable . . . organization" if no compensation is received for the employee's professional services or advice.

Ethics Office's Concerns Over Jarvis' Decision

We interviewed (b) (7)(C), an attorney-advisor in the Ethics Office who reviewed the issues surrounding Jarvis' book before Beaudreau requested that we open our investigation (**Attachments 72 and 73**). She stated that Jarvis was required to obtain ethics approval before engaging in an outside employment activity with a prohibited source, even if there was no compensation. She noted that if Jarvis was receiving royalties from the book and diverting them to the Foundation, this might have violated the conflict-of-interest law (18 U.S.C. § 208). (b) (7)(C) said that even if Jarvis was not personally receiving money from the sale of the book, having his name associated with it could create the appearance that he was using his official position for personal gain.

Jarvis' Explanation of His Decision

During his interview, Beaudreau said that he met with Jarvis after referring the information about the book to us (see Attachment 6 and 7). He said that Jarvis told him that he did not consult with the Ethics Office on the book because doing so would have taken too long, and with NPS' centennial approaching, the book would be "really powerful."

On January 22, 2015, Jarvis emailed Minnucci about his book idea and stated that he had never written a book before and would have to "clear" the issue with "ethics" (see Attachment 24). On January 28,

2015, he emailed (b) (7)(C), the historical tours operator who had contacted him about writing a book, that he would be working with Eastern National instead; he added that authoring a book on his "own time," while the Director of NPS, involved "some complex ethics issues" that he was working through (**Attachment 74**).

Jarvis stated during his first interview that Foster had advised him that he should obtain advice from the Ethics Office on the book, but he never did (see Attachments 25 and 26). Jarvis explained that he was frustrated with the Ethics Office for not being able to approve "very, very simple things." As an example, he explained that a thank-you letter to a donor from him and the Foundation took 6 weeks for the office to approve, which led him to believe that approving the book was going to be a problem.

Jarvis said that he knew many NPS employees had written books for Eastern National over the years, and no ethical concerns existed. "So, I felt that there was nothing wrong with it as long as I did this on my own time," he said. He acknowledged that the other NPS employees who wrote for Eastern National probably did so on their official time, as Government employees.

We asked Jarvis if he had ever thought about the fact that Eastern National could be considered a prohibited source for him as far as working on an outside activity, given that he was signing its cooperative association agreements. He said that he never had. Jarvis said that he believed that (b) (7)(C) was a prohibited source because he had concessions with NPS, but Eastern National had a long history of producing books with NPS. He added: "I tried to design this as with all intentionality that I would get nothing from this."

Jarvis said that he left the note for the Secretary and a copy of the book in his outbox, which was typically how he sent items to the Secretary. Jarvis said that he did this because he "figured this book's going to come out," and the Secretary "doesn't like surprises." When asked if he had had any conversations with the Secretary about the book, Jarvis indicated that he had not.

We asked Jarvis whether, looking back, he would have done anything differently. He said:

> Would I have done the same thing? Probably . . . I think I knew going into this there was a certain amount of risk. I've never been afraid of a risk. . . . I've gotten my ass in trouble many, many, many times in the Park Service by . . . not necessarily getting permission . . . I've always pushed the envelope. . . . And I felt that this values analysis . . . could be a very, very powerful tool to not only connect to the next generation but to resonate across political spectrums. . . . And it could be a little bit of something that I could give back to the Park Service, to the Foundation, sort of set the bar in a place that I feel that it needs to be for our second century. . . . And I felt, again, that if I wrote this on the job, subject to all of the review, all [of] the input, . . . all of the machinations that goes on in here, the Department, Communications, Solicitor's Office . . . [it] wouldn't happen. . . . So I took the risk knowingly, I guess.

When asked what risk he was referring to, Jarvis replied that he would "probably get in trouble." When asked to clarify this, he said that he knew DOI officials would be upset that he did not "ask for permission." He later stated: "And from my view, from my experience, in the ethics world, having been an SES [Senior Executive Service employee] for almost a decade, I did not feel like I was violating any ethics issues because I set this up [with] no personal benefit, nothing gained for me personally. What I was trying to prevent is having it edited."

We asked Jarvis if the book somehow served his own self-interest, and he said that Minnucci was a good businessman who would not publish a book that would not sell. He said that in early discussions with Minnucci, Jarvis told him: "If this is something that you're interested in, then go for it. If you're not interested in it, that's fine." Jarvis said that the book "wasn't about" him; it was about what he was trying to accomplish in his tenure as Director. He said that he "somewhat naively tried to set it up as cleanly as possible."

Jarvis acknowledged during his second interview, however, that he should have obtained ethics advice on the book (see Attachments 31 and 32). We asked Jarvis if, given his position as Director of NPS, he could ever fully separate himself from that position and publish a book in his personal capacity through an NPS cooperative partner, and he replied: "Probably not."

SUBJECT(S)

Jonathan Jarvis, Director, National Park Service.

DISPOSITION

We are providing this report to the Deputy Secretary of the Interior for any action he deems appropriate.

ATTACHMENTS

1. Memorandum from Tommy Beaudreau to Deputy Inspector General Mary Kendall, dated June 25, 2015.
2. Investigative Activity Report (IAR) – Interview of Kate Kelly on August 24, 2015.
3. Transcript of interview of Kelly on August 24, 2015.
4. IAR – Interview of Ed Keable on July 13, 2015.
5. Transcript of interview of Keable on July 13, 2015.
6. IAR – Interview of Beaudreau on July 10, 2015.
7. Transcript of interview of Beaudreau on July 10, 2015.
8. IAR – Interview of Maureen Foster on July 20, 2015.
9. Transcript of interview of Foster on July 20, 2015.
10. IAR – Documentation of Complaint and Evidence on June 24, 2015.
11. Partial copy of Jonathan Jarvis' book, "Guidebook to American Values and Our National Parks."
12. Note from Jarvis to the Secretary, dated June 11, 2015.
13. June 22, 2015 email from Kelly to Beaudreau and others, forwarding Eastern National's June 19, 2015 press release on Jarvis' book.
14. IAR – Interview of Melinda Loftin on July 16, 2015.
15. Transcript of interview of Loftin on July 16, 2015.
16. 5 C.F.R. § 2635.101, "Basic Obligation of Public Service."
17. 5 C.F.R. § 2635.702, "Use of Public Office for Private Gain."
18. 5 C.F.R. § 2635.807, "Teaching, Speaking, Writing."
19. 5 C.F.R. § 2635.804, "Outside Earned Income Limitations."
20. 18 U.S.C. § 209, "Salary of Government Officials."
21. 5 C.F.R. part 2635, subpart B, "Gifts From Outside Sources."
22. Email from George Minnucci to Jarvis on January 27, 2015.

23. Emails between Minnucci and Jarvis on January 28, 2015, January 31, 2015, and February 1, 2015.
24. January 22, 2015 email from Jarvis to Minnucci.
25. IAR – Interview of Jarvis on July 23, 2015.
26. Transcript of interview of Jarvis on July 23, 2015.
27. Copy of Jarvis' "values speech."
28. IAR – Interview of Minnucci on August 19, 2015.
29. Transcript of interview of Minnucci on August 19, 2015.
30. February 2, 2015 email from Minnucci to staff member.
31. IAR – Interview of Jarvis on September 14, 2015.
32. Transcript of interview of Jarvis on September 14, 2015.
33. June 1, 2015 email from (b) (7)(C) to Foundation employees.
34. IAR – Interview of (b) (7)(C) on August 24, 2015.
35. Transcript of interview of (b) (7)(C) on August 24, 2015.
36. IAR – Interview of (b) (7)(C) on August 4, 2015.
37. Transcript of interview of (b) (7)(C) on August 4, 2015.
38. IAR – Interview of (b) (7)(C) on August 6, 2015.
39. Transcript of interview of (b) (7)(C) on August 6, 2015.
40. March 15, 2015 email from Jarvis to Minnucci.
41. Minnucci's copyright invoice.
42. IAR – Interview of Dayton Duncan on August 24, 2015.
43. Transcript of interview of Duncan on August 24, 2015.
44. October 7, 2014 Eastern National cooperating association agreement.
45. February 2, 2015 Eastern National cooperating association agreement.
46. 36 C.F.R. § 11.2, "Arrowhead and Parkscape Symbols."
47. NPS Special Directive 93-07, "Use of the NPS Arrowhead Symbol."
48. NPS Director's Order 52D, "Use of the Arrowhead Symbol."
49. Jarvis sample biography approved by the Ethics Office.
50. June 9, 2015 email from Minnucci to Jarvis.
51. June 11, 2015 email from Jarvis to Minnucci.
52. 5 C.F.R. § 2635.704, "Use of Government Property."
53. 410 DM 2, "Limited Personal Use Policy."
54. 5 C.F.R. § 2635.705, "Use of Official Time."
55. 5 C.F.R. § 2635.703, "Use of Nonpublic Information."
56. IAR – Document Review: Emails and Other Evidence, dated September 30, 2015.
57. IAR – Interview of Peggy O'Dell on July 31, 2015.
58. Transcript of interview of O'Dell on July 31, 2015.
59. IAR – Interview of (b) (7)(C) on July 31, 2015.
60. Transcript of interview of (b) (7)(C) on July 31, 2015.
61. IAR – Meeting with (b) (7)(C), (b) (7)(C), and (b) (7)(C) on August 7, 2015.
62. 5 C.F.R. 2635.402, "Disqualifying Financial Interests."
63. 5 C.F.R. part 2635, subpart E, § 2635.501, "Impartiality in Performing Official Duties - Overview."
64. IAR – Interview of (b) (7)(C) on July 22, 2015.
65. Transcript of interview of (b) (7)(C) on July 22, 2015.
66. IAR – (b) (7)(C) Emails and Documents, dated August 31, 2015.
67. June 2, 2015 memorandum from Jarvis to NPS regional director, Southeast Region.

68. August 7, 2015 memorandum from Loftin to Jarvis, August 11, 2015 memorandum from Loftin to Jarvis, and Jarvis recusal.
69. Eastern National press release on Murfin Award, dated June 10, 2015.
70. IAR – O'Dell email on August 28, 2015.
71. 5 C.F.R. § 3501.105, "Outside Employment and Activities."
72. IAR – Interview of (b) (7)(C) on July 8, 2015.
73. Transcript of interview of (b) (7)(C) on July 8, 2015.
74. January 28, 2015 email from Jarvis to (b) (7)(C).

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Potential Post-Employment Ethics Violations	**OI-PI-15-0454-I**
Reporting Office	**Report Date**
Program Integrity	**February 8, 2016**
Report Subject	
Report of Investigation	

SYNOPSIS

We initiated this investigation based on information submitted by Melinda Loftin, Designated Agency Ethics Official, Departmental Ethics Office, Office of the Solicitor, U.S. Department of the Interior (DOI). Loftin reported that Anne Castle, DOI's former Assistant Secretary for Water and Science and now an employee of the nonprofit S.D. Bechtel Jr. Foundation, may have had communications with U.S. Geological Survey (USGS) employees that violated restrictions against former Federal employees contacting current employees and requesting that they take official action (18 U.S.C. § 207(c)). Loftin said she learned that Castle, who had received ethics advice from DOI attorneys before she left DOI and again after she began working for the Foundation, had emailed one USGS employee and may have participated in a meeting with another USGS employee.

We found that in March 2015, Castle emailed several DOI employees about the Foundation and participated in a conference call with DOI and Foundation employees. We also learned that a USGS hydrologist attended a meeting that Castle was participating in with non-Federal representatives from a regional water council, although Castle did not know that he would be present.

It appeared that Castle's emails violated the prohibition against former Federal officials contacting employees from their previous agency. Both Castle and Deputy Solicitor for General Law Ed Keable stated in their interviews, however, that they felt Castle had received unclear ethics advice from the DOI attorney advisor she consulted after she began working for the Foundation.

Reporting Official/Title (b) (7)(C) /Special Agent	Signature Digitally signed.
Approving Official/Title (b) (7)(C) /SAC	Signature Digitally signed.

Authentication Number: AADEDFACD8096C2B9EBB44EB738FBFF1

BACKGROUND

Relevant Rules and Regulations

The primary source of restrictions that may limit the activities of individuals after they leave U.S. Government service is 18 U.S.C. § 207 (**Attachment 1**). This section seeks to avoid even the appearance of public office being used for personal gain by preventing former Federal employees from using information, influence, and access acquired during their Government service for an improper and unfair advantage in later dealings with their agencies.

To help accomplish this goal, 18 U.S.C. § 207(c) prescribes a 1-year "cooling-off period" for some former high-ranking Federal officials. Section 207(c) prohibits such former employees from "knowingly mak[ing], with the intent to influence, any communication to or appearance before any officer or employee of [his or her former agency] on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency."

During the cooling-off period, the former officials may not contact current employees of their former agencies and ask them to take any form of official action. Executive Order No. 13490 ("Ethics Commitments by Executive Branch Personnel") requires certain senior employees to sign a presidential ethics pledge that extends the cooling-off period by one more year (**Attachment 2**).

In addition, 5 C.F.R. Part 2641 sets out interpretive guidance from the Office of Government Ethics concerning all of the substantive prohibitions and exceptions in 18 U.S.C. § 207 (**Attachment 3**).

DETAILS OF INVESTIGATION

On May 1, 2015, the Office of Inspector General (OIG) opened an investigation based on information we received that Anne Castle, the U.S. Department of the Interior's (DOI) former Assistant Secretary for Water and Science, had had communications with U.S. Geological Survey (USGS) employees that might have constituted a violation of 18 U.S.C. § 207(c). USGS is one of the two DOI bureaus under the jurisdiction of the Assistant Secretary for Water and Science. Specifically, DOI Designated Agency Ethics Official Melinda Loftin reported that Castle, now an employee of the nonprofit S.D. Bechtel Jr. Foundation, contacted (b) (7)(C), Associate Regional Director, (b) (7)(C), USGS, on behalf of the Foundation, and that she participated in a meeting with another USGS employee, Hydrologist (b) (7)(C) (**Attachments 4 through 6**).

Castle's Post-Employment Ethics Advice

We interviewed (b) (7)(C), Deputy (b) (7)(C) Ethics Official, (b) (7)(C) (b) (7)(C) DOI, who said that in September 2014, Castle indicated she would be leaving Government service and requested counseling on post-Government employment rules (**Attachments 7 and 8**). On September 5, 2014, (b) (7)(C) emailed her a post-Government employment document, and he later met with her to discuss her departure from Government service (**Attachment 9 and 10**).

(b) (7)(C) said that Castle had another commitment and thus only scheduled 30 minutes (instead of the usual hour) for them to discuss the regulations, documents, and instructions regarding 18 U.S.C. §§

203 and 207, including an explanation of the restrictions against contacting current DOI employees under 18 U.S.C. § 207(c) (see Attachments 7 and 8). (b) (7)(C) said that Castle's 1-year 18 U.S.C. § 207(c) restriction was extended by an additional year under the pledge she took pursuant to Executive Order No. 13490. He said that it was his understanding that Castle did not have a set plan for future employment when she left Government service. Castle retired on September 30, 2014.

On February 24, 2015, (b) (7)(C) said, Loftin received an email from Castle indicating that she had a job opportunity and wanted additional post-employment guidance (**Attachment 11**). Loftin and (b) (7)(C) assigned Attorney Advisor (b) (7)(C) Ethics Office, SOL, to assist Castle (see Attachments 7 and 8). (b) (7)(C) spoke with Castle by telephone on February 27, 2015, and gave her further post-Government employment advice.

During their telephone conversation on February 27, (b) (7)(C) said, Castle told him that she was working for the Bechtel Foundation, which was interested in providing financial assistance to DOI on USGS' Open Water Data Initiative (OWDI), an initiative that supports the integration of water data collected by various Federal agencies (**Attachments 12 and 13**). (b) (7)(C) said that Castle wanted to know if she could participate in meetings with DOI on behalf of the Foundation. He said that he believed that Castle used the word "instigate" to describe the process of introducing Foundation representatives to DOI.

(b) (7)(C) said that he and Castle discussed 18 U.S.C. § 207(c) and Castle's responsibilities as a former senior executive, and he explained the prohibitions against Castle communicating with DOI employees.

(b) (7)(C) said that 5 C.F.R. § 2641.201(e), which analyzes whether a communication is made with the intent to influence, does not bar all communications. He said that if it did, it would be much simpler, but it would be impossible to enforce because it would prohibit, for example, social conversations. (b) (7)(C) said he explained to Castle that making a routine request that did not involve a potential controversy, making a factual statement, or asking a question would not be a communication with the intent to influence. When asked, (b) (7)(C) stated that he could not find the notes he took during the meeting.

(b) (7)(C) Contact With DOI Employees

Our investigation revealed four instances in which Castle contacted DOI employees in a professional capacity within 6 months of leaving her Government position and being briefed on post-employment restrictions (**Attachments 14 and 15**):

Date	Event
September 5, 2014	(b) (7)(C) emails Castle a post-Government-employment document.
September 30, 2014	(b) (7)(C) briefs Castle for 30 minutes on her post-employment restrictions.
September 30, 2014	Castle retires from DOI.
January 2015	Castle begins working for the Bechtel Foundation.
February 27, 2015	(b) (7)(C) and Castle have a phone discussion about her post-employment restrictions.
March 11, 2015	Castle emails employees from USGS, the Bureau of Land Management, and the Bureau of Reclamation to introduce the Bechtel Foundation.
March 25, 2015	Castle takes part in a conference call with DOI employees to discuss the OWDI.
March 30, 2015	Castle emails USGS employees to introduce (b) (7)(C), a Foundation employee interested in working with DOI on the OWDI.
March 31, 2015	Castle attends the meeting at which USGS Hydrologist (b) (7)(C) (b) (7)(C) was present.

OWDI Conference Call With DOI Employees

Castle said that she began working as a consultant for the Bechtel Foundation sometime in January 2015 (**Attachments 16 and 17**). In late January or early February 2015, she said, she was contacted by (b) (7)(C), Counselor to the Assistant Secretary for Water and Science, DOI, who asked Castle to participate in a teleconference with DOI employees interested in the OWDI. Castle told (b) (7)(C) that she was interested, but needed to speak with the DOI Ethics Office before becoming involved.

Agent's Note: *Castle did not provide an exact date that she began working for the Foundation.* (b) (7)(C) *recalled learning that Castle was working for the Foundation through a January 24, 2015 email from* (b) (7)(C) *of the University of Texas* (**Attachments 18 and 19**).

When we interviewed (b) (7)(C) she said that Castle had been her supervisor from July 2014, when (b) (7)(C) started working at DOI, until (b) (7)(C) left. (b) (7)(C) said that she saw Castle at a social event in late 2014 and called her in December 2014 or early January 2015 to update her on some projects she was working on at DOI. She did not think that Castle was working for anyone when she spoke to her.

(b) (7)(C) said that she sent a text message to Castle on February 26, 2015, requesting a meeting to discuss the OWDI (**Attachment 20**). (b) (7)(C) said that she wanted to update Castle on the OWDI project because she was excited about it and wanted to inform Castle of her progress (see Attachments 18 and 19). She confirmed that Castle replied that she had to clear the communication through DOI's Ethics Office before she could agree to a meeting. (b) (7)(C) recalled that Castle mentioned a 1- or 2-year ban against working with DOI employees. (b) (7)(C) said that she knew about the ban but had not given it much consideration until Castle brought it to her attention.

Castle said that when she spoke to (b) (7)(C) on February 27, 2015, she asked about meeting with (b) (7)(C) and other DOI employees (see Attachment 16). She said that (b) (7)(C) told her that participating in a meeting that DOI employees were attending was not a "good idea," as the employees might feel pressured by her presence. She stated, however, that he said it was permissible for her to participate in

a conference call.

When asked if he told Castle she could participate in a conference call, (b) (7)(C) said that he did not remember clearly, but he "may well have" talked to her about it (**Attachments 21 and 22**). He also said that he might have told her she could take part in the call if she only introduced Foundation employees and then did not say anything during the group discussion.

On March 25, 2015, Castle participated in the conference call. While none of the people we interviewed remembered the names of everyone who was on the call, (b) (7)(C) recalled that (b) (7)(C) Office of Water Information, USGS, and (b) (7)(C), Bureau of Reclamation, also participated (see Attachments 18 and 19). (b) (7)(C) also provided the email invitation and said she believed that one of the invitees, USGS Civil Engineer (b) (7)(C), was not on the call (**Attachment 23**).

We spoke to (b) (7)(C) and (b) (7)(C) both of whom said that they felt no pressure from Castle during the call (**Attachments 24 through 27**). (b) (7)(C) said that Castle said "very carefully" that she was not calling based on her previous employment with DOI, only that the Foundation was interested in the OWDI as a "worthwhile" project and that the Foundation, as part of its "philanthropic activities," was interested in understanding the OWDI better and in being introduced to (b) (7)(C) and the others. (b) (7)(C) said that the participants on the call discussed what the Foundation's role might be in the OWDI project. She recalled Castle expressing concern about her participation in the project and the call given Castle's previous role at DOI. (b) (7)(C) added that Castle "may have" said she did not want to "convey" the incorrect impression that there would be any expectation that DOI had to work with the Foundation because of her.

Email Communications With DOI Employees

On March 11, 2015, Castle sent a group email explaining the purpose of the Foundation to seven DOI employees (including (b) (7)(C) two Bechtel Foundation employees, and two private consultants employed by the Foundation (see Attachment 15). Some of the recipients recalled receiving the email, but not replying to it; others did not recall receiving it until we contacted them. Those who recalled the email said that they felt no pressure to work with the Foundation because of Castle's past employment with DOI (**Attachments 28 and 29,** and see Attachments 26 and 27).

We interviewed (b) (7)(C) Water Science Center, USGS, one of the seven email recipients from DOI. He said that he and other DOI employees had been in contact with the Foundation months before Castle sent her email. (b) (7)(C) explained that he received an email from (b) (7)(C), a program officer with the Foundation, on November 9, 2014. In the email, (b) (7)(C) stated that the Foundation was "exploring how water data [could] be better acquired, managed, and used to inform decision-making throughout California" and asked to set up a conference call (**Attachment 30**). (b) (7)(C) said that he and other DOI employees had a conference call with the Foundation on November 25, 2014, to discuss the Foundation (see Attachments 28 and 29). He said that Castle was not on the November 25, 2014 conference call or the November 9, 2014 email exchange, and he did not know whether she was working for the Foundation at the time.

On March 30, 2015, Castle sent another email, this time addressed to (b) (7)(C) and (b) (7)(C), Associate Regional Director, (b) (7)(C), USGS (**Attachment 31**). Castle stated in her email that the purpose of her communication was to introduce (b) (7)(C) and (b) (7)(C) to (b) (7)(C), a

Foundation consultant. She wrote that (b) (7)(C) was primarily focused on open water data and that he had been "a trusted partner to the Bechtel Foundation for years." She also wrote that (b) (7)(C) would contact (b) (7)(C) and (b) (7)(C) about having a conversation on water data issues and about a possible grant that the Foundation was willing to make to DOI.

(b) (7)(C) said that Castle did not ask him to do anything in her email and that he did not feel pressured to meet with the Foundation or talk to (b) (7)(C) (see Attachments 28 and 29). He said that since he had already been in contact with the Foundation, he did not contact (b) (7)(C) He also said that he had no further contact with Castle after this email.

(b) (7)(C) explained that he responded to the email and agreed to meet with (b) (7)(C) but he realized that Castle had not been away from DOI for a full year (**Attachments 32 and 33**). He therefore forwarded her email to his ethics counselor at USGS, who sent the email to DOI's Ethics Office. (b) (7)(C) said that after he spoke with Loftin, he canceled his plans to meet with (b) (7)(C)

Castle said that she asked (b) (7)(C) during their February 2015 conversation if she could send an email requesting a meeting of DOI personnel and other Foundation employees, but (b) (7)(C) told her that she could not because that would be considered a request for official action (see Attachment 16). Castle said that she asked if she could email certain DOI employees to introduce a Foundation consultant, and (b) (7)(C) said that was permissible.

(b) (7)(C) confirmed that Castle asked if she could set up a meeting between the Foundation and DOI employees and he told her no, because setting up a meeting would violate the regulations (see Attachments 12, 13, 21, and 22). Castle also asked if she could ask DOI employees if they were interested in accepting a grant from the Foundation and if she could introduce Foundation employees to DOI employees. According to (b) (7)(C) he told Castle she could ask DOI employees whether they were willing to accept a grant. He explained to her that if the question were limited solely to whether DOI was interested in a grant, it would "arguably" be something she could ask because it was a "yes or no" question and thus might not violate the rules. He also remembered telling her that "providing purely factual information," such as "So-and-so works for Bechtel, [and] they're going to be calling you," was allowable.

(b) (7)(C) said that he did not know Castle was going to send an email to DOI employees, but he knew she was going to ask them about the grant and introduce a Foundation employee. We asked (b) (7)(C) if Castle gave him a copy of the email before she sent it, and he said she did not. He said that he did not follow up this phone conversation with any written instructions or opinions.

Castle said that it never occurred to her to have anyone in the Ethics Office review her email before she sent it (see Attachment 16). Regarding the content of the email, Castle said that because (b) (7)(C) had told her she could introduce a Foundation employee to DOI personnel, she had "followed [his] advice to the letter." Castle said that she reviewed 18 U.S.C. § 207(c) prior to sending the email to make sure she was not violating the statute.

March 31, 2015 Meeting With a USGS Employee Present

We interviewed USGS' (b) (7)(C), who said that for the last 2 years he had been detailed as the Federal liaison to the organization known as the Western States Water Council (WSWC) (**Attachments 34 and 35**). (b) (7)(C) said the council comprised 18 State and 13 Federal agencies,

including DOI, that had water resource responsibilities in the western United States. (b) (7)(C) said that in his capacity as a DOI hydrologist, he had several opportunities to meet with and provide limited information to Castle when she was the Assistant Secretary for Water and Science.

(b) (7)(C) said that WSWC Executive Director (b) (7)(C) told him that Castle was in town on March 31, 2015, and would be coming to the WSWC office for a briefing from (b) (7)(C) and (b) (7)(C), a principal developer for the Water Data Exchange (WADE), a project to facilitate the sharing of water data between Federal and State agencies. (b) (7)(C) said that he was not specifically asked to attend this meeting; rather, he decided on his own to stop in to see Castle and help explain WADE's "relevance" to Federal and State agencies. He said that the meeting consisted of a PowerPoint presentation on WADE and a discussion on the database's status and plans, and how many States participated in the program. He did not believe that Castle knew he would be at the meeting, and, he said, she did not ask him to provide any information, contact anyone, or do anything afterward.

Castle explained that she had requested the meeting with (b) (7)(C) and (b) (7)(C) to discuss various water projects (see Attachment 16). She said that (b) (7)(C) greeted her when she arrived at the WSWC office. She said that she did not know he worked at that office and that she was surprised to see him, although she knew that he was the WSWC liaison. She said that she spoke with him casually and then went to attend her meeting with (b) (7)(C) and (b) (7)(C)

Castle said that the meeting had already begun when (b) (7)(C) entered the room and sat down. She said that the meeting lasted approximately 1½ hours and that he stayed for just over half of it. She thought that he might have contributed to the conversation, but she did not recall asking him any specific questions. When asked, Castle said it never occurred to her that being in a meeting with (b) (7)(C) might conflict with the advice (b) (7)(C) had given her.

Communication, Confusion, and Clarification on 18 U.S.C. § 207(c) Restrictions

Castle said that she received a phone call from (b) (7)(C) explaining that the Ethics Office had reviewed her March 30, 2015 email to (b) (7)(C) (which had been forwarded by the USGS ethics officer) and determined that it violated 18 U.S.C. § 207(c) (see Attachment 16). (b) (7)(C) recalled that this call took place on April 3, 2015 (see Attachments 12 and 13). That same day, he emailed Castle further guidance, including an opinion on a previous matter as an example (**Attachment 36**). Castle said that upon reflection, she felt that (b) (7)(C) had not been clear with his advice in February about what she could and could not do.

We interviewed Deputy Solicitor for General Law Ed Keable, who told us that he spoke with Castle and Ethics Office employees about whether Castle could contact certain DOI employees on behalf of the Foundation, and he determined that there "wasn't a meeting of the minds" (**Attachments 37 through 39**). Keable said that Castle was not clear about the advice she had received from (b) (7)(C) during their conversation in February 2015, so Keable asked (b) (7)(C) if (b) (7)(C) had "anything in writing" that he could share with Keable (see Attachments 14 and 36). Keable said that when he read (b) (7)(C) April 3 email to Castle, he felt it "answered the question definitively."

(b) (7)(C) opined that it was difficult to determine whether Castle's March 30 email was an attempt to influence DOI employees (see Attachments 12 and 13). He felt that the email "kind of" fell "right on the line" between a purely factual statement and an attempt to influence, and he said that there was

"debate" about the matter within the Ethics Office as well. Ultimately, though, (b) (7)(C) said that while Castle did not "explicitly" ask any USGS employee to take an official action, he felt the email violated 18 U.S.C. § 207(c) because she was trying to influence the recipient to meet with a Foundation employee ((b) (7)(C) He said that while Castle may have sent the March 30 email for "all the best motives," given "the totality of the circumstances . . . this is really an intent to influence."

(b) (7)(C) said that he thought he and Castle had understood each other during their discussion in February 2015, but he realized in retrospect Castle might have misunderstood some of the information he was trying to give her. He did not think that Castle purposefully violated the restrictions in 18 U.S.C. § 207(c); he said he "sincerely felt" that Castle believed any contact with DOI regarding the grant did not constitute a communication with the intent to influence because the Foundation wanted to give DOI money and was not asking for anything in exchange.

SUBJECT(S)

Anne Castle, former Assistant Secretary for Water and Science.

DISPOSITION

We presented this investigation to the Public Integrity Section, within the U.S. Department of Justice (DOJ), but DOJ expressed no interest in pursuing this matter. We are providing this report to DOI Chief of Staff Tommy Beaudreau for any action he deems appropriate.

ATTACHMENTS

1. 18. U.S. Code 207.
2. Ethics pledge for Anne Castle.
3. 5 CFR 2641.204 – One-year restriction on any former senior employees.
4. IAR – Interview of Melinda Loftin and (b) (7)(C) on April 21, 2015.
5. IAR – Interview Melinda Loftin on May 13, 2015.
6. Transcript of interview of Melinda Loftin on May 13, 2015.
7. IAR – Interview of (b) (7)(C) on May 11, 2015.
8. Transcript of interview of (b) (7)(C) on May 11, 2015.
9. September 5, 2014, (b) (7)(C) email to Anne Castle.
10. (b) (7)(C) Post Government employee Documents.
11. February 24, 2015, Anne Castle email to Melinda Loftin.
12. IAR- Interview of (b) (7)(C) on June 9, 2015.
13. Transcript of interview of (b) (7)(C) on June 9, 2015.
14. IAR – Timeline and email review.
15. March 11, 2015 Anne Castle group email.
16. IAR – Interview of Anne Castle on June 11, 2015.
17. IAR – Interview of Anne Castle on June 18, 2015.
18. IAR – Interview of (b) (7)(C) on June 23, 2015.
19. Transcript of interview of (b) (7)(C) on June 23, 2015.
20. February 26, 2015 transcript of text messages between (b) (7)(C) and Castle.
21. IAR – Interview of (b) (7)(C) on October 8, 2015.
22. Transcript of interview of (b) (7)(C) on October 8, 2015.
23. March 25, 2015 conference call invite.

24. IAR – Interview of (b) (7)(C) on July 29, 2015.
25. Transcript of interview of (b) (7)(C) on July 29, 2015.
26. IAR – Interview of (b) (7)(C) on September 4, 2015.
27. Transcript of interview of (b) (7)(C) on September 4, 2015.
28. IAR – Interview of (b) (7)(C) on August 28, 2015.
29. Transcript of interview of (b) (7)(C) on August 28, 2015.
30. November 2014 emails between the Foundation and (b) (7)(C).
31. March 30, 2015 email to (b) (7)(C) and (b) (7)(C).
32. IAR – Interview of (b) (7)(C) on May 13, 2015.
33. Transcript of interview of (b) (7)(C) on May 13, 2015.
34. IAR – Interview of (b) (7)(C) on June 8, 2015.
35. Transcript of interview of (b) (7)(C) on June 8, 2015.
36. April 3 and 4, 2015 emails between Anne Castle and (b) (7)(C).
37. IAR – Interview of Edward Keable on June 8, 2015.
38. Transcript of interview of Edward Keable on June 8, 2015.
39. March 30, 2015 to April 4, 2015 emails between (b) (7)(C) Loftin, Keable, (b) (7)(C) and Castle.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
(b) (7)(C)	OI-PI-15-0087-I
Reporting Office **Program Integrity Division**	**Report Date** **January 5, 2016**
Report Subject **Report of Investigation**	

SYNOPSIS

We received an anonymous complaint alleging that Bureau of Land Management (BLM) (b) (7)(C) State Director (b) (7)(C) and (b) (7)(C) improperly assigned BLM resources to process a right-of-way application and pressured BLM employees to grant the right of way as a political favor.

During our investigation, we interviewed personnel identified in the complaint, witnesses, and subject matter experts from the U.S. Department of the Interior and BLM. We also reviewed relevant documents and emails. We found no evidence to support the complainant's allegations.

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Approving Official/Title (b) (7)(C) /SAC	Signature Digitally signed.

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DETAILS OF INVESTIGATION

We initiated this investigation on November 19, 2014, after receiving an anonymous complaint alleging that Bureau of Land Management (BLM) (b) (7)(C) State Director (b) (7)(C) improperly assigned resources to a right-of-way (ROW) application process for access roads near the Silver Bar Mine Regional Landfill in (b) (7)(C). The complainant wrote: (b) (7)(C) "

The complaint specifically stated that the 2015 (b) (7)(C) budget planning database included nearly 1,100 hours dedicated specifically to this ROW and that BLM had not adequately addressed resource violations at the landfill site.

We reviewed ROW grant regulations and policies, reviewed the ROW grant application, and interviewed BLM personnel familiar with the ROW process, as well as those identified in the complaint. We also reviewed (b) (7)(C) BLM email accounts.

We consulted with (b) (7)(C), to ensure that BLM complied with its policies regarding the ROW process (**Attachment 1**). (b) (7)(C) provided us with policy guidance and BLM procedures that apply to ROW grants.

Our review of the ROW application revealed that the Silver Bar Group (comprised of five limited liability companies (LLCs) that own the landfill) and Pinal County Development Services submitted a ROW application, which was filed with BLM on November 12, 2010, to construct a road on BLM land to access the proposed landfill site (**Attachment 2**). (b) (7)(C) was not listed on the application.

Based on that review, we found that, because a government entity did not file the application on its behalf, the Silver Bar Group, a for-profit organization, was required to reimburse BLM for all costs associated with processing the ROW application. The Silver Bar Group entered into a cost-recovery agreement with BLM to process the ROW. To ensure payment, BLM set up a charge-back account in 2011 in accordance with 43 Code of Federal Regulations 2804, "Rights-of-Way under the Federal Land Policy Management Act." The Silver Bar Group deposited $40,000 into the account, with approximately $5,000 remaining to finalize processing of the application.

We interviewed BLM (b) (7)(C) State Director (b) (7)(C) (**Attachments 3 and 4**). He said that (b) (7)(C) informed him of the Silver Bar Mine ROW issues approximately 1 year ago. (b) (7)(C) briefed him on the project, he said, because the ROW grant had been delayed a number of times, and (b) (7)(C) was seeking advice on an Archeological Resource Protection Act (ARPA) violation. The violation occurred several years earlier when BLM had granted the Silver Bar Group a separate ROW to construct a road to remove sand and gravel from the mine pit that would eventually become the landfill site. While removing sand and gravel from the site, a subcontractor graded the road that traversed BLM land and damaged a protected cultural site, creating an ARPA violation.

(b) (7)(C) said that he knew the ROW was for road access across BLM land to a proposed dump site, but he did not know the proponents of the application or the projected completion date. He said that his

primary involvement with the project was to [redacted] process and that the Silver Bar Group resolved the ARPA issues before BLM granted the ROW. [redacted] said that he did not have a personal or financial interest in the ROW and was not aware of any media or political interests. He added that he did not have a [redacted] and only [redacted]

[redacted] said that he was surprised by the allegation that he had been heavy-handed or overzealous in expediting the ROW application. He said that he [redacted], other than [redacted]. He knew [redacted] was working hard to resolve the ARPA issues and move the process forward, especially since BLM had recently placed [redacted] on [redacted].

The only contact outside of BLM that [redacted] had regarding this issue was with [redacted] BLM [redacted] State [redacted]. According to [redacted] had called him and told him that someone from the Silver Bar Group wanted to know what was slowing down the process. [redacted] said that he had known [redacted] for several years and did not think [redacted] was attempting to influence him. He believed [redacted] was giving him a friendly "heads up" on the situation. [redacted] said that he told [redacted] to have the company contact him ([redacted] or [redacted] directly if they contacted him ([redacted] again.

When we interviewed [redacted] he said that in late 2014, [redacted] from the Silver Bar Group contacted him stating that the ROW application had stalled, and [redacted] asked [redacted] for advice (**Attachments 5 and 6**). [redacted] said that he told [redacted] to contact the appropriate BLM [redacted] and provided him with contact information.

[redacted] said that he had never heard of the [redacted] being involved with the landfill, nor had he heard of anyone attempting to impose undue influence or political pressure to expedite or approve the ROW application. He said that he had heard [redacted] was previously associated with the [redacted] but that this was never mentioned during any conversation he had with [redacted] or BLM.

We also interviewed BLM [redacted] State [redacted] (**Attachments 7 and 8**). She stated that she was not aware of any political interest in this ROW and had not heard any complaints about [redacted] involvement.

We interviewed several BLM managers, including [redacted], and [redacted] (**Attachments 9, 10, 11, 12, 13, and 14**). None of these managers had ever felt any inappropriate political pressure, and they all believed the level of management oversight was appropriate.

[redacted] said that he was [redacted] the Silver Bar Mining ROW application (see Attachments 9 and 10). He said that the Silver Bar Group submitted an application to BLM for the ROW in late 2010 and that the project was considered cost reimbursable. The Silver Bar Group, which mined minerals, sand, and gravel at the landfill site, appeared to have collectively agreed to seek out a private landfill venture to support [redacted] explained that Pinal County was also listed on the ROW application because after the road was constructed, Pinal County would incorporate the road and maintain it as a county road.

(b) (7)(C) said that many years earlier during the Silver Bar Group's mining operations, BLM had granted the group a separate ROW to construct a road to remove sand and gravel from the mine pit that would eventually become the landfill site. During the sand and gravel removal, a subcontractor graded the road that traversed BLM land and damaged a protected cultural site. BLM subsequently determined that the damage to this site violated ARPA. (b) (7)(C) said that BLM would not grant the Silver Bar Group its pending landfill ROW until it mitigated the ARPA violation.

(b) (7)(C) said that he made this project a priority for the (b) (7)(C) because of how much time had passed since the group submitted its application. In his opinion, (b) (7)(C) had worked diligently to process the application and were only waiting on the ARPA resolution. He believed that the amount of BLM resources applied to this project was appropriate compared to other projects.

(b) (7)(C) had never received pressure or instructions from the State director or any external source, such as a political office, to approve or expedite the ROW. (b) (7)(C) elaborated that despite these political overtones, senior officials at BLM never communicated that message to the local managers or staff and that the project never received a higher priority (b) (7)(C).

(b) (7)(C) told us that she (b) (7)(C) (see Attachments 11 and 12). During that time (b) (7)(C) had always supported her and her office, and she had never experienced any undue or overbearing pressure from him or his staff. She said that when she became the (b) (7)(C) (b) (7)(C), she was most concerned with the Silver Bar Mine Landfill ROW grant. She stated that the grant was at least 7 years old and, because of how long the application had been open, she took a special interest in expediting the process. (b) (7)(C), her office had made significant progress in processing the application, even though BLM had not issued the grant (b) (7)(C). (b) (7)(C) knew that the proponents for the Silver Bar Mine Landfill ROW were somehow connected with the (b) (7)(C), but she never received any political pressure related to the project, nor did she have any (b) (7)(C) having a financial interest in it.

(b) (7)(C) said that, in her role as (b) (7)(C) (b) (7)(C), all of which were heavily involved in processing the Silver Bar Mine Landfill ROW application (see Attachments 13 and 14). After (b) (7)(C) assumed the role of (b) (7)(C). In this position, she often spoke with (b) (7)(C) about how best to continue processing the ROW application. The Silver Bar Group's resolution of a 2011 ARPA violation constituted the primary delay. Her office coordinated with the State office and the U.S. Department of the Interior's Intermountain Regional Office of the Solicitor to develop a remedy that would consist of a civil penalty, before BLM could continue to process the application.

According to (b) (7)(C) assigned to this project. (b) (7)(C) estimated the hours to be included in the cost-recovery agreement to determine the costs owed by the Silver Bar Group. In (b) (7)(C) opinion, if anyone were frustrated with the project or the process, it would have been (b) (7)(C). She said that BLM assigned (b) (7)(C) to the project at the outset, and (b) (7)(C) had experienced all of the starts, stops, and delays.

(b) (7)(C) said that BLM considered this a high-priority project for the last couple of years because of the length of time the application had been open and pending. She said, however, that neither BLM management, nor anyone else ever pressured her to unfairly prioritize it. (b) (7)(C) told (b) (7)(C) that (b) (7)(C) Silver Bar Group, previously worked on (b) (7)(C) (b) (7)(C), but (b) (7)(C) was not aware of any direct political interest or pressure. (b) (7)(C)

added that neither (b) (7)(C) (b) (7)(C) nor (b) (7)(C) ever implied that political interest or pressure existed for the project.

When we interviewed (b) (7)(C) she said that Silver Bar Group (b) (7)(C) approached her in 2007 to learn about the ROW process prior to submitting a ROW application for a road (**Attachments 15 and 16** and see Attachment 2). (b) (7)(C) said that (b) (7)(C) told her that the group was interested in developing a landfill at Silver Bar Mine but, to access the landfill, they would have to cross approximately 1 mile of Cottonwood Road on BLM land in Pinal County.

(b) (7)(C) said that in mid-2011, BLM discovered significant damage to a cultural archeological site on BLM's section of Cottonwood Road. The Silver Bar Group told (b) (7)(C) that, as part of the landfill preparation work, the group's subcontractor excavated rock and dirt from the pit. During the excavation process, without permission, the subcontractor graded the access road on BLM land and damaged a cultural archeological site, creating an ARPA violation. The violation required considerable time to resolve, which, according to (b) (7)(C) delayed the approval of the ROW application. (b) (7)(C) stated that over the years the Silver Bar Group had frustrated her because it was frequently delinquent in producing requested documentation.

(b) (7)(C) said that the (b) (7)(C) prioritizes projects based on several factors. Due to the significant time it has taken to process this application, (b) (7)(C) said, the field office appropriately listed it as a priority. In (b) (7)(C) opinion, this ROW application was just one of the office's many priorities. She believed that the State, district, and field office managers had provided adequate resources to the project, had never been overly involved, and had provided adequate oversight and direction. She said that no one ever told her to rush the process.

We also interviewed BLM (b) (7)(C) (**Attachments 17 and 18**). She said that she had been involved with the Silver Bar Mine Landfill ROW, as it relates to (b) (7)(C) issues, for the past 7 years by (b) (7)(C) and interacting with various State and tribal offices. The Silver Bar Group had been using BLM access roads to access the Silver Bar Mine for several years without an approved ROW. In 2010, the group submitted a ROW application for a road to traverse BLM land to gain access to the proposed landfill site.

Because of the ARPA violation related to the landfill site, (b) (7)(C) participated in a significant amount of tribal consultations and coordination with other State offices. (b) (7)(C) office made this project a priority, but no one from BLM management or any other proponent ever pressured her to complete her work to grant the ROW.

We interviewed Intermountain (b) (7)(C) (**Attachments 19 and 20**). (b) (7)(C) had worked on the ARPA violation associated with the ROW application since 2012. She stated that no one inside or outside of BLM had pressured her to resolve the ARPA violation to expedite the ROW application's approval. She had only one conversation with (b) (7)(C) about processing the application, and it related to (b) (7)(C) request that she attend a meeting between him and the ROW applicant's attorney. This meeting had not yet taken place at the time of this interview.

(b) (7)(C) told us that BLM resolved the ARPA violation on September 2, 2015 (**Attachment 21**). He provided us with copies of the February 15, 2012 Notice of Violation to Granite Express, the September 2, 2015 Notice of Assessment to Granite Express and Cowley

Management, LLC, and the receipt for payment (**Attachments 22, 23, and 24**). BLM assessed the civil penalty at $84,356.31 and Cowley Management paid the penalty on behalf of Granite Express, which resolved the ARPA issue so BLM could continue to process the ROW.

During our investigation, we also reviewed (b) (7)(C) BLM email accounts. Our review found no evidence to support the complainant's allegations.

SUBJECT(S)

None.

DISPOSITION

We are providing this report to the BLM Director for information only and do not require a response.

ATTACHMENTS

1. Investigative Activity Report (IAR) – Interview of (b) (7)(C) on November 24, 2014.
2. Right of Way Application Number (b) (7)(C), dated November 12, 2010.
3. IAR – Interview of (b) (7)(C) on December 10, 2014.
4. Transcript of Interview of (b) (7)(C) on December 10, 2014.
5. IAR – Interview of (b) (7)(C) on August 12, 2015.
6. Transcript of Interview of (b) (7)(C) on August 12, 2015.
7. IAR – Interview of (b) (7)(C) on December 10, 2014.
8. Transcript of Interview of (b) (7)(C) on December 10, 2014.
9. IAR – Interview of (b) (7)(C) on December 11, 2014.
10. Transcript of Interview of (b) (7)(C) on December 11, 2014.
11. IAR – Interview of (b) (7)(C) on March 11, 2015.
12. Transcript of Interview of (b) (7)(C) on March 11, 2015.
13. IAR – Interview of (b) (7)(C) on December 11, 2014.
14. Transcript of Interview of (b) (7)(C) on December 11, 2014.
15. IAR – Interview of (b) (7)(C)(b) (7)(C) on December 11, 2014.
16. Transcript of Interview of (b) (7)(C) on December 11, 2014.
17. IAR – Interview of (b) (7)(C) on December 11, 2014.
18. Transcript of Interview of (b) (7)(C) on December 11, 2014.
19. IAR – Interview of (b) (7)(C) on April 15, 2015.
20. Transcript of Interview of (b) (7)(C) on April 15, 2015.
21. IAR – Email exchange with (b) (7)(C), dated October 14, 2015.
22. Notice of Violation, dated February 15, 2012.
23. Notice of Assessment, dated September 2, 2015.
24. Receipt for Payment, dated September 2, 2015.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Red Wolf Recovery Program	**OI-VA-15-0432-I**
Reporting Office	**Report Date**
Herndon, VA	**January 4, 2016**
Report Subject	
Report of Investigation	

SYNOPSIS

We initiated this investigation after receiving complaints from two private landowners criticizing the U.S. Fish and Wildlife Service's (FWS) Red Wolf Recovery Program in Manteo, NC. The landowners alleged that the Program released more wolves into the wild than originally planned, and that it released wolves on private property when it originally stated it would only release them on Federal land. The landowners also questioned whether the Program misreported mortality data of the wolves to bolster support for the Program, and whether Program staff falsely reported the September 2014 death of a specific red wolf as heartworm instead of gunshot to protect an FWS employee who the landowners believed had shot the wolf.

During our investigation, we found that the Program released more wolves than it originally proposed in a Federal Register notice, and acted contrary to its rules by releasing wolves onto private land. We also found that FWS accurately reported historical mortality data of the wolves, although we noted inconsistent interpretations of how Program staff classified and recorded certain types of mortalities. Lastly, we found that an FWS investigation determined that FWS accurately recorded the cause of death as suspected gunshot for the wolf that died in September 2014, and that no employee had been deemed culpable for the wolf's death.

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /ASAC	Digitally signed.

Authentication Number: 0776DA36A2A16B44196973403E7E4F28

BACKGROUND

The Red Wolf Recovery Program

On November 19, 1986, the U.S. Fish and Wildlife Service (FWS) published a rule in the Federal Register (FR (51) 41790-41797), which established a plan to reintroduce the endangered red wolf into the wild (**Attachment 1**). According to that rule, FWS planned to release between 10 and 12 red wolves from the Red Wolf Captive Breeding Program onto Federal land at the Alligator River National Wildlife Refuge in Manteo, NC, and an adjacent U.S. Air Force bombing range. In 1995, FWS published another rule (FR (60) 18940-18948), which expanded the North Carolina recovery area to include the Pocosin Lakes National Wildlife Refuge in Columbia, NC (**Attachment 2**). Today, the Red Wolf Recovery Program manages wild red wolves on public and private land in five North Carolina counties.

In the 1986 rule, FWS acknowledged the possibility that red wolves might stray outside the boundaries of Federal property onto private property and declared its intent to recapture the red wolves and return them to Federal land. The 1995 rule allowed red wolves to remain on private land unless the landowner requested removal. Since at least 1989, FWS has responded to red wolves straying onto private properties by entering into written or oral agreements with willing landowners to allow the wolves to remain on their properties and to allow FWS personnel to operate on the properties to manage the wolves.

Throughout the Program's existence, many private landowners have expressed concern about red wolves on their properties, citing the possible threat to human life, domestic pets, livestock, and game animals. These concerns prompted FWS to periodically issue new rules to expand the provisions for landowners to capture or kill red wolves on private land if a landowner considered a wolf a threat to life or property.

In response to recent public criticism, FWS commissioned the Wildlife Management Institute, a nongovernmental organization, to thoroughly evaluate the Program. In its report, issued November 14, 2014, the Institute found that the Program did not comply with certain aspects of the 1986 rule, particularly the number of wolves it planned to release into the wild and FWS' stated intent to release red wolves on Federal property (**Attachment 3**).

Federal Court Injunction on Hunting Coyotes

In July 2013, the State of North Carolina significantly expanded the authority to hunt coyotes in the State and allowed hunting both during the day and night (**Attachment 4**). In October 2013, several nonprofit conservation groups sued the North Carolina Wildlife Resources Commission to halt coyote hunting within the five counties of the red wolf recovery area (**Attachment 5**). Coyotes, which are often considered nuisance animals, look very similar to red wolves, and the conservation groups feared that red wolf gunshot mortalities would increase as a result of hunting coyotes, especially at night. In May 2014, a Federal court issued a temporary injunction against the State's coyote-hunting rules within the red wolf recovery area, including on private property (**Attachment 6**). Based on interviews and document reviews, we learned that many landowners felt that this infringed on private property rights, which exacerbated opposition to the release of red wolves.

DETAILS OF INVESTIGATION

We initiated this investigation on May 12, 2015, after reviewing several complaints opposing the Red Wolf Recovery Program sent by private landowners (b) (7)(C) to FWS management. We contacted (b) (7)(C) to clarify their concerns (**Attachment 7**). (b) (7)(C) (b) (7)(C) questioned whether FWS—

- violated its own rules and regulations regarding the number and location of wolves released into the wild;
- intentionally misreported historical mortality data for the wolves to influence the public's opinion of the Program; and
- misreported the facts of a specific red wolf mortality to protect an FWS employee.

The Number of Red Wolves Released by FWS

On March 31, 2015, (b) (7)(C) emailed Secretary of the U.S. Department of the Interior (DOI) Sally Jewell, FWS Director Dan Ashe, and FWS employee (b) (7)(C) (**Attachment 8**). In the email, (b) (7)(C) stated that he learned from public documents that the Program had released 43 red wolves into the wild in its first 5 years, which exceeded the original plan stated in the 1986 rule. He also said that the Program had released at least 14 red wolves on private property, and that it had released red wolves into the wild outside of the wolves' historical geographic range.

According to the 1986 rule, the Program planned to release three mated pairs of red wolves in the spring of 1987 and two more mated pairs in the spring of 1988 (see Attachment 1). The rule stated that the Program planned to limit the releases to no more than 12 wolves. In its 2014 review, however, the Wildlife Management Institute reported that the Program had released 132 red wolves between 1987 and 2013, which conflicted with the Program's original plan (see Attachment 3).

We reviewed numerous Program records, as well as scientific publications coauthored by Program personnel, and found that the Program openly reported the number of wolves it released. For example, the Alligator River National Wildlife Refuge published annual reports that listed the number of red wolves released that calendar year. The 1992 report listed, by serial number, 42 red wolves that the Program had released between September 1987 and September 1992 (**Attachment 9**). The refuge reported release numbers in each of its annual reports until 1996.

(b) (7)(C), the current Program Recovery Lead, provided us with a spreadsheet identifying every red wolf released, including the release date, the wolf's birth location, and whether the wolf was released on Federal or private property (**Attachment 10**). The spreadsheet listed 132 releases, with the last release occurring in 2013.

We interviewed (b) (7)(C), (b) (7)(C) Program Coordinator from (b) (7)(C) (b) (7)(C) (**Attachment 11**). When asked about the number of red wolves released, (b) (7)(C) said there was confusion regarding what constituted a release. He said that a release meant taking a wolf from captivity and letting it go in the wild. Therefore, staff capturing a red wolf in the wild and then letting it go again was different from releasing the wolf from captivity into the wild.

We also interviewed Wildlife Refuge Specialist (b) (7)(C), who has worked on the Program (b) (7)(C) (**Attachment 12**). (b) (7)(C) stated that the Program's goal was to recover the red wolf species. He said

that when he started working for the Program, some of the release strategies were not working. [redacted] opined that the Program struggled early on because the wolves released were not adapting to living in the wild and were dying. He did not recall ever receiving direction from FWS management to stop releasing wolves beyond the first 12 released.

When we asked [redacted] about Program documentation that sometimes conflicted with the number of wolves released, he speculated, [redacted], that the authors of different publications may have had differing interpretations of what constituted a release. For example, the 1995 rule in the Federal Register indicated the Program released four wolves in 1987, but the Alligator River National Wildlife Refuge's annual summary from 1987 indicated the Program released eight wolves. [redacted] speculated that the 1995 rule may have meant the Program released four pairs of wolves, as opposed to individual wolves.

We asked [redacted], FWS Assistant Regional Director [redacted] about the number of wolves released (**Attachment 13**). [redacted] told us that public concerns regarding the number of wolves released prompted him to question inconsistencies in the Program's data. He did not know if any inconsistencies were due to mistakes, missing data, or just conflicting interpretations, but he had no reason to believe that Program staff had falsified data.

We also interviewed [redacted], FWS Field Supervisor [redacted] (**Attachment 14**). He opined that the issue of red wolf releases was "muddy." He said that agency actions require a National Environmental Policy Act (NEPA) review to assess potential natural resource damage. Also, Section 7 of the Endangered Species Act requires agencies to consult with FWS to determine how a Federal action would affect an endangered species captive population. After the Program released the first 12 wolves, it continued releasing more wolves—which was stated in the 1995 rule—but the Program conducted no Section 7 consultations or environmental assessments for the subsequent releases. He said, however, that he had no reason to suspect that Program staff had falsified any data.

The Release of Red Wolves on Private Property

The 1986 rule stated that FWS would release red wolves only on Federal land and did not explicitly state that FWS would release any wolves directly on private land (see Attachment 1). The rule intimated the possibility that the animals would stray onto private property and that the Program would need to manage the wolves. According to the spreadsheet that [redacted] provided, however, FWS released 63 wolves directly on private property (see Attachment 10).

We found that FWS officially documented the release locations and activities of all wolves released, whether on public or private property. For example, the Alligator National Wildlife Refuge's 1990 annual report detailed a lease agreement between FWS and the Durant Island Club in Rocky Mount, NC, that explicitly permitted the release of red wolves onto the leased premises (**Attachment 15**). In the 1990 Red Wolf Recovery/Species Survival Plan, the Program stated that it expected lease agreements on private land to become a viable strategy to combine "Federal, State, and private properties into a wolf management zone" (**Attachment 16**). In addition, in a 1994 annual Program summary, the Program reported that it released four adult pairs of wolves on both public and private land near the Pocosin Lakes National Wildlife Refuge (**Attachment 17**). The Program maintained

several formal lease agreements, as well as a detailed listing of agreements with private landowners, both written and oral.

We interviewed (b) (7)(C) Wildlife Management Institute, who participated in the Institute's comprehensive review of the Program (**Attachment 18**). According to (b) (7)(C) Program staff stated that FWS entered into either written or "handshake" agreements with many private landowners to access their properties. (b) (7)(C) did not examine all of the available written agreements, they found no evidence that the Program released red wolves on private property if the owner had not consented. He said that he saw no indications that the Program falsely reported any data.

When we asked (b) (7)(C) about releasing wolves on private property, he said that Program staff only entered private property with permission from the landowner (see Attachment 11). He said that, over time, the staff developed a rapport with many landowners, so written agreements became less common, and he added that some landowners even provided keys to property entrance gates. According to (b) (7)(C) Program staff attempted to remove red wolves from private property if a landowner requested. He added that he was not aware of the Program removing a red wolf from one landowner's property and then releasing it on another landowner's property. If Program staff captured a red wolf on private property, they would often release it on Federal land to encourage it to mate with another animal. An animal's home range, however, may cross Federal and private boundaries.

We also asked (b) (7)(C) about releasing red wolves on private property (see Attachment 12). He said that when he started working for the Program, the red wolves had just started to migrate onto private property. At that point, he said, he was instructed to contact private landowners regarding wolves on their property. (b) (7)(C) opined that this process evolved as more red wolves moved onto private property. Like (b) (7)(C) said that Program staff began to develop relationships with private landowners and that FWS used this cooperation to its advantage. (b) (7)(C) did not recall receiving direction from FWS senior management for the Program to stop releasing red wolves on private property.

False Reporting of Historical Mortality Data

On March 26, 2015, (b) (7)(C) emailed FWS Office of Law Enforcement (OLE) Special Agent (b) (7)(C) (b) (7)(C) noting that the numbers of red wolf mortalities resulting from intraspecific competition (wolf killing wolf) dropped to zero between 2012 and 2015, while gunshot mortalities increased dramatically (**Attachment 19**). In the email, (b) (7)(C) asked if FWS fraudulently allocated wolf deaths from intraspecific competition to gunshots in order to intentionally bolster support for the injunction on hunting coyotes in North Carolina.

Similarly, (b) (7)(C) asked in an April 16, 2015 email to Secretary Jewell, Ashe, (b) (7)(C) (b) (7)(C) whether FWS had fraudulently claimed illegal gunshots as a cause of death instead of the actual cause (**Attachment 20**). On May 11, 2015, (b) (7)(C) emailed Secretary Jewell, Ashe, and DOI Office of Inspector General Special Agent (b) (7)(C) asking: "Does the [FWS] close all Critically Endangered Species criminal cases that are 'Confirmed' to have suffered 'Gunshot' if it only later (creatively??) decides the mortality was not caused by gunshot?" (**Attachment 21**).

When we interviewed Recovery Lead (b) (7)(C), she explained to us FWS' procedure for processing red wolf deaths (**Attachment 22**). She said that the Program learns of mortalities through

various means, such as mortality signals from radio telemetry collars or reports from private citizens. When staff responds to a mortality, she said, they make an initial determination of the likely cause of death and record it on the wolf's mortality report. (b) (7)(C) said that if the cause of death is not readily apparent or is otherwise suspicious, staff reports it to OLE. She said that if an OLE investigation or necropsy report contradicts the initial cause-of-death determination, the Program updates its records.

(b) (7)(C) said that, due to recent public scrutiny, she reviewed the records to ensure that all mortalities were reported as accurately as possible. She said that she updated the Program's records of all red wolf mortalities since the beginning of the Program to match official findings from law enforcement and necropsy reports, and she provided us with that spreadsheet (**Attachment 23**). She provided us with an additional document that displayed consolidated mortality data and confirmed that intraspecific deaths have in fact decreased, while gunshot deaths have increased (**Attachment 24**).

(b) (7)(C) added that the Program maintained a hardcopy folder for each wild red wolf with which it came into contact (see Attachment 22). The folder contained items such as inoculation records, scientific data, and a 1-page mortality report, when warranted. The mortality report contained a space for both the initial cause-of-death determination and the final determination.

According to FWS OLE Special Agent (b) (7)(C), OLE has increased its investigations of red wolf mortalities over the past 5 years (**Attachment 25**). He stated that OLE previously had not investigated every red wolf mortality because a now-retired OLE agent responsible for the Program recovery area was reluctant to open cases on gunshot mortalities because he knew that a shooter would not be prosecuted without demonstrable knowledge that the shooter knew he or she had shot an endangered species. In recent years, (b) (7)(C) said, OLE has cultivated a better relationship with Program staff, which he believed may have encouraged more reporting of red wolf deaths. He added, though, that OLE may also decline to initiate an investigation if a carcass is too decomposed to determine the cause of death.

(b) (7)(C) stated that he became concerned about the Program's mortality reporting sometime in 2010 or 2011, after learning that Program staff sometimes listed gunshot as a cause of death before an investigation or necropsy was completed, or if they found a cut telemetry collar but no carcass. (b) (7)(C) said that he advised Program staff and FWS management against drawing such a conclusion in the absence of other evidence.

In his interview, (b) (7)(C) told us that Program staff would radiograph each wolf carcass, and if bullet fragments were present, staff would deem it a gunshot death (see Attachment 11). He added, however, that Program staff would update the records if a subsequent necropsy found otherwise. He also said that if Program staff found or received a cut telemetry collar with a hole in it, they would initially consider it "suspected foul play," but would enter it into the database as a gunshot death. He said that this death classification was called an "illegal take," which was standard procedure in similar biological programs and consistent with Endangered Species Act guidelines. Still, (b) (7)(C) said, after (b) (7)(C) questioned the practice, the Program altered how it characterized mortalities. (b) (7)(C) asserted that the Program never deliberately recorded a cause of death incorrectly or changed the records without a valid reason.

We reviewed the mortality data that (b) (7)(C) provided, in addition to a sample of individual mortality reports for all gunshot and intraspecific deaths since 2006 (**Attachment 26** and see Attachments 23

and 24). We found no instances in which Program staff listed a gunshot death as the final determination if the initial finding was listed as intraspecific competition.

We also reviewed all OLE investigative reports on red wolf mortalities and records of all necropsy examinations conducted on red wolves by the National Fish and Wildlife Forensics Laboratory in Ashland, OR, and the U.S. Geological Survey National Wildlife Health Center in Madison, WI, since 2006. We found the data on the spreadsheet provided by (b) (7)(C) the findings of the OLE investigative reports and necropsy reports, and the data on the individual mortality reports to be consistent.

Agent's Note: *If OLE sends a carcass to a laboratory, it uses the National Fish and Wildlife Forensics Laboratory. If OLE declines the case, Program staff sometimes sends the carcass to the National Wildlife Health Center to determine a cause of death or to collect other data of scientific interest.*

Lastly, since January 2013, the Program has posted mortality statistics from the past 3 calendar years on its website, which it updates as necessary. After reviewing those records, we found that, with periodic exceptions, the data on the website matched the data in the spreadsheet and the investigative and necropsy reports. We noted, however, that the exceptions occur because the number of specific causes of death sometimes changed over time. The information on the website contained footnotes that explained if a listing was pending an investigative or necropsy report, which accounted for the changes identified on subsequent updates.

FWS Cover-Up of an Office of Law Enforcement Investigation

On September 30, 2014, the Program responded to the death of a specific wolf with the serial number 11458M. FWS issued a press release announcing the suspected cause of death as gunshot and offered a reward for information regarding the shooter (**Attachment 27**). Through a series of communications with FWS personnel, (b) (7)(C) questioned the integrity of FWS' investigation.

On March 19, 2015, (b) (7)(C) called OLE Special Agent (b) (7)(C), stating that the alleged shooting of Red Wolf 11458M occurred during the court's injunction of coyote hunting and therefore constituted a "suspected illegal take" (**Attachment 28**). (b) (7)(C) asked why the mortality data posted on the Program's website did not list any "suspected illegal takes." (b) (7)(C) recorded this conversation, and an unknown person later created a video using the recording and posted it on the Internet.

Agent's Note: *As of the date of this report, the video was posted at https:/* (b) (7)(C)

During the recorded conversation with (b) (7)(C) appeared to mention the name (b) (7)(C) On March 20, 2015, (b) (7)(C) called (b) (7)(C) and told him that he had researched public records and discovered an FWS employee in North Carolina named (b) (7)(C) (**Attachment 29**). According to (b) (7)(C) surmised that (b) (7)(C) shot the wolf and OLE covered up the shooting.

On April 8, 2015, at the direction of FWS management, (b) (7)(C) contacted (b) (7)(C) to inform him of the results of the investigation into Red Wolf 11458M's death (**Attachment 30**). (b) (7)(C) left (b) (7)(C) a voice message stating, in part: "That particular wolf has been determined it was not . . . well, it has been undetermined as to whether it was killed by gunshot. It's highly likely that it died of heartworms." An unknown person created a second video mocking (b) (7)(C) recorded statement and

posted it on the Internet. This video contained a still photo purported to be Red Wolf 11458M with an apparent bloody gunshot wound in its side (**Attachment 31**).

Agent's Note: *As of the date of this report, the video was posted at https:/* (b) (7)(C)

In his April 16, 2015 email, (b) (7)(C) asked whether FWS had used heartworms for the cause of death to cover up a gunshot inflicted by someone it wanted, or needed, to protect (see Attachment 20).

Our investigation of this incident revealed no evidence of misreporting in OLE's investigation. We reviewed OLE's investigative report and learned that OLE questioned an FWS employee, (b) (7)(C) (b) (7)(C) about the death of Red Wolf 11458M because the wolf was found near his property (**Attachment 32**). According to the report, OLE found no evidence to charge (b) (7)(C) or further investigate him. OLE did not identify any (b) (7)(C) or (b) (7)(C) as suspects in the case, and they did not identify or interview any other possible suspects.

OLE's report also contained a forensic necropsy report conducted on Red Wolf 11458M (**Attachment 33**). (b) (7)(C), the veterinary pathologist who conducted the necropsy, wrote that the carcass was too decomposed to definitively determine the cause of death, so she reported the cause as "undetermined (suspected gunshot)." According to the report, the carcass had a wound tract consistent with a gunshot, but no projectile was present. In addition, several shotgun pellets were present throughout the carcass, but the pellets had long ago healed into the body. We contacted (b) (7)(C) to clarify her findings, and she said that she could not determine the depth of the wolf's wound because of decomposition, but she found no discernible exit wound (**Attachment 34**). She said that the entrance wound could have been caused by an arrow or another sort of puncture.

(b) (7)(C) necropsy discovered indications of heartworm infestation, but she did not conclude in her report that Red Wolf 11458M died from heartworms. In its official mortality records, the Program called the death of red wolf 11458M "suspected gunshot," which is consistent with the necropsy finding.

We asked (b) (7)(C) to view the image of the red wolf carcass included in the video, and she said that the animal in the video was not the animal she examined. Furthermore, OLE's investigative report contained photographs of the carcass of Red Wolf 11458M, and we determined that the photos were clearly not of the same carcass as the one in the video, which was intact (see Attachments 31 and 32).

Our investigation revealed that the carcass depicted in the video was the carcass of Red Wolf 11879M, which was found dead in November 2013. We found that FWS had posted the same image in a press release on November 20, 2013 (**Attachment 35**).

DISPOSITION

We are providing this report to the FWS Director for review and action.

ATTACHMENTS

1. Federal Register (51) 41790-41797.
2. Federal Register (60) 18940-18948.
3. Wildlife Management Institute report on the Red Wolf Recovery Program, dated

November 14, 2014.
4. North Carolina Coyote Hunting Regulation, Title 15A NCAC 10B .0219.
5. Injunction Request, 2:13-cv-00060-BO, dated October 17, 2013.
6. Federal Court Coyote Hunting Injunction, 2:13-CV-60-BO, dated May 13, 2014.
7. Investigative Activity Report (IAR) – Contact with complainants, dated August 11, 2015.
8. Email sent by (b) (7)(C) to Jewell, (b) (7)(C) on March 31, 2015.
9. 1992 Alligator River National Wildlife Refuge Annual Narrative Report.
10. Red Wolf Release Spreadsheet.
11. IAR – Interview of (b) (7)(C) on June 22, 2015.
12. IAR – Interview of (b) (7)(C) on November 16, 2015.
13. IAR – Interview of (b) (7)(C) on May 15, 2015.
14. IAR – Interview of (b) (7)(C) on June 2, 2015.
15. FWS' lease agreement with Durant Island, dated April 20, 1989.
16. 1990 Red Wolf Recovery/Species Survival Plan.
17. "Reestablishment of Red Wolves in Eastern North Carolina Annual Summary," dated January 1, 1994 to December 1994.
18. IAR – Interview of (b) (7)(C) on May 28, 2015.
19. Email sent by (b) (7)(C) to (b) (7)(C) on March 26, 2015.
20. Email sent by (b) (7)(C) to Secretary Jewell, (b) (7)(C), and others on April 16, 2015.
21. Email sent by (b) (7)(C) to Secretary Jewell, (b) (7)(C) on May 11, 2015.
22. IAR – Interview of (b) (7)(C) on June 3, 2015.
23. Mortality data spreadsheet.
24. Consolidated historical mortality table.
25. IAR – Interview of (b) (7)(C) on May 19, 2015.
26. Comparison table of mortality reporting.
27. FWS' Red Wolf 11458M press release, dated October 17, 2104.
28. Transcript of (b) (7)(C) telephone conversation on March 19, 2015.
29. IAR – Interview of (b) (7)(C) on May 14, 2015.
30. Transcript of (b) (7)(C) voicemail message left on April 8, 2015.
31. Still photo of wolf in video posted at https:// (b) (7)(C)
32. OLE Report of Investigation, Case No. 2014404420, dated November 5, 2014.
33. National Fish and Wildlife Forensics Laboratory Necropsy Report No. 11-000294, dated December 12, 2014.
34. IAR – Interview of (b) (7)(C) on May 21, 2015.
35. FWS' Red Wolf 11879M press release, dated November 20, 2013.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Retaliation and Mismanagement by IBC Acquisition Services Directorate Officials	**OI-PI-15-0583-I**
Reporting Office **Program Integrity Division**	**Report Date** **April 27, 2016**
Report Subject **Report of Investigation**	

SYNOPSIS

We investigated allegations that (b) (7)(C) Acquisition Services Directorate (AQD), Interior Business Center (IBC), and (b) (7)(C), AQD, IBC, retaliated against AQD employees who raised concerns about a hostile work environment created by former (b) (7)(C) Division III, AQD, Sierra Vista, AZ. The anonymous complainant further alleged that (b) (7)(C) and (b) (7)(C) prohibited Sierra Vista staff from contacting the Office of Inspector General during AQD's internal investigation into (b) (7)(C) that (b) (7)(C) and (b) (7)(C) issued unwarranted personnel actions against employees who complained about the internal investigation; that (b) (7)(C) hired a personal acquaintance without following the proper hiring practices and allowed her to permanently telework; and that (b) (7)(C) and (b) (7)(C) knew about and condoned the overcharging of fees on contracts that AQD administered for the U.S. Department of Defense's Defense Advanced Research Project Agency (DARPA) and the use of these fees to fund a $500,000 AQD conference.

Our investigation found no evidence that (b) (7)(C) or (b) (7)(C) retaliated against employees or that (b) (7)(C) committed any improper hiring actions. A review of AQD conference paperwork revealed the conference cost $147,324.57 for 163 attendees. We addressed the DARPA contracts with (b) (7)(C) and (b) (7)(C) who denied any knowledge of overbilling, but we did not review any DARPA contracts as part of this investigation. We referred that allegation to the U.S. Department of Defense Office of Inspector General.

Reporting Official/Title (b) (7)(C) /Special Agent	Signature Digitally signed.
Approving Official/Title (b) (7)(C) /SAC	Signature Digitally signed.

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DETAILS OF INVESTIGATION

We initiated this investigation on September 1, 2015 after receiving an anonymous complaint against (b) (7)(C) Acquisition Services Directorate (AQD), Interior Business Center (IBC), and (b) (7)(C), AQD, IBC. The complainant alleged that—

- (b) (7)(C) and (b) (7)(C) retaliated against AQD employees who raised concerns about a hostile work environment created by former (b) (7)(C) Division III, AQD, Sierra Vista, AZ;
- (b) (7)(C) and (b) (7)(C) prohibited Sierra Vista staff from contacting the Office of Inspector General (OIG) during AQD's internal investigation into (b) (7)(C)
- (b) (7)(C) and (b) (7)(C) issued unwarranted personnel actions against employees who complained about the internal investigation;
- (b) (7)(C) hired a personal acquaintance without following the proper hiring practices and allowed her to permanently telework; and
- (b) (7)(C) and (b) (7)(C) knew about and condoned the overcharging of fees on contracts that AQD administered for the U.S. Department of Defense's Defense Advanced Research Project Agency (DARPA), and the use of these overcharged fees to fund a $500,000 AQD conference (**Attachment 1**).

Alleged Retaliation and Improper Actions Taken Against AQD Employees

The complainant reported that (b) (7)(C) and (b) (7)(C) conducted an internal investigation into the allegations against (b) (7)(C) and prohibited Sierra Vista staff from contacting OIG regarding problems in the office. The complainant also alleged that (b) (7)(C) and (b) (7)(C) issued unwarranted personnel actions, to include arbitrary reductions in performance evaluations, denial of promotions, and disciplinary actions against employees who complained about (b) (7)(C).

We interviewed (b) (7)(C) who said that he held a "focus group" session with the Sierra Vista office employees sometime in January 2013 (**Attachments 2 and 3**). At this event, employees expressed concerns about "various issues," which (b) (7)(C) said related to the general operation and future of the Sierra Vista office, but nothing related to (b) (7)(C) as a (b) (7)(C). (b) (7)(C) said that he went back to the AQD division chiefs and informed them of the concerns he had heard. He said that he discussed the issues with (b) (7)(C) but he could not remember the specific details of what they talked about. (b) (7)(C) said that many of the complaints were "office gripes," which he considered "normal office stuff."

(b) (7)(C) said that after the focus group session, he began receiving phone calls from Sierra Vista employees claiming that (b) (7)(C) was "on the warpath," and that the employees were unhappy. (b) (7)(C) said that he contacted (b) (7)(C) and that (b) (7)(C) told him there were no problems at the office.

Sometime after that conversation with (b) (7)(C) —(b) (7)(C) could not recall when—then IBC (b) (7)(C) (b) (7)(C) received an anonymous email from a group who called themselves the "Sierra Vista 10." (b) (7)(C) said that the email contained about five pages of complaints regarding (b) (7)(C) style, which was identified as "bullying," and stated that (b) (7)(C) had created a culture of retaliation and workplace misconduct.

(b) (7)(C) said that he and (b) (7)(C) spoke with (b) (7)(C), IBC (b) (7)(C), regarding

how to proceed. Ultimately, (b) (7)(C) placed (b) (7)(C) on paid administrative leave while (b) (7)(C) and (b) (7)(C) investigated the complaints against (b) (7)(C).

(b) (7)(C) said that he and (b) (7)(C) traveled to the Sierra Vista office about 10 days after receiving the email—he could not recall the date—and they interviewed the three (b) (7)(C), (b) (7)(C) and (b) (7)(C); the Sierra Vista office employees; and (b) (7)(C) said that the investigation confirmed an environment of bullying and workplace misconduct, to include more than 300 office or cubicle relocations. While (b) (7)(C) and (b) (7)(C) were conferring with Human Resources about how to address these issues, (b) (7)(C) left the U.S. Department of the Interior (DOI) and began working at another job.

(b) (7)(C) said that while investigating (b) (7)(C) he and (b) (7)(C) learned that the branch (b) (7)(C) knew about the problems with (b) (7)(C) and about the anonymous email. He said that employees in the office had a "sense of fear," which was not only directed at (b) (7)(C) but at the branch (b) (7)(C) too. (b) (7)(C) said that he removed supervisory authority from (b) (7)(C), and (b) (7)(C) by placing them in (b) (7)(C) roles. He said that this action was not punitive and that they were not demoted. (b) (7)(C) said that he did this because he felt the culture of the office needed to change, and so that (b) (7)(C) replacement, (b) (7)(C) "could get an unfiltered knowledge" of the staff, customers, and workload.

When we interviewed (b) (7)(C) he stated that the restructuring had little to do with (b) (7)(C) or with what (b) (7)(C) and (b) (7)(C) uncovered during the internal investigation (**Attachments 4 and 5**). Instead, he said, these actions were part of a planned restructure resulting from a strategic assessment of the efficiency and effectiveness of the Sierra Vista office. (b) (7)(C) said that the "reorganization had more to do with our overall strategic plan than anything to do with the situation with (b) (7)(C)]."

(b) (7)(C) said that the Sierra Vista employees have voiced no complaints since (b) (7)(C) was hired (see Attachments 2 and 3). He said that he did not take any disciplinary action against any employee except for (b) (7)(C) whom he formally reprimanded for dissuading a contractor from applying for a Federal job. (b) (7)(C) said that he did not threaten to shut down the Sierra Vista office.

When we interviewed (b) (7)(C) she confirmed the statements made by (b) (7)(C) (**Attachments 6 and 7**). They both denied ever telling employees not to speak with OIG.

We attempted to contact and interview all of the AQD employees listed as witnesses in the anonymous complaint to OIG. During these interviews, none of the employees said that (b) (7)(C) or (b) (7)(C) told them not to speak with OIG. Similarly, no one could provide any evidence of retaliation by (b) (7)(C) or (b) (7)(C)

(b) (7)(C) said that he had helped AQD employees draft anonymous letters to (b) (7)(C) and (b) (7)(C) about (b) (7)(C) (**Attachment 8**). He added that he objected to (b) (7)(C) and (b) (7)(C) conducting the investigation on (b) (7)(C) because, according to (b) (7)(C) the complaints listed in the anonymous email contained allegations against (b) (7)(C) and (b) (7)(C) so they were "basically investigating themselves."

We reviewed the (b) (7)(C), 2014 email authored by the "Sierra Vista 10," which was sent to (b) (7)(C) (b) (7)(C), and (b) (7)(C) (**Attachment 9**). We found that the email contained no allegations against either (b) (7)(C) or (b) (7)(C)

(b) (7)(C), U.S. Air Force, and former AQD (b) (7)(C), said that she had been a (b) (7)(C) prior to (b) (7)(C) departure (**Attachments 10 and 11**). Once (b) (7)(C) left, she said, (b) (7)(C) and (b) (7)(C) removed her title and supervisory authority, along with the supervisory authority of other team leads. AQD then advertised GS-14 team lead positions with supervisory authority. (b) (7)(C) applied and interviewed for one of these positions but was not selected. (b) (7)(C) said that (b) (7)(C) told her that she had not been selected because the position was preselected. According to (b) (7)(C) said that he had heard this from (b) (7)(C).

During his interview, (b) (7)(C) told us that after (b) (7)(C) departure, (b) (7)(C) and (b) (7)(C) restructured the office, to include removing (b) (7)(C) "(b) (7)(C)" title (**Attachments 12 and 13**). (b) (7)(C) believed this occurred because of (b) (7)(C) and (b) (7)(C) belief that the management structure in Sierra Vista needed to be revamped. (b) (7)(C) said that he did not apply for one of the new branch chief positions AQD advertised. When asked about the discussion (b) (7)(C) said she had with (b) (7)(C) regarding preselection for the advertised positions, (b) (7)(C) said that he never had a discussion with (b) (7)(C) or (b) (7)(C) about any influence that (b) (7)(C) or (b) (7)(C) might have had over (b) (7)(C) interview. During his interview, (b) (7)(C) said that he never told anyone that (b) (7)(C) or (b) (7)(C) attempted to influence any hiring decision (**Attachments 14 and 15**).

We reviewed the vacancy announcement and applicants' ranking list, which showed that nine people, including (b) (7)(C) applied for the merit promotion (b) (7)(C) position in Sierra Vista (**Attachment 16**). AQD hired six applicants for the position but did not select (b) (7)(C) We did not identify any irregularities in the paperwork or hiring process.

(b) (7)(C) also stated that (b) (7)(C) told her that the "higher ups"—whom (b) (7)(C) surmised to be (b) (7)(C) and (b) (7)(C)—instructed him to lower her performance appraisal scores (see Attachments 10 and 11). She said that (b) (7)(C) told her he did not want to lower her rating, so he did not give her any rating.

(b) (7)(C) said that no one had ever instructed him to lower an employee's appraisal rating, and that he never had any such conversation about it with (b) (7)(C) (see Attachments 14 and 15). (b) (7)(C) said during our interview that he was still new to the job, and he had not evaluated any employees yet. (b) (7)(C) said that his first day with DOI was (b) (7)(C), and that he first joined the Sierra Vista office on (b) (7)(C)

(b) (7)(C) Hiring a Personal Acquaintance

(b) (7)(C) said that he hired (b) (7)(C) as a (b) (7)(C) under a noncompetitive transfer, which allowed AQD to transfer her from one Federal agency to another—the U.S. Coast Guard to DOI—without interviewing her for the position (see Attachments 2 and 3 and **Attachments 17 and 18**). (b) (7)(C) said that he knew (b) (7)(C) from his tenure with the Coast Guard, and he thought she would be a good fit for the position. He said that he first attempted to fill the position competitively and had interviewed several candidates. He said, however, that he was dissatisfied with the applicants, so he mentioned the opportunity to (b) (7)(C) He added that he offered her the opportunity to telework from (b) (7)(C) rather than relocate to the AQD office in Herndon, VA, and (b) (7)(C) accepted the position. (b) (7)(C) identified at least one other (b) (7)(C), who teleworked fulltime (**Attachments 19 and 20**). He said that (b) (7)(C) assisted him with (b) (7)(C) reassignment.

(b) (7)(C) verified that AQD hired (b) (7)(C) via a noncompetitive transfer, and that she (b) (7)(C) followed

the Interagency Career Transition Assistance program (ICTAP) process, which required advertising the position to any Federal employee who may have been removed from a position due to a Government reduction in force (**Attachments 21 and 22**). (b) (7)(C) said that the position was advertised as a fulltime, telework position located in (b) (7)(C).

Overcharging Fees for Use in AQD Conference

According to the anonymous complaint we received, (b) (7)(C) and (b) (7)(C) knew about and condoned the overcharging of fees on DARPA contracts and subsequently using the money to fund a $500,000 AQD conference.

(b) (7)(C) denied knowledge of overcharging fees to DARPA contracts (see Attachments 6 and 7). She explained that AQD operated under a "revolving fund legislation," which allowed AQD to charge customers fees for its service. AQD received a "percentage of obligation" fee from the DARPA contracts it serviced. (b) (7)(C) said that if AQD obligated $1 million, it would receive a percentage of that amount.

Regarding staffing requirements associated with DARPA contracts, (b) (7)(C) said that AQD determined how many people would be working on a specific DARPA contract. She said that sometimes that number fluctuated, but that AQD stays "very close to the estimate of what is actually . . . budgeted." She said that AQD had exclusive teams assigned to the DARPA contracts, so it was easy to keep track of the employees working on specific contracts.

Similarly, (b) (7)(C) said that he had never heard of overbilling associated with DARPA contracts and added that it was possible that the number of employees working on a particular contract had fluctuated (see Attachments 2 and 3). He said that if the number of employees on a contract changed, the contract's staffing costs would be adjusted accordingly.

We reviewed the proposal for AQD's October 2015 all-hands conference (**Attachment 23**). AQD estimated the conference costs at $225,389 for 191 attendees. The conference file also included an approval memorandum addressed to (b) (7)(C), signed by (b) (7)(C) (b) (7)(C) – Budget, Finance, Performance, and Acquisition; (b) (7)(C) (b) (7)(C) – Technology, Information, and Business Systems; and (b) (7)(C). A review of the actual conference costs, including travel, revealed that the conference cost $147,324.57 for 163 attendees.

SUBJECT(S)

1. (b) (7)(C), AQD, IBC.
2. (b) (7)(C) AQD, IBC.

DISPOSITION

We provided a copy of our report to (b) (7)(C) – Policy, Management and Budget, for her information only.

ATTACHMENTS

1. Anonymous complaint to OIG, dated June 17, 2015.
2. Investigative Activity Report (IAR) – Interview of (b) (7)(C) on October 28, 2015.
3. Transcript of interview of (b) (7)(C) on October 28, 2015.
4. IAR – Interview of (b) (7)(C) on January 12, 2016.
5. Transcript of interview of (b) (7)(C) on January 12, 2016.
6. IAR – Interview of (b) (7)(C) on October 30, 2015.
7. Transcript of interview of (b) (7)(C) on October 30, 2015.
8. IAR – Interview of (b) (7)(C) on August 4, 2015.
9. Sierra Vista 10 email complaint sent to (b) (7)(C) and staff, dated February 19, 2014.
10. IAR – Interview of (b) (7)(C) on November 5, 2015.
11. Transcript of interview of (b) (7)(C) on November 5, 2015.
12. IAR – Interview of (b) (7)(C) on November 6, 2015.
13. Transcript of interview of (b) (7)(C) on November 6, 2015.
14. IAR – Interview of (b) (7)(C) on November 5, 2015
15. Transcript of interview of (b) (7)(C) on November 5, 2015.
16. Candidate ranking list and confirmations of selection for the Team Lead position.
17. IAR – Second interview of (b) (7)(C) on October 30, 2015.
18. Transcript of second interview of (b) (7)(C) on October 30, 2015.
19. IAR – Interview of (b) (7)(C) on January 28, 2016.
20. Transcript of (b) (7)(C) on January 28, 2016.
21. IAR – Interview of (b) (7)(C) on November 6, 2015.
22. Transcript of interview of (b) (7)(C) on November 6, 2015.
23. IAR – Document review of AQD's October 2015 all-hands conference proposal.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
Employee Ethics Statute Violation Lahontan Basin Area Office	OI-CA-15-0696-I
Reporting Office	**Report Date**
Sacramento, CA	December 10, 2015
Report Subject	
Report of Investigatiou	

SYNOPSIS

A U.S. Bureau of Reclamation (USBR) ethics officer alleged that (b) (7)(C), a former USBR (b) (7)(C), violated a criminal ethics statute by appearing before USBR on behalf of his new employer, (b) (7)(C) with the intent to influence a project in which he personally and substantially participated during his employment with USBR. At (b) (7)(C) direction, (b) (7)(C) attended a USBR informational workshop against the advice of the USBR ethics officials. Additionally, (b) (7)(C) (b) (7)(C) USBR, Lahontan Basin Area Office (LBAO) (b) (7)(C) at the time, which created additional potential for a conflict of interest.

This investigation revealed a lack of communication between (b) (7)(C) USBR contracting personnel and ethics officials, and LBAO personnel. LBAO personnel requested that Truckee Canal Environmental Impact Statement (TCEIS) primary contractor Environmental Management and Planning Solutions Inc. (EMPSi) subcontract HDR so that (b) (7)(C) could participate in the planning workshop. LBAO personnel wanted (b) (7)(C) to attend the workshop because of his expertise on the Newlands Project. Both (b) (7)(C) and (b) (7)(C) claimed to be unaware of the full extent of the issues that were being addressed by LBAO employees and USBR human resources (HR) and contract personnel. (b) (7)(C) believed he understood the ethics restrictions placed upon him by the post-employment letter he received from USBR HR after his employment ended; therefore, he did not seek further advice or clarification from ethics officials regarding the workshop.

Because of her (b) (7)(C) position at LBAO and her relationship to (b) (7)(C) distanced herself from the subcontract negotiations to avoid the appearance of a conflict of interest; however, no one from LBAO, including (b) (7)(C) and (b) (7)(C), informed USBR HR and contract personnel that (b) (7)(C) and (b) (7)(C). The lack of candor regarding this

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relationship, whether intentional or accidental, created the perception that LBAO personnel were willfully violating Federal ethics statutes. USBR contract personnel ultimately rejected EMPSi's subcontract request due to the determination that a conflict of interest existed; subsequently, based on the ethical limitations imposed by his former Federal service at USBR, (b) (7)(C) terminated his employment with (b) (7)(C)

The allegations that (b) (7)(C) intentionally violated USBR criminal ethics statutes were not substantiated. This report is referred to USBR for information only.

DETAILS OF INVESTIGATION

The Department of the Interior, Office of Inspector General (OIG) received allegations from (b) (7)(C) (b) (7)(C) Ethics Counselor, USBR, alleging that (b) (7)(C), former USBR (b) (7)(C) and (b) (7)(C) in the Lahontan Basin Area Office (LBAO), (b) (7)(C), violated criminal ethics statute, 18 U.S.C. 207(a)(1), which prohibited former Federal employees from communicating or appearing on behalf of a non-Federal entity before the government with the intent to influence particular matters in which they personally and substantially participated during their government service (**Attachment 1**).

(b) (7)(C) retired from USBR in (b) (7)(C) 2011 and returned as a re-employed annuitant from (b) (7)(C) 2012 through (b) (7)(C) 2013. During the last 6 months of his re-employment with LBAO, (b) (7)(C) developed a performance work statement and cost estimate for the Truckee Canal Environmental Impact Study (TCEIS). USBR awarded the TCEIS contract to Environmental Management and Planning Solutions Inc. (EMPSi) in December 2014.

USBR (b) (7)(C) and current Newlands Project (b) (7)(C) invited (b) (7)(C) to participate in a Value Engineering Planning Workshop (Workshop), which was a 5-day meeting of interested stakeholders in the Newlands Project and the TCEIS (**Attachment 2**). (b) (7)(C) felt that (b) (7)(C) institutional knowledge of the project, the stakeholders, and the politics would provide helpful insights to the brainstorming sessions. However, because (b) (7)(C) had participated personally and substantially on the TCEIS when he formerly worked for USBR, human resources (HR) specialist (b) (7)(C) advised him not to communicate or appear on behalf of his new employer, (b) (7)(C) with the intent to influence the TCEIS or the associated Workshop. (b) (7)(C) agreed with (b) (7)(C) assessment that (b) (7)(C) participation in the Workshop would present a conflict of interest.

LBAO (b) (7)(C) contacted (b) (7)(C) to seek approval for (b) (7)(C) participation at the Workshop after (b) (7)(C) informed him that she disapproved of (b) (7)(C) planned participation; (b) (7)(C) notified (b) (7)(C) and (b) (7)(C) that (b) (7)(C) presence at the Workshop would be considered influential and a conflict of interest (**Attachment 3**). Later, based on a directive from (b) (7)(C) supervisor (b) (7)(C) —who believed the subcontract would be approved—(b) (7)(C) attended the Workshop, against the advice of the ethics officials, and signed into the conference as an (b) (7)(C) employee subcontracted to EMPSi.

EMPSi (b) (7)(C) confirmed that (b) (7)(C) was not affiliated with EMPSi in any way because EMPSi had not successfully subcontracted (b) (7)(C) for (b) (7)(C) services. He stated that (b) (7)(C) (b) (7)(C) USBR (b) (7)(C), had requested that EMPSi subcontract (b) (7)(C) for the Workshop. When (b) (7)(C) notified (b) (7)(C) that USBR contract personnel had rejected the subcontract request,

(b) (7)(C) asked (b) (7)(C) to appeal the decision (**Attachment 4**).

USBR (b) (7)(C) explained that contractors on indefinite quantity (IDIQ) contracts, such as EMPSi's contract with USBR, submitted their lists of approved subcontractors when they competed for the IDIQ (**Attachment 5**). She said that if they later wanted to add a new subcontractor to a particular task order, they had to obtain USBR approval. (b) (7)(C) believed that (b) (7)(C) had been pressured by LBAO management to obtain a subcontract for (b) (7)(C) She sent EMPSi a list of questions to clarify the nature of (b) (7)(C) proposed role at the Workshop. After (b) (7)(C) initiated an ethics analysis of the subcontract, (b) (7)(C) collaborated with (b) (7)(C) on the conflict of interest determination and ultimately rejected the subcontract request.

(b) (7)(C) stated that she would not have known about (b) (7)(C) affiliation with the TCEIS project or USBR if (b) (7)(C) had not raised the issue (**Attachment 6**). She relied on (b) (7)(C) post-employment letter and information presented by (b) (7)(C) to determine that (b) (7)(C) was intimately involved in the project, but added that simply the appearance of a conflict of interest would have been sufficient for her to deny the subcontract request. (b) (7)(C) attended the Workshop while the subcontract details were still being resolved. After (b) (7)(C) rejected the subcontract request, an EMPSi principal contacted her to request that she reconsider her decision. She speculated that the contractor was attempting to obtain authorization for retroactive payment for (b) (7)(C) attendance.

After the Workshop, (b) (7)(C) visited (b) (7)(C) office to discuss the subcontract and to determine her reasons for denying it. (b) (7)(C) limited what she told (b) (7)(C) because she had heard that he had been acting "pushy" about the subcontract. When she learned that (b) (7)(C) and LBAO (b) (7)(C) (b) (7)(C) was confident that her decision to reject the subcontract request based on a conflict of interest was justified.

(b) (7)(C) stated that it was his idea to invite (b) (7)(C) to the Workshop (**Attachment 7**). He believed that (b) (7)(C) retained much institutional knowledge of the Newlands Project and had also conducted a study of the project alternatives. (b) (7)(C) consulted (b) (7)(C) about paying for (b) (7)(C) participation at the Workshop with a government credit card, but determined that (b) (7)(C) rate would exceed the charge card limit. Additionally, (b) (7)(C) told (b) (7)(C) that (b) (7)(C) could not work on the TCEIS, but (b) (7)(C) did not understand the conflict because he felt that the EIS and the Workshop were distinct, unrelated events.

(b) (7)(C) informed (b) (7)(C) of (b) (7)(C) opinion and stated that he had no further involvement with the ethics issue. (b) (7)(C) said that (b) (7)(C) suggested they use (b) (7)(C) services on the TCEIS as well as the Workshop, and he believed that (b) (7)(C) intended for the requested subcontract for the Workshop to suffice as approval for (b) (7)(C) participation in the TCEIS as well. (b) (7)(C) believed that there was an appearance of a conflict of interest based on (b) (7)(C) and (b) (7)(C) relationship, but he did not think that anyone had considered it because it had been the "status quo for years (see Attachment 6)."

TCEIS (b) (7)(C) confirmed that, approximately 1 month prior to the Workshop, (b) (7)(C) asked her to add (b) (7)(C) to the contract so that he could attend (**Attachment 8**). She asked (b) (7)(C) to prepare a statement of work for the subcontract and then asked EMPSi to subcontract (b) (7)(C) Shortly thereafter, (b) (7)(C) notified (b) (7)(C) that (b) (7)(C) believed (b) (7)(C) participation at the Workshop posed a potential conflict of interest. Based on that information, (b) (7)(C) told EMPSi to halt the subcontract process. A few days before the Workshop, (b) (7)(C) told (b) (7)(C) that the conflict of interest had been

resolved and that she should proceed with (b) (7)(C) subcontract. (b) (7)(C) relied on (b) (7)(C) statement that the conflict was resolved, but she sent an email to (b) (7)(C) to confirm, which led to an internal USBR inquiry and this OIG investigation.

(b) (7)(C) stated that (b) (7)(C) expressed concern that TCEIS contractor EMPSi did not have someone on its team who was currently or formerly affiliated with USBR (**Attachment 9**). He said that she was concerned that no one from LBAO could advise EMPSi about tribal and stakeholder politics. (b) (7)(C) emphasized that (b) (7)(C) never indicated that (b) (7)(C) should be added to the project, nor was she involved in the efforts to subcontract (b) (7)(C) He believed, however, that hiring (b) (7)(C) "made sense" because of (b) (7)(C) previous involvement with the project, familiarity with the stakeholders, and the relationships he had established with them (see Attachment 9).

After (b) (7)(C) informed him of (b) (7)(C) ethical concerns with (b) (7)(C) participation at the Workshop, (b) (7)(C) called (b) (7)(C) to discuss (b) (7)(C) restrictions. (b) (7)(C) stated that (b) (7)(C) never clearly stated that (b) (7)(C) could not participate in the Workshop. When asked about the forwarded email discussion of this topic between (b) (7)(C) and (b) (7)(C) wherein (b) (7)(C) clearly stated the (b) (7)(C) could not participate, (b) (7)(C) claimed that he had not read the emails because he received too many each day. When questioned about the discrepancies between his and (b) (7)(C) accounts of their phone conversation, (b) (7)(C) referred to his "contemporaneous" notes of the discussion as the accurate account (see Attachment 9 and **Attachment 10**).

Agent's Note: (b) (7)(C) *handwritten notes have "6/10" and "6/3" printed on them. The "6/10" is positioned to the left of the "6/3," which has a circle drawn around it. This would indicate that "6/10" was written first and that "6/3" was added later and then determined to be the correct date of the conversation. USBR Employee and Labor Relations* (b) (7)(C) *, who conducted an internal inquiry into the conflict of interest prior to OIG's investigation, verified this deduction and stated that she had supplied the correct date to* (b) (7)(C) *during their interview.*

LBAO (b) (7)(C) stated that she had not participated in the TCEIS contractor selection process because (b) (7)(C) , worked for (b) (7)(C) one of the contractors which had submitted a bid (**Attachment 11**). She was concerned with EMPSi's lack of familiarity with the Newlands Project and experience working in the Lahontan Basin area. She stated that she wanted to ensure that LBAO obtained the best possible EIS because she anticipated a lawsuit against USBR regarding the contentious project. She thought that (b) (7)(C) would need help with the project, but did not direct him to invite (b) (7)(C) to the Workshop.

(b) (7)(C) said that (b) (7)(C) and (b) (7)(C) had informed her that they were going to request (b) (7)(C) participation in the Workshop, and she thought that they had coordinated the subcontract details with USBR contracting personnel. She did not know if (b) (7)(C) lobbied for (b) (7)(C) contract and purposely remained uninformed about such discussions; she confirmed that she was not involved in the subcontract request in any way. She believed that (b) (7)(C) subcontract had been approved because his employer, (b) (7)(C) had directed him to attend the Workshop. She thought it was common knowledge within USBR that she and (b) (7)(C) and she hypothesized that, if she was removed from the situation, (b) (7)(C) would be the logical person to hire based on his intimate knowledge of the project.

(b) (7)(C) had not considered the ethical implications of (b) (7)(C) participation in the project

because he had left USBR over 1 year prior, he had a post-employment letter from HR, and she believed that he understood what he was allowed to do. She added that (b) (7)(C) subsequently left (b) (7)(C) because he felt like he was prohibited from contributing anything of value to the company.

(b) (7)(C) stated that he began working for (b) (7)(C) after his annuitant position with USBR ended (**Attachment 12**). He sent his new employment information to USBR HR for review and stated that (b) (7)(C) was aware of the ethics restrictions placed upon him and the fact that he was (b) (7)(C) (b) (7)(C) He confirmed that (b) (7)(C) had asked him to participate in the Workshop, and added that he wanted to participate because he had worked on relevant studies and formerly had been the (b) (7)(C) (b) (7)(C) felt a sense of ownership toward the project and desired to see it through to completion. (b) (7)(C) informed him that HR had not approved his participation in the Workshop; (b) (7)(C) spoke with (b) (7)(C) about his previous work on the project and the limitations for his Workshop participation. He concluded from the conversation that he would be allowed to participate once (b) (7)(C) clarified some details with (b) (7)(C)

Shortly before the Workshop, (b) (7)(C) supervisor told him that USBR had approved his attendance and that the subcontract documentation would be completed afterwards. (b) (7)(C) paid (b) (7)(C) for his time at the Workshop, but was never reimbursed by EMPSi. (b) (7)(C) commented that (b) (7)(C) was upset about not getting paid for fulfilling EMPSi's request for his services; he was unaware that USBR contracting personnel had rejected EMPSi's subcontract request.

(b) (7)(C) assumed that USBR HR knew he was (b) (7)(C) because they had been (b) (7)(C) for so long and they had (b) (7)(C) vouchers when they transferred to LBAO. (b) (7)(C) felt that the ethics guidance he received acted as a "moving roadblock" and prevented him from providing valuable work for (b) (7)(C) therefore, he terminated his employment with (b) (7)(C)

This investigation revealed a lack of communication between (b) (7)(C) USBR contracting and ethics officials, and LBAO personnel. Both (b) (7)(C) and (b) (7)(C) appeared to be unaware of the full extent of the issues that were being addressed by the involved parties. (b) (7)(C) felt that he understood his ethics restrictions based on his post-employment letter. (b) (7)(C) distanced herself from the subcontract negotiations in an effort to avoid a conflict of interest; however, USBR's HR and contract personnel's ignorance of (b) (7)(C) and (b) (7)(C) relationship added another layer of ethical concerns that resulted in the rejection of (b) (7)(C) subcontract. The lack of candor regarding this relationship, whether intentional or accidental, created the perception by HR and contract personnel that something untoward was occurring at LBAO. This perception was strengthened by (b) (7)(C) confrontational interactions with personnel at LBAO and USBR's regional contracting office in (b) (7)(C) .

Because the conflict issues have been avoided or resolved by USBR contract personnel's rejection of the subcontract, and (b) (7)(C) subsequent resignation from (b) (7)(C) OIG refers this report to USBR for information and bureau determination of any administrative action it deems appropriate in this case.

SUBJECT(S)

(b) (7)(C), USBR
(b) (7)(C) Lahontan Basin Area Office, USBR

DISPOSITION

The allegations that (b) (7)(C) intentionally violated USBR criminal ethics statutes were not substantiated. This report is referred to USBR for information only.

ATTACHMENTS

1. DOI OIG Hotline Complaint submitted via email by USBR Ethics Counselor (b) (7)(C), dated July 14, 2015.
2. Investigative Activity Report (IAR): Interview of (b) (7)(C), dated October 14, 2015.
3. Documents Provided by USBR HR (b) (7)(C), received September 2, 2015.
4. IAR: Interview of (b) (7)(C), dated September 22, 2015.
5. IAR: Interview of (b) (7)(C), dated September 28, 2015.
6. IAR: Interview of (b) (7)(C), dated October 8, 2015.
7. IAR: Interview of (b) (7)(C), dated October 21, 2015.
8. IAR: Interview of (b) (7)(C), dated October 26, 2015.
9. Investigation Summary: August 2015 Lahontan Basin Area Office (b) (7)(C) (b) (7)(C) Attendance at the Truckee Canal Value Engineering Planning Workshop, prepared by (b) (7)(C).
10. IAR: Interview of (b) (7)(C), dated October 27, 2015.
11. IAR: Interview of (b) (7)(C), dated December 2, 2015.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
FALSIFICATION OF THIRD PARTY VERIFICATION INSPECTIONS IN GULF OF MEXICO	**OI-OG-16-0260-I**
Reporting Office **Energy Investigations Unit**	**Report Date** **April 25, 2016**
Report Subject **Report of Investigation**	

SYNOPSIS

On January 26, 2016, the Office of Inspector General's Energy Investigations Unit initiated an investigation based on information received from the Bureau of Safety and Environmental Enforcement's Safety and Incident Investigations Division (SIID). SIID received a complaint alleging that Lloyd's Register North America, Inc. (Lloyds) conducted substandard independent third-party blowout preventer (BOP) verifications, which are mandated by Federal regulations. It was also alleged that Lloyds may have falsified BOP verifications.

To address the allegations, we interviewed (b) (7)(C), and (b) (7)(C) and (b) (7)(C) employed by Lloyds. All of these individuals were also employees of West Engineering (West), which was acquired by Lloyds in 2012. We also reviewed BOP verification reports issued by Lloyds from October 2014 through January 2016.

Our investigation found that prior to its acquisition by Lloyds, West had completed the majority of BOP verifications conducted in the Gulf of Mexico (GOM) and was considered the premier BOP verification company in the area. West had conducted its BOP verifications in a manner that exceeded compliance standards, but after the acquisition, Lloyds lowered its verification standards to meet minimum requirements established by Federal regulations and the American Petroleum Institute (API). While this change caused concern, Lloyds remained compliant with the regulations, because the specific regulation requiring third-party BOP verifications only required that the company be "a licensed professional engineering firm," and did not require the application of specific standards when completing verifications.

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /SAC	Digitally signed.

Authentication Number: DE67FCA57D9AD94F54B7F0D6AA6722ED

We did not identify any instances where Lloyds falsified or misrepresented BOP verifications to the Government as alleged, and we did not uncover any instances in which Lloyds failed to meet the minimum requirements established within the regulations. We did, however, receive concerns regarding the technical competency of Lloyds' current management overseeing BOP verifications.

This investigative report will he provided to BSEE for administrative action as deemed appropriate. This investigation is closed, and no further investigative activity by this office on the matter is anticipated.

DETAILS OF INVESTIGATION

On January 15, 2016, Energy Investigations Unit (EIU), Office of Inspector General (OIG), U.S. Department of the Interior (DOI) received information from (b) (7)(C) (b) (7)(C), Bureau of Safety and Environmental Enforcement (BSEE), DOI that she received a complaint from (b) (7)(C) (b) (7)(C) concerning the competency of recent Lloyds' personnel conducting the independent third-party BOP verifications in accordance with 30 CFR §250.416.

(b) (7)(C), (b) (7)(C) Office of Incident Investigation, BSEE completed an Investigative Activity Report (IAR) outlining (b) (7)(C) allegations **(Attachment 1)**. One such allegation was that "Operations groups were signing off on Statement of Fact which they were not authorized to do. Potentially manipulating the verification process."

Regarding this statement in his IAR, (b) (7)(C) stated that (b) (7)(C) did not provide any documentation or specific knowledge supporting his allegation that the persons signing the Statement of Fact, a process verification document, was not "authorized" to sign the document **(Attachment 2)**. He said (b) (7)(C) made this allegation based upon (b) (7)(C) that the person did not possess the competency and qualifications to sign the document.

(b) (7)(C) acknowledged that the BSEE regulation that requires independent third-party verification of BOP related equipment (30 CFR 250.416) does not list specific requirements, expertise, or qualifications that an individual must possess in order to be authorized to sign verification documents. Rather, the regulation states the following:

> The independent third-party in this section must he a technical classification society, or a licensed professional engineering firm, or a registered professional engineer capable of providing the verifications required under this part.

The regulation further requires that the licensed professional engineering firm must:

> Include evidence that the registered professional engineer, or a technical classification society, or engineering firm you are using or its employees hold appropriate licenses to perform the verification in the appropriate jurisdiction, and evidence to demonstrate that the individual, society, or firm has the expertise and experience necessary to perform the required verifications.

As a result, an independent third-party verification firm, such as Lloyd's, attaches a Statement of Qualifications of the firm to its verification packet that is ultimately provided to BSEE. The Statement

of Qualifications, however, does not list specific names of those engineers authorized to sign verification documents.

In his IAR, [redacted] stated "Personnel were by-passing company procedures; potentially leading to false statements of company qualifications." In clarification, [redacted] said that [redacted] did not provide any specific evidence showing that Lloyds' personnel were by-passing company procedures. [redacted] did not know which procedures of Lloyds were allegedly by-passed, nor how they were by-passed. [redacted] further acknowledged that Lloyds could change its procedures anytime as long as altering those procedures did not affect their ability to perform their verification process under the regulations.

In his IAR, [redacted] wrote "New hires are very willing to satisfy the Operators instead of following the rules of the verification process." [redacted] explained that BSEE does not have specific "rules of the verification process," but rather he believes that [redacted] was referring to Lloyds' "rules of the verification process," of which [redacted] does not have any specific knowledge. [redacted] said that Lloyds should have specific procedures for their verification process, yet he has not personally reviewed Lloyds' procedures. [redacted] further added that [redacted] did not provide to him any specific information or evidence identifying an instance where Lloyds did not follow their own procedures.

[redacted] summarized by stating that he was unaware of any specific instances of Lloyds making a false statement to BSEE.

We interviewed [redacted] on January 19, 2016 **(Attachment 3)**. [redacted] stated that [redacted] According to [redacted] West worked with the government in order to ensure that West's third-party verification would comply with the new regulation.

Lloyds acquired West in April 2012 and, according to [redacted] at that time West was verifying approximately 80 percent of the offshore BOPs in the Gulf of Mexico. [redacted] initially West personnel operated as they had prior to the acquisition, including continuing to follow West's established inspection format. Eventually, however, [redacted] directed to report to Lloyds' operations division. [redacted].

[redacted] that the two top West engineers with experience and knowledge, [redacted] from Lloyds in [redacted], 2015, [redacted], in addition to being highly experienced professional engineers (PEs), [redacted] were the only Lloyds' signatories for the verification documents, due to the fact that they were certified PEs. [redacted] that West/Lloyds still had several experienced "techies" that were very competent, yet they did not have signatory authority as PEs. The [redacted] were [redacted] and [redacted]. *(**Agent's Note**: According to the Texas Board of Professional Engineers, [redacted] was granted a [redacted] BOP Verification Packets on behalf of Lloyds since that date as a PE.)*

[redacted], after [redacted] and [redacted], Lloyds hired [redacted] in [redacted] 2015 to [redacted] the verification process at Lloyds, but [redacted], and had no drilling or controls

experience. As a result, [redacted] was retained by Lloyds as a [redacted] so that he could continue to be the signatory on the verification documents.

[redacted] related that in August 2015, Lloyds hired [redacted], who was a PE, to be the [redacted] process at Lloyds. *(**Agent's Note**: According to the Texas Board of Professional Engineers,* [redacted] technical skills or his experience, and [redacted] to learned that [redacted] had been [redacted] and once BP learned that [redacted] was [redacted] for Lloyds, BP requested that their verification packets not be signed by [redacted]

In addition to the verification packets Lloyds completes for its customers for "between well inspections," [redacted] that Lloyds also provides Statement of Facts (SOFs) for operators when issues arise with the BOP equipment during operations. [redacted] that SOFs act as expert, technical advice to the operators, which they can provide to the government to show that they consulted with a third-party expert concerning BOP equipment issues.

[redacted] technical knowledge by [redacted] verification documents that were to be reviewed by [redacted] and [redacted] in [redacted], which is a significant [redacted] because [redacted] and [redacted] are essentially the final "gatekeepers" that must assure the final product is accurate before it is issued. [redacted] that their failure to identify these "red flag" errors establish [redacted] and [redacted] lack of knowledge and understanding of the fundamentals involving BOP equipment. [redacted] the technical errors [redacted] the documents were ultimately issued by Lloyds.

[redacted] said that Lloyds [redacted] prior to [redacted] that Lloyds' operations division, along with [redacted] and [redacted] were willing to grant operator's requests for more lenient standards when verifying their BOP equipment. [redacted] that an operator asked that the BOP pressures be held/tested for only five minutes versus ten minutes, and Lloyds' operations division granted this request. [redacted] that, prior to its acquisition by Lloyds, West would never lower its standards of verification if asked to do so by an operator because their independence as a third-party verifier would then be lost.

[redacted] where BOP equipment that was verified by [redacted] or [redacted] later failed in the field.

[redacted] that currently there are not any specific federal regulations that delineate minimum standards that must be followed by a third-party verification firm when verifying BOP equipment. Regulations only require that operators obtain an independent third-party verification of its BOP equipment from an engineering firm that has the proper licenses to perform the verification work. The firm must also provide a statement of qualifications identifying its expertise and experience to complete the verifications.

[redacted] Lloyds' current verification process is far inferior to the standards West had established. [redacted] Lloyds' current verification process supervisors/managers ([redacted] and [redacted] do not possess the necessary technical skills and experience

related to BOP equipment, (b) (7)(C) that Lloyds now lowers their verification standards in order to accommodate operators' requests. (b) (7)(C), these two factors have resulted in Lloyds' lack of independence, and failure to have the necessary expertise and experience needed to fulfill the regulatory requirements for an independent third-party verifier.

On February 10, 2016, we interviewed (b) (7)(C) **(Attachment 4)**. (b) (7)(C). He explained that West was in the drilling rig inspection business with its largest revenue stream stemming from its inspection of BOP equipment and systems. According to (b) (7)(C), had been performing BOP inspections for (b) (7)(C). Due to West's expertise and focus on BOP equipment, the company was known throughout industry as the premium BOP equipment inspection company.

After the Deepwater Horizon drilling rig exploded on April 20, 2010, West was highly sought after for its BOP expertise. (b) (7)(C) stated that, in fact, he was part of a team that worked with the government in assisting them in drafting the language for the regulation that would require an independent third party verification requirement for all BOPs in the Gulf of Mexico.

Once the verification regulation was promulgated, West reviewed their BOP equipment inspection checklist and determined which inspection items should be mandatory in order for West to issue a verification certificate. (b) (7)(C) explained that if BOP equipment they were inspecting failed one of the inspection items on West's mandatory checklist, West would refuse to issue a verification certificate. He said that most of the mandatory items on West's checklist were American Petroleum Institute (API) or manufacturer standards, but not all.

Following the government's issuance of the BOP verification regulation, West created a separate compliance group to track its verification process, which (b) (7)(C) that the purpose behind creating the compliance group was to have a separate "set of eyes" to oversee the verification process followed by its inspectors, which had a separate management chain than those providing non-verification BOP services.

According to (b) (7)(C) the verification regulation is very broad and does not define specific standards, processes or protocols that must be followed when verifying BOP equipment. Thus, each company that provides third-party verifications of BOP equipment is permitted to create its own processes and protocols. (b) (7)(C) that as long as the company is, according to the regulation, "a licensed professional engineering firm," the verification firm can follow any standards they wish in completing their verifications.

After Lloyds acquired West in April 2012, Lloyds initially allowed former West employees to carry on with their standard operations in verifying BOP equipment. (b) (7)(C) that West (b) (7)(C) (b) (7)(C) was (b) (7)(C) of the (b) (7)(C) (b) (7)(C), and another West (b) (7)(C), was assigned as the (b) (7)(C) of the (b) (7)(C) A Lloyds' (b) (7)(C) named (b) (7)(C), however, was assigned as the (b) (7)(C) for the (b) (7)(C) Additionally, (b) (7)(C) from (b) (7)(C) also continued working for Lloyds' drilling division following the acquisition.

(b) (7)(C) said that (b) (7)(C) eventually (b) (7)(C). Additionally, (b) (7)(C). According to (b) (7)(C) he

learned that after he and the other former West executives retired, Lloyds altered the way West conducted their verification processes by significantly lowering their standards of verifications.

(b) (7)(C) overall impression is that Lloyds' current verification processes and protocols are far inferior to the verification services West previously provided prior to their acquisition by Lloyds. He expounded that he could say "without a doubt" that Lloyds' rollout of new procedures after acquiring West was "horrible." He noted as an example how Lloyds rolled out new verification procedures, yet the technical staff were unfamiliar with the new procedures weeks after they were rolled out. In other words, the technical staff were not consulted about the procedures, nor were they adequately informed about those new processes, yet they were the experts performing the work in the field.

According to (b) (7)(C) he attempted to retain West's procedures and protocols while he remained as an (b) (7)(C) with Lloyds, yet he learned that Lloyds altered the reporting structure after he (b) (7)(C) which resulted in the technical personnel, who were the experts in the BOP equipment, reporting to operations personnel, who were not experts in BOP equipment.

(b) (7)(C) said that the verification regulation only requires that the company/firm be a licensed professional engineering firm, but does not require that a professional engineer (PE) actually sign a verification packet. He explained that therefore it is not "technically" required for a PE to sign a verification packet, yet West had always tried to ensure a PE would sign verification packets before it was acquired by Lloyds.

In order to highlight a flaw of the current verification regulation, (b) (7)(C) described a situation (b) (7)(C) (b) (7)(C) works on elevators and has no real hands on experience with BOP systems, yet (b) (7)(C) (b) (7)(C) by a third party BOP verification firm if the person who is hiring him does not personally have BOP system knowledge. Accordingly, an engineer with the credentials that meet the bare minimum of the regulation, could be hired to conduct the verification of a BOP system, yet the person does not possess the technical expertise to competently do so.

We interviewed (b) (7)(C), on February 10, 2016 **(Attachment 5)**. (b) (7)(C) (b) (7)(C). Similar to (b) (7)(C) that after the Deepwater Horizon drilling rig exploded the government promulgated regulations requiring BOP equipment/systems to be certified by an independent third-party verification firm. West conducted a very rigorous review of their BOP equipment checklist and created a shorter list of mandatory items that needed to be reviewed in order to meet the intent of the regulation. He said that if any of the mandatory items on the checklist were not working properly in a BOP system that West inspected, which could not be resolved, West would refuse to issue a verification certificate. (b) (7)(C) that West would not negotiate with a customer about their verification process unless the matter for negotiation concerned a trivial matter, such a "missing piece of paper," which West would still require prior to future verifications.

(b) (7)(C) that one way in which West ensured their verification processes and protocols met the intent of the verification regulation would be to ensure that all verification packets were reviewed and signed by a PE that understood exactly what they were reviewing and signing. (b) (7)(C) (b) (7)(C) a verification packet that (b) (7)(C) had any misgivings about "whatsoever." (b) (7)(C) one of their assessments (b) (7)(C)

(b) (7)(C), as the regulation is currently written, as long as the firm issuing the verification packet is a licensed professional engineering firm, anyone working for the firm can sign a verification packet. He explained that West did not have any attorneys on staff, yet they believed that a PE needed to sign the verification packets. He said that Lloyds' lawyers also agreed that this should be a requirement. Accordingly, when (b) (7)(C) (b) (7)(C) so that he could sign verification packets because they did not have another PE working for them that could sign the verifications. (b) (7)(C) said that (b) (7)(C) (b) (7)(C).

(b) (7)(C) that an engineer that had worked for West, and now works for Lloyds, named (b) (7)(C) had been working towards obtaining his PE during this time period and eventually became a PE. (b) (7)(C) described (b) (7)(C) as a solid technical "controls expert" who understood the responsibility of signing a verification packet.

(b) (7)(C), he had heard rumors that Lloyds' personnel were anxious for him to (b) (7)(C) He said that these rumors were apparently true because (b) (7)(C), he learned that Lloyds changed the signature requirement to allow for non-technical managers to override technical personnel and sign verification packets, even though the technical staff may have misgivings about a BOP system.

According to (b) (7)(C) West went beyond what the strictest reading of the regulation required in verifying the BOP systems they inspected. Lloyds, however, (b) (7)(C) (b) (7)(C), has lowered these verification standards to the bare minimum requirements under the law.

(b) (7)(C) that Lloyds hired (b) (7)(C) surrounding their verification processes; (b) (7)(C). Lloyds then hired (b) (7)(C) yet (b) (7)(C) has heard that (b) (7)(C) is not an (b) (7)(C). Therefore, even though (b) (7)(C) and can sign verification packets under Lloyds' protocols, he has to rely on the technical experts that are performing the work under him. (b) (7)(C) explained how this is a very different model than how West operated wherein the PEs and top executives were all BOP experts themselves. (b) (7)(C) said that he finds Lloyds' current model of having a non-BOP expert, (b) (7)(C), signing verification packets that he does not technically understand, unacceptable. (b) (7)(C) noted that this approach is probably legal by the letter of the law, but he personally would never sign a verification packet that he did not technically understand.

(b) (7)(C), he had heard of situations where a non-technical manager in Lloyds would sign a document that a technical engineer refused to sign because a "customer needed it," and Lloyds was in the business of "taking care of the customer." He believes that this type of customer "accommodation" is not living up to the intent/spirit of the law, which as he articulated before, was to ensure another Deepwater Horizon explosion does not happen again. (b) (7)(C) does not agree with such an approach.

(b) (7)(C) a situation where Lloyds (b) (7)(C) (because business was slow with that division), who had no BOP experience, in BOP systems and equipment in "a couple of weeks" so that the PE could start signing verification packets. (b) (7)(C) said that (b) (7)(C) Lloyds that it takes multiple years of working with BOP systems to gain the adequate experience necessary to understand their technical aspects and become a technical expert.

(b) (7)(C) bottom line observation of the transition from the BOP verification services provided by West

prior to their acquisition by Lloyds, to the verification services currently being provided by Lloyds, is that he believes the verification process has reverted to a business being run by accountants versus technical experts, and accountants are not capable of understanding the intent/spirit behind the verification regulation.

We reviewed Lloyds' BOP Stack Certifications and Shear Verification packets that were submitted to BSEE in support of 28 separate applications to drill new or sidetracked wells **(Attachment 6)**. The packets were issued by Lloyds during the date range of October 2014 through January 2016, and were issued in order to comply with 30 CFR 250.416.

A review of the BOP Stack Certification and Shear Verification packets identified that (b) (7)(C) (b) (7)(C). Following this date, all of the packets were signed by certified PEs (b) (7)(C), with the exception of the Shear Verification packet for the West Capricorn rig, Hopkins 2 well, which was issued by Lloyds on November 6, 2015 in support of BP Exploration & Production, Inc.'s Application for Sidetrack submitted to BSEE. This Shear Verification Packet was signed by (b) (7)(C) *(**Agent's Note**: Hoefler is not a PE, yet regulations do not require the packets to be signed by a PE)*.

We interviewed (b) (7)(C), Lloyds, on April 4, 2016 **(Attachment 7)**. (b) (7)(C). (b) (7)(C), West's background and expertise in BOPs put them into the position of being the preeminent firm to conduct the independent third party verifications that were mandated by the government after the Deepwater Horizon incident in 2010.

(b) (7)(C), initially, following Lloyds' acquisition of West in April 2012, business continued as usual for West until the West employees were moved into the same location as the other Lloyds employees. Following this move and the retirement of top West managers, including (b) (7)(C), Lloyds' managers started altering the way West had conducted their third party verifications by lowering the standards West had maintained in the past.

As an example of how Lloyds lowered the standards of the verifications that West had established, (b) (7)(C), where Lloyds' operations division overrode West's technical experts. He explained how, based upon their vast experience and technical knowledge, West had learned that pressure tests for BOPs should be conducted for ten minutes in order ensure there were no small leaks in the system that might not show themselves in a test that is only five minutes long. According to (b) (7)(C) however, API standards and BSEE requires only a five minute test. Based upon these minimum requirements, Lloyds' operations division decided to override West's technical personnel and concede to their customers' requests that they only conduct the BOP pressure test for five minutes.

(b) (7)(C), this minimum-requirement-approach has resulted in several "startup companies" entering the market for providing third party verifications, which have very little overhead (and expertise), but follow the minimum standards required in the regulations to issue the verifications. They offer to perform the verifications for less than Lloyds, and are slowly taking away Lloyds' share of the verification market. (b) (7)(C) how this situation could result in a situation where if something goes wrong with a BOP and a large incident occurs, the startup company may not have the financial resources to pay for the resulting damage.

(b) (7)(C) recent example of how low government standards regarding the third party verifications has resulted in unsafe circumstances. (b) (7)(C) Lloyds, through West's technical division, refused to sign off on a BOP "hop" from one well to another well without having the BOP taken out of the water for inspection. He explained that they were requiring this out-of-water inspection because they had learned through their many years of experience that BOPs could potentially be damaged by its previous use. The customer, however, protested to this requirement and sought a verification from another third party verification company, which provided the verification to the customer without ever having seen or inspected the BOP.

(b) (7)(C) West's standards for their verifications went "above and beyond," which was appreciated by their customers. He believes that the West technical staff were able to explain to their customers why their high standards for verifications were advantageous to the customer, including the lack of downtime with their equipment. In contrast, however, (b) (7)(C) operations division personnel of Lloyds are not technically competent to explain the work that is being performed to their customers. (b) (7)(C), if the customer cannot be told why they should prefer a higher level of service, they naturally will only want the minimum requirements that are necessary for them to obtain approval to operate in the Gulf.

(b) (7)(C) not aware of any instance where Lloyds made a false statement regarding a verification. (b) (7)(C) Lloyds has ever violated a federal regulation, but rather they have made the business decision to meet only the bare minimum requirements of the government, and not go above or beyond those requirements. (b) (7)(C) Lloyds' managers state that "unless it is a BSEE requirement, we're not going to do it."

(b) (7)(C) Lloyds' managers in charge of the verification process are technically incompetent. (b) (7)(C), Lloyds' current managers overseeing the verification process cannot "describe" the technical expertise, much less "define" the technical expertise. (b) (7)(C) that one PE that is signing BOP verifications on behalf of Lloyds, (b) (7)(C) does not understand the technical material in the documents (b) (7)(C).

On April 4, 2016, we interviewed (b) (7)(C), Lloyds. (b) (7)(C) (b) (7)(C) **(Attachment 8)**. He (b) (7)(C), West hired him because they wanted an (b) (7)(C) three BOP manufacturers (Cameron, Hydril and Shaffer). West (b) (7)(C) because he was a (b) (7)(C)

(b) (7)(C) that West approached their new obligation to satisfy the government regulations requiring an expert third party verification of BOPs very seriously, and therefore used their extensive experience and technical expertise to create a program that went far beyond the bare minimum regulatory requirements for verifying BOPs. He explained that West operated by applying very high standards to their verifications because they now viewed their obligation beyond simply satisfying a client, but rather they were now responsible for ensuring safety on behalf of the government. In other words, they took the most extensive measures they deemed necessary to ensure technical efficiency and safety. (b) (7)(C), West operated in this fashion until they were acquired by Lloyds in April 2012.

(b) (7)(C) who signed verifications on behalf of the company. (b) (7)(C) that it had always been a West policy that a PE would sign the third party BOP verifications and Lloyds continued this policy requirement, even though the BSEE

regulations do not require a PE's signature on the verifications. (b) (7)(C) that based upon the (b) (7)(C), Lloyds (b) (7)(C), and also requested (b) (7)(C) to become a PE. (b) (7)(C) decided to take the PE examination and became a PE in (b) (7)(C) 2015.

Similar to (b) (7)(C) that after (b) (7)(C) and Lloyds' operations division began overseeing the technical personnel, some clients of Lloyds start "pushing back" on West's policy of conducting pressure tests for BOPs for ten minutes. He explained how, based upon the minimum requirements under API standards and BSEE regulations, Lloyds' operations division decided to override West's technical personnel and concede to their customers' requests that they only conduct the BOP pressure test for five minutes. (b) (7)(C) to this approach and (b) (7)(C) any BOP verification that did not conduct a ten minute pressure test.

(b) (7)(C) on BOP verifications that conducted only five minute tests created a "big stink" with Lloyds' upper management. He said that Lloyds' management tried talking (b) (7)(C) with the five minute tests and even (b) (7)(C) so. In response, (b) (7)(C) that he told Lloyds that, based on his extensive experience and expertise in testing BOPs, he believed it to be absolutely necessary to conduct a ten minute pressure test in order to ensure the BOP did not have any small leaks, and therefore Lloyds would need to fire him before he signed a BOP verification that only conducted a five minute pressure test. (b) (7)(C), Lloyds (b) (7)(C) and (b) (7)(C), but (b) (7)(C).

(b) (7)(C) BOP verifications that conducted only a five minute pressure test became a difficult situation for Lloyds with respect to one particular customer, BP. (b) (7)(C) (b) (7)(C) the other PE for Lloyds, (b) (7)(C) Lloyds and (b) (7)(C) (b) (7)(C) that (b) (7)(C) obtained his PE based on an old provision in (b) (7)(C) wherein an applicant could obtain their PE license as long as they had (b) (7)(C) that under this provision, which was repealed in 1993, (b) (7)(C) that is now required in order to prove competence as a PE. In addition to learning why (b) (7)(C) and the fact that (b) (7)(C) never actually took and passed the (b) (7)(C) said that he has seen firsthand – in working with (b) (7)(C) – that (b) (7)(C) is not a competent (b) (7)(C).

Given the fact that (b) (7)(C), and thus is aware of his (b) (7)(C) instructed Lloyds that they would not accept any BOP verification that was signed by (b) (7)(C) This scenario resulted in Lloyds having to tell BP that they would need to conduct a ten minute pressure test on their BOPs because (b) (7)(C) that BP conducted their own research on the matter and came back to Lloyds and said that they (BP) agreed that a ten minute pressure test needed to be conducted in order to ensure the BOP's safe functioning.

(b) (7)(C) that he was not aware of any instance where Lloyds falsely represented a verification, or any other technical certification that they knew would be provided to the government. (b) (7)(C) (b) (7)(C) Lloyds has ever violated a federal regulation, but rather they have made the business decision to meet only the bare minimum requirements of the government, and to not go above or beyond those requirements.

(b) (7)(C) Lloyds' managers in charge of the verification process are technically

incompetent. (b) (7)(C), however, there are several non-manager, former West technical experts that do work for Lloyds that he trusts and knows to be competent. Thus, as long as (b) (7)(C) knows these technical experts performed the testing for a BOP verification, and (b) (7)(C) (b) (7)(C), he feels comfortable (b) (7)(C) Lloyds.

SUBJECT(S)

Lloyd's Register North America, Inc.
1330 Enclave Parkway, Suite 200
Houston, TX 77077

DISPOSITION

This investigative report will be provided to BSEE for administrative action as deemed appropriate. Additionally, a copy of this report will be provided to OIG's Energy Audit Unit for consideration in future planning.

ATTACHMENTS

1. Investigative Activity Report – (b) (7)(C), BSEE Complaint, undated
2. Investigative Activity Report – Interview of (b) (7)(C), dated February 1, 2016
3. Investigative Activity Report – Interview of (b) (7)(C), dated January 19, 2016
4. Investigative Activity Report – Interview of (b) (7)(C), dated February 10, 2016
5. Investigative Activity Report – Interview of (b) (7)(C), dated February 10, 2016
6. Investigative Activity Report – Review of Lloyd's Registry Energy Verification Packets submitted to BSEE, dated February 26, 2016
7. Investigative Activity Report – Interview of (b) (7)(C), dated April 4, 2016
8. Investigative Activity Report – Interview of (b) (7)(C), dated April 4, 2016

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
ABUSE OF POSITION - BOEM	**OI-GA-15-0522-I**
Reporting Office	**Report Date**
Atlanta, Georgia	**September 19, 2016**
Report Subject	
Report of Investigation	

SYNOPSIS

In June 2015, we initiated this investigation after receiving a complaint alleging that (b) (7)(C), (b) (7)(C), Bureau of Ocean Energy Management (BOEM), used her public office for private gain. Specifically, someone purporting to be an official with (b) (7)(C), alleged that (b) (7)(C) had been pressuring energy companies into hiring her husband's company to perform geological work for their firms. (b) (7)(C), the (b) (7)(C) and (b) (7)(C) former boss, allegedly knew about (b) (7)(C) misconduct, and he together with (b) (7)(C) created problems for companies who did not offer work to (b) (7)(C) husband.

Our investigation did not uncover any evidence to substantiate that (b) (7)(C) or (b) (7)(C) coerced energy companies into hiring (b) (7)(C) husband or his firm to perform work. We conducted interviews and reviewed numerous emails, and we did not find any information to sustain the allegations. We reached out to the individual named as the complainant (b) (7)(C), and he told us that he did not submit a complaint and he did not know anything about the allegations.

DETAILS OF INVESTIGATION

We initiated this investigation after receiving a hotline email complaint on May 21, 2015 (**Attachment 1**). The complainant, who claimed to be (b) (7)(C) (b) (7)(C) alleged that (b) (7)(C), Bureau of Ocean Energy Management (BOEM), pressured energy companies to hire her husband to handle their geological needs. The complainant alleged that from 2012 through 2014, (b) (7)(C) contacted his company via email, on a monthly basis, about offering work to her husband. The complainant also alleged that (b) (7)(C), the (b) (7)(C) and (b) (7)(C) boss at

Reporting Official/Title	Signature
(b) (7)(C) Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /SAC	Digitally signed.

Authentication Number: 642FE0D963C9C1B4F540DD2057B3FDD5

the time, was copied on the emails, and together they created problems for companies who did not offer work to (b) (7)(C) husband. The complainant said that (b) (7)(C) stopped pressuring the companies when (b) (7)(C) became the (b) (7)(C), and after (b) (7)(C) was dismissed, she assumed his position in an acting capacity and resumed her behavior.

We contacted (b) (7)(C) to schedule an interview, but he told us he did not submit a complaint and he did not know anything about the allegations (**Attachment 2**). We then contacted (b) (7)(C), BOEM's (b) (7)(C), and (b) (7)(C), BOEM's (b) (7)(C), because the complainant stated that they knew about the incidents and had additional information to support the allegations.

(b) (7)(C) and (b) (7)(C) told us that they heard of the coercing allegations from (b) (7)(C) who served as the (b) (7)(C) at BOEM from (b) (7)(C) 2014 to (b) (7)(C) 2015. (b) (7)(C) was (b) (7)(C) boss during his tenure. (**Attachments 3 and 4**). (b) (7)(C) said (b) (7)(C) told her that he had information to prove that (b) (7)(C) pressured LLOG Exploration Company and other energy companies into hiring her husband, (b) (7)(C). According to (b) (7)(C) attended several meet-and-greet events with energy companies during his tenure at BOEM. She said (b) (7)(C) told her that several companies complained about (b) (7)(C) during those events, but she did not know specific details of the information (b) (7)(C) possessed. (b) (7)(C) believed (b) (7)(C) had emails and other documents to support the allegations.

(b) (7)(C) said she did not know if (b) (7)(C) knew about (b) (7)(C) alleged coercing, and she was unaware if (b) (7)(C) or (b) (7)(C) retaliated against companies who did not offer work to (b) (7)(C). She also told us that she had never heard of (b) (7)(C)

(b) (7)(C) said (b) (7)(C) told her that (b) (7)(C) and (b) (7)(C) gave preferential treatment to energy companies who steered business to (b) (7)(C) company (see Attachment 4). According to (b) (7)(C) (b) (7)(C) told her that energy company representatives mentioned to him that they were happy that he ((b) (7)(C) was the (b) (7)(C) supervisor because of the preferential treatment issues they were having with (b) (7)(C) and (b) (7)(C). She told us that (b) (7)(C) sent her an email between January and April 2015 stating that an individual from LLOG Exploration Company was willing to report the issues to the Office of Inspector General. (b) (7)(C) said she did not remember the name of the individual from LLOG, and she deleted the email.

(b) (7)(C) explained that when (b) (7)(C) was later (b) (7)(C) 2015, she was (b) (7)(C) to his (b) (7)(C) said that (b) (7)(C) at the time, (b) (7)(C) her from the position (b) (7)(C). She said that (b) (7)(C) has since launched an investigation against her (b) (7)(C) stated that she felt targeted and afraid, so she deleted all of the emails she received from (b) (7)(C)

***Agent's Note**: According to (b) (7)(C) Employee and Labor Relations, Bureau of Safety and Environmental Enforcement (BSEE), (b) (7)(C) (b) (7)(C) (**Attachment 5**). He (b) (7)(C) with the Merit Systems Protection Board on (b) (7)(C) with BOEM where he (b) (7)(C) (b) (7)(C).*

(b) (7)(C) told us that (b) (7)(C) had revealed more energy companies that had similar issues with (b) (7)(C) but LLOG was the only company that she remembered. She said she knew (b) (7)(C) worked in the oil industry, but she did not know which company he worked for. She was not sure if (b) (7)(C) was the

name mentioned in the deleted email. She said she did not know if any energy companies actually hired (b) (7)(C), and she did not know of any energy companies who surrendered to (b) (7)(C) alleged pressure.

We made several attempts to interview (b) (7)(C) but he was uncooperative.

We reviewed (b) (7)(C) Government emails from (b) (7)(C) 2012, to (b) (7)(C) 2014, with an emphasis on discussions between (b) (7)(C) and energy companies in reference to geological needs (**Attachment 6**). We did not find any emails that were relevant to our investigation.

We also requested (b) (7)(C) and (b) (7)(C) Government emails from (b) (7)(C) 2014, to (b) (7)(C) 2015 ((b) (7)(C) tenure at BOEM). Based on our review, we did not find any emails that were pertinent to the allegations (**Attachment 7**).

We interviewed (b) (7)(C) who said that (b) (7)(C) BOEM, she very rarely interacted with energy companies (**Attachment 8**). She told us that her husband, (b) (7)(C) was employed as a geologist with the company (b) (7)(C) According to (b) (7)(C) energy companies hired (b) (7)(C) said that (b) (7)(C) for her husband to analyze. He, in turn, assessed how quickly he thought the oil would flow out of the ground so that the oil/gas companies could decide whether to plug the well.

(b) (7)(C) said that her husband was the (b) (7)(C). She said that there was one other competitor in (b) (7)(C) (she could not remember the company's name), and energy companies used both firms depending on the services they needed, and which company was closer to where the well was drilled. She said that her husband might have done work for (b) (7)(C) (b) (7)(C) and probably every oil and gas company at some point, but she did not know when the work was performed for any specific company because her husband did not discuss the details of his job with her.

When asked, (b) (7)(C) said that she did not have any influence or involvement in any energy companies hiring (b) (7)(C) to perform work, and she never pressured anyone to hire her husband. She stated that he was a geologist in the industry before she was even employed at BOEM, he was considered one of the best in his field, and he established his clients before she had even met him. (b) (7)(C) added that her husband's assignments were not regulated or inspected by BOEM, and there were no situations where she needed to recuse herself from issues pertaining to her husband.

(b) (7)(C) said that he served as the (b) (7)(C) at BOEM from 2011 to 2014 (**Attachment 9**). He told us that he selected (b) (7)(C) as his (b) (7)(C) in 2011. During that time, he (b) (7)(C) (b) (7)(C) said that interactions with oil and gas companies were generally between (b) (7)(C) and (b) (7)(C) subordinates, but he occasionally received calls from energy companies regarding issues.

(b) (7)(C) said he did not know much about (b) (7)(C), but he knew that they examined samples of rocks to determine whether there were potential hydrocarbon properties in the rocks. (b) (7)(C) stated that he knew (b) (7)(C), but he did not know his position with the company.

(b) (7)(C) told us that (b) (7)(C) was a highly specialized analyst who examined rock samples and

reported the features of the samples to oil companies. (b) (7)(C) said he did not know if the oil companies dealt directly with (b) (7)(C) or whether work assignments were generated by (b) (7)(C) (b) (7)(C) also stated that he did not know any of (b) (7)(C) customers.

(b) (7)(C) said he had no knowledge of (b) (7)(C) ever using her authority as a Government official to pressure energy companies into employing her husband, and he did not have any influence or involvement that resulted in (b) (7)(C) being hired by oil and gas companies.

We interviewed (b) (7)(C) the (b) (7)(C) and (b) (7)(C) supervisor since (b) (7)(C) 2015 (**Attachment 10**). (b) (7)(C) said he believed that (b) (7)(C) worked for either a service company or an oil company. He said that (b) (7)(C) incidentally mentioned that her husband had to go offshore for work sometimes, but he was not certain which company he worked for.

(b) (7)(C) told us that it was normal to have individuals working for BOEM while their spouses worked for the industry that BOEM regulated. (b) (7)(C) said there were certain actions or approvals that those employees were not allowed to be involved in, but he did not know if the circumstances pertained to (b) (7)(C) situation. (b) (7)(C) said he was unaware of (b) (7)(C) using her authority as a Government official to pressure energy companies into hiring her husband.

SUBJECT(S)

(b) (7)(C), BOEM, New Orleans, LA.

(b) (7)(C), BOEM, New Orleans, LA.

DISPOSITION

We are providing a copy of this report to the Director of BOEM for information only.

ATTACHMENTS

1. Copy of an email complaint, dated May 21, 2015.
2. IAR – Telephone conversation with (b) (7)(C) on October 13, 2015.
3. IAR – Interview of (b) (7)(C) on December 1, 2015.
4. IAR – Interview of (b) (7)(C) on December 10, 2015.
5. IAR – Email from (b) (7)(C) on September 14, 2016.
6. IAR – Review of (b) (7)(C) Government emails, dated January 25, 2016.
7. IAR – Review of (b) (7)(C) and (b) (7)(C) Government emails, dated May 31, 2016.
8. IAR – Interview of (b) (7)(C) on June 23, 2016.
9. IAR – Interview of (b) (7)(C) on June 23, 2016.
10. IAR – Interview of (b) (7)(C) on June 24, 2016.

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
BIA EBCI Trust Land Conflict of Interest	**OI-GA-14-0641-I**
Reporting Office	**Report Date**
Atlanta Field Office	**January 19, 2016**
Report Subject	
Report of Investigation	

SYNOPSIS

The U.S. Department of the Interior (DOI), Office of Inspector General (OIG), initiated an investigation involving (b) (7)(C), Deputy Superintendent, Bureau of Indian Affairs (BIA), Cherokee Agency, regarding potential Misuse of Position and Conflict of Interest. This case was initiated based on an anonymous complaint which alleged that (b) (7)(C) had been using her position as the Deputy Superintendent to purchase property rights of land in Indian Trust. Specifically, the complaint alleged (b) (7)(C) delayed transactions when a buyer and seller came into her office to consummate the sale of property rights, so that she could then offer more money if the owner sold the rights to her. The complaint also alleged that (b) (7)(C) was conspiring with friends and family to act as straw-purchasers for properties she had negotiated misusing her government position.

This investigation determined through a review of records and interviews that the allegations against (b) (7)(C) were unsubstantiated.

However, through our investigation we determined that (b) (7)(C) had failed to obtain prior approval for land transactions conducted on her own behalf, which violated BIA policy concerning completion of "Conflict of Interest Waiver for Trust Real Estate Transactions."

This investigation also revealed that employees of Agencies in the Eastern Region of the BIA were not aware of the requirements for land transactions conducted on behalf of current BIA employees.

BACKGROUND

The Code of Federal Regulations (5 C.F.R. § 3501.105), requires all Bureau of Indian Affairs employees to seek prior written approval from ethics counselor via a conflict of interest waiver before

Reporting Official/Title	Signature
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Approving Official/Title	Signature
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engaging with a prohibited source, as the tribes are considered a prohibited source. Further, a Memorandum, from Regional Ethics Officer addresses the requirement of Conflict of Interest Waivers, specifically for land transactions under form BAO-1000 **(Attachments 1 and 2)**.

DETAILS OF INVESTIGATION

The U.S. Department of the Interior (DOI), Office of Inspector General (OIG), initiated an investigation on (b) (7)(C), Deputy Superintendent, Bureau of Indian Affairs (BIA), Cherokee Agency, regarding potential Misuse of Position and Conflict of Interest involving Indian Trust Lands **(Attachment 3)**. A review of land holdings by (b) (7)(C) revealed numerous land transactions (purchases and sales) of Indian Trust Land on her behalf. Several of those land transactions occurred after she became employed as Deputy Superintendent in 2010.

A review of the land transaction records revealed that the transactions had received Tribal Business Committee approval prior to finalization and had been vetted through appropriate Tribal processes (committee review, public notice, etc.). Further review of records reflected (b) (7)(C) obtaining property rights in accordance with her Tribal privileges and not as her position as the Deputy Superintendent (**Attachment 4**).

An interview of (b) (7)(C), BIA (b) (7)(C), revealed that any BIA employee who purchases or sells trust land must file a "Conflict of Interest Waiver for Trust Real Estate Transactions" with his office **(Attachment 5**). Further, (b) (7)(C) said that all employees receive this information during their ethics briefing. (b) (7)(C) said that no "Conflict of Interest Waiver for Trust Real Estate Transactions" existed for (b) (7)(C) or any other employee at BIA Cherokee Agency. (b) (7)(C) also provided documentation that (b) (7)(C) had received Ethics Training in 2011. (b) (7)(C) did not provide documentation of material covered during ethics training, but affirmed that he did cover conflict of interest waivers during those training sessions **(Attachment 6).**

An interview of (b) (7)(C) confirmed that she had conducted numerous land transactions of Indian Trust Land on her own behalf **(Attachment 7)**. However, (b) (7)(C) told us that the transactions were approved through the Tribal Business Committee and she had followed all tribal requirements. She said she was not aware of the "Conflict of Interest Waiver for Trust Real Estate Transactions" for BIA employees until June 2015. (b) (7)(C) explained that she learned of the waiver through (b) (7)(C) (b) (7)(C) who was serving as an (b) (7)(C) for the Cherokee Agency during that period. (b) (7)(C) also could not confirm who the current Ethics Officer for BIA Cherokee Agency was.

An interview of (b) (7)(C), and (b) (7)(C), all Realty Specialists of the Cherokee Agency, confirmed that they were not aware of "Conflict of Interest Waiver for Trust Real Estate Transactions" for BIA employees until June 2015 and also confirmed statements made by (b) (7)(C) **(Attachments 8, 9 and 10)**.

An interview of (b) (7)(C) revealed that she was unaware of the "Conflict of Interest Waiver for Trust Real Estate Transactions" for BIA employees. She also could not confirm who the current Ethics Officer for BIA Cherokee Agency was **(Attachment 11).**

Interviews of Cherokee Realty Specialists and of (b) (7)(C) did not substantiate the allegation that (b) (7)(C) delayed transactions when a buyer and seller came into her office to consummate the sale of property rights, so that she could then offer more money to the property owner

to purchase the property rights herself. No one in the realty office could recall any specific instance or circumstance when this occurred.

Interviews of Cherokee Realty Specialists and of (b) (7)(C) did not substantiate the allegation that (b) (7)(C) conspired with friends and family to act as straw-purchasers for properties she had negotiated as no one interviewed could provide names of family members or instances that (b) (7)(C) acted on someone else's behalf.

An interview of (b) (7)(C) Choctaw Agency (Eastern Region BIA), revealed that she was unaware of the "Conflict of Interest Waiver for Trust Real Estate Transactions" for BIA employees, but has received Ethics Training from (b) (7)(C) **(Attachment 12).**

An interview of (b) (7)(C) Choctaw Agency (Eastern Region BIA), revealed that he was unaware of the "Conflict of Interest Waiver for Trust Real Estate Transactions" for BIA employees **(Attachment 13).**

This investigation revealed that (b) (7)(C) had not completed the necessary "Conflict of Interest Waivers for Trust Real Estate Transactions" prior to conducting land transactions on her behalf as required by BIA policy for BIA employees. This investigation further revealed that Agencies in the Southeast Region of the BIA were unaware of the "Conflict of Interest Waivers for Trust Real Estate Transactions" and the need to submit them prior to conducting land transactions for BIA employees.

SUBJECT(S)

(b) (7)(C) Deputy Superintendent, Bureau of Indian Affairs, Cherokee Agency

DISPOSITION

Given the lack of intent by (b) (7)(C) the U.S. Attorney's Office in the Western District of North Carolina declined to pursue federal criminal charges in this investigation.

We are referring this investigation to BIA for any action deemed appropriate.

ATTACHMENTS

1. Conflict of Interest Waiver Notification and Revised Form 2006
2. COI Real Estate Form
3. Investigative Activity Report (IAR) – Titled – IAR Investigative Plan Oct 27, dated October 27, 2014
4. IAR – Titled – IAR Land Records Document Review (b) (7)(C) Feb 5, dated February 5, 2015.
5. IAR – Titled – Phone Interview with (b) (7)(C) BIA (b) (7)(C), dated December 3, 2014
6. IAR – Titled – IAR (b) (7)(C) Phone Interview and Emailed Documents, dated February 3, 2015
7. IAR - Titled – Interview of (b) (7)(C), dated October 29, 2015
8. IAR - Titled – Interview of (b) (7)(C), dated October 29, 2015
9. IAR - Titled – Interview of (b) (7)(C), dated October 29, 2015
10. IAR - Titled – Interview of (b) (7)(C), dated October 29, 2015

11. IAR – Titles – Interview of [redacted], dated May 5, 2015
12. IAR – Titled – Interview of [redacted], dated January 19, 2016
13. IAR - Titled – Interview of [redacted], dated January 19, 2016

OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

REPORT OF INVESTIGATION

Case Title	Case Number
BRIBES TO KENTUCKY STATE MINE INSPECTOR	**OI-VA-13-0485-I**
Reporting Office	**Report Date**
Herndon, VA	**June 27, 2016**
Report Subject	
Report of Investigation	

SYNOPSIS

The U.S. Department of the Interior, Office of Inspector General (OIG), initiated this investigation at the request of the Director of the Office of Surface Mining Reclamation and Enforcement, and in response to a news article published by the (b) (7)(C) regarding a Kentucky State OIG investigation into allegations of bribery involving Keith Hall, a former Kentucky State Representative, and Kelly Shortridge, a former Kentucky Division of Mine Reclamation and Enforcement Environmental Inspector. We conducted this investigation jointly with the Federal Bureau of Investigation and the U.S. Attorney's Office in the Eastern District of Kentucky.

We found that Hall paid Shortridge money in return for overlooking mining violations during his inspections of mines owned by, or associated with, Hall from 2009 through 2011. To conceal the bribes, Shortridge established DKJ Consulting, LLC, with the assistance of Hall's secretary for the express purpose of transferring money from Hall to Shortridge. Hall reported the bribery payments to Shortridge as consulting fees even though Shortridge never performed any consulting work for Hall. Between 2009 and 2010, Hall directly, or through associates, made $46,000 in payments to Shortridge. Shortridge admitted to overlooking violations on Hall's mine sites in exchange for the payments.

The investigation also revealed that Shortridge established a bank account in the name of Millard Little League to further conceal bribery payments from other entities. Although Shortridge was associated with the little league organization years earlier, he held no current affiliation, and this bank account was not associated with the actual Millard Little League. Between 2009 and 2013, Shortridge solicited and accepted approximately $15,000 purportedly for the Millard Little League from various coal companies and businesses. Shortridge admitted that he used this money for his own personal use, and not for the actual Millard Little League.

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(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /ASAC	Digitally signed.

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On November 20, 2014, Hall and Shortridge were both indicted in U.S. District Court on bribery charges, and Shortridge was also indicted on charges of false statements and extortion. Shortridge pled guilty to bribery and was sentenced to 2 years in prison, 3 years of supervised released, and fined $2,000. At the conclusion of a Federal trial, Hall was convicted of bribery and was sentenced to 7 years in prison, 2 years of supervised release, and fined $25,000.

The DOI Suspension and Debarment Official debarred Shortridge and Hall from doing business with the Federal Government until 2019.

DETAILS OF INVESTIGATION

In August 2013, the U.S. Department of the Interior (DOI) Office of Inspector General (OIG) initiated this investigation at the request of (b) (7)(C), the Director of the Office of Surface Mining Reclamation and Enforcement (OSMRE). (b) (7)(C) notified the OIG of a news article published by the (b) (7)(C), which reported that the Kentucky State OIG investigated bribery allegations involving former State Representative Keith Hall and former Division of Mine Reclamation and Enforcement (DMRE) Environmental Inspector Kelly Shortridge. Concurrently, the FBI Lexington Office had also initiated an investigation looking into the bribery allegations. Our office worked this case jointly with the FBI and the U.S. Attorney's Office in the Eastern District of Kentucky.

The Kentucky State OIG initiated its investigation when [redacted] contacted the DMRE and complained that (b) (7)(C) was soliciting money from him. [redacted] reportedly told the DMRE that he had already given a "small fortune" to (b) (7)(C) for the Millard Little League, although (b) (7)(C) did not have any children involved in the league. A copy of the Kentucky State OIG report and attachments were obtained and reviewed. The Kentucky State OIG interviewed (b) (7)(C) twice, but [redacted] declined to be interviewed. Subsequently, the Office of the Attorney General, Department of Criminal Investigations, also interviewed (b) (7)(C) regarding the allegation, but [redacted] declined this interview request as well.

We determined that Federal grant funds were awarded through OSMRE to the Kentucky Energy and Environment Cabinet from 2008 through 2013, and were then dispersed to DMRE to operate the State mine regulatory program. OSMRE also provided oversight and conducted joint inspections along with State inspectors.

During our investigation, the FBI (b) (7)(C) held by (b) (7)(C) and [redacted] which (b) (7)(C) and (b) (7)(C) to DKJ Consulting, LLC. A review of the Kentucky Secretary of State database indicated that DKJ Consulting, LLC was established on March 25, 2010, and that (b) (7)(C), was listed as the registered agent on the company. The registered address was (b) (7)(C) residence, located at (b) (7)(C). The company was dissolved on September 11, 2012. We found no evidence that (b) (7)(C) provided [redacted] with any legitimate consulting services.

The FBI's review of financial documents revealed that (b) (7)(C); and (b) (7)(C) made payments totaling $46,000 to Shortridge. This included checks issued to (b) (7)(C); and DJK Consulting, LLC, as well as payments made toward loans held by (b) (7)(C) The review also identified numerous cash payments deposited by (b) (7)(C)

Additionally, we discovered that Shortridge opened a checking account in the name of Millard Little

League. We found that several coal companies and other businesses issued numerous checks to the Millard Little League totaling approximately $16,000, even though (b) (7)(C) was not affiliated with the little league at that time and he was not authorized to accept donations on its behalf. (b) (7)(C) told us that he used the Millard Little League donations (b) (7)(C) (b) (7)(C).

(b) (7)(C) also failed to disclose any of the payments received under DKJ Consulting, LLC or in the name of the Millard Little League during any of his (b) (7)(C), as required by the DOI through the DMRE.

We conducted a comparison of business registration data filed with the State of Kentucky for permit holders and companies that issued payments to the league. The review identified three companies that made payments to (b) (7)(C) for which he was responsible for inspecting permits. Additionally, the review revealed that six of the companies that provided payments to (b) (7)(C) for the Millard Little League had identical associates, such as officers, presidents, directors, in common with mine permit holders that (b) (7)(C) was responsible for inspecting.

We obtained, reviewed, and analyzed numerous inspection and enforcement records from the DMRE and determined that (b) (7)(C) was the (b) (7)(C) associated with (b) (7)(C) between April 2009 and August 2011, under (b) (7)(C) and (b) (7)(C)

During the time that (b) (7)(C) was the (b) (7)(C) of these four mine sites associated with (b) (7)(C) a total of four Notices of Non-Compliance (NNC) and one Cessation Order (CO) were issued. Prior to and/or following (b) (7)(C) being assigned, a total of 23 NNCs and 5 COs were issued. During the identified time period that (b) (7)(C) received payments from (b) (7)(C) September 2009 through December 2010, (b) (7)(C) issued just one NNC. The NNC was issued in August 2010 for an off-permit disturbance, resulting from a complaint.

Once payments ceased from (b) (7)(C) (b) (7)(C) issued three NNCs and one CO between April 2011 and August 2011 on permit (b) (7)(C) held by (b) (7)(C) We discovered that the NNC issued in April 2011 stemmed from (b) (7)(C), initiating a multi-day inspection due to concerns that violations were not being cited. The CO and NNCs issued in July and August 2011 related to a "flyrock" incident (rock cast, striking a public residence) in which a DOI OSMRE inspector conducted an on-site inspection. In August 2011, a mandatory rotation order was implemented for inspectors, and (b) (7)(C) was taken off (b) (7)(C) mine sites.

A review of DMRE personnel files revealed past performance issues involving (b) (7)(C) In (b) (7)(C) (b) (7)(C) (b) (7)(C), from (b) (7)(C) was subsequently put on a (b) (7)(C) (b) (7)(C). Immediately following being taken off of (b) (7)(C) mines, (b) (7)(C) (b) (7)(C)

We determined through witness interviews, email correspondence, and documentary evidence that (b) (7)(C) and (b) (7)(C) had a personal relationship. We also found that (b) (7)(C) copied (b) (7)(C) on internal DMRE email communication between (b) (7)(C) and his management.

During his interview with the OIG and the FBI, [redacted] DKJ Consulting, LLC or receiving any payments from [redacted] However, the U.S. Attorney's Office conducted several [redacted], with his attorney present, and eventually Shortridge admitted to accepting bribery payments from Hall and [redacted] in exchange for overlooking violations on Hall's mine sites. Shortridge also admitted to soliciting and accepting check payments and cash payments for the Millard Little League and using those collected monies for his own personal use.

We questioned [redacted] about [redacted], and he admitted to receiving [redacted] from another coal mine company, but he denied any correlation between other dates of inspections and the [redacted].

In March 2009, 2 weeks before [redacted] became assigned to inspect [redacted] mine sites, [redacted], containing [redacted] bank account information. [redacted] explained that he [redacted], and [redacted] wanted him to warn him about violations, not cite violations, and be able to mine without any problems. We found that [redacted] knew the money was to influence his judgement as an inspector.

[redacted] submitted his resignation to DMRE during the midst of the investigation, effective [redacted] 2014.

[redacted] declined to be interviewed at any time during the investigation.

The OIG and the FBI conducted numerous interviews throughout the investigation, including current and former State personnel, Federal Government employees, and various associates and relatives of Hall and Shortridge.

We created a timeline of events to demonstrate the collusion between Hall and Shortridge, which captured relevant dates, payments, inspections, and DMRE personnel actions.

SUBJECTS

Kelly Shortridge, Former DMRE Environmental Inspector

Wendell Keith Hall, Former State Representative, Pikeville County, Kentucky

DISPOSITION

On November 20, 2014, Hall and Shortridge were both indicted on charges of 18 U.S.C. § 666 (Theft or bribery concerning programs receiving Federal funds). Shortridge was also indicted on charges of 18 U.S.C. § 1001 (False Statements) and 18 U.S.C. § 1951 (Interference with commerce by threats or violence).

On March 18, 2015, Shortridge accepted a plea agreement and pled guilty to bribery, and on June 26, 2015, a Federal jury convicted Hall of bribery.
On January 21, 2016, Shortridge was sentenced to 2 years of prison as well as an additional 3 years of

supervised released (6 months of which was home confinement), and was fined $2,000. Additionally, the DOI Suspension and Debarment Official issued a Default Debarment Determination to Shortridge debarring him from doing business with the Federal government until February 2019.

On March 24, 2016, Hall was sentenced to 7 years of prison, plus 2 additional years of supervised release. He was also fined $25,000. The DOI Suspension and Debarment Official issued a Debarment Determination to Hall and his business, Beech Creek Coal Company, debarring him from doing business with the Federal government until 2019.

OFFICE OF INSPECTOR
U.S. DEPARTMENT OF

REPORT OF INVESTIGATION

Case Title	Case Number
White Construction Group – Carlsbad Caverns National Park Elevator Project	**OI-NM-12-0512-I**
Reporting Office	**Report Date**
Albuquerque, NM	**May 8, 2015**
Report Subject	
Report of Investigation	

SYNOPSIS

On July 12, 2012, we initiated an investigation of a complaint from a (b) (7)(C) (b) (7)(C) about potential waste and fraud related to a construction project at the park in Carlsbad, NM. In summer 2010, the National Park Service (NPS) had contracted with White Construction Group (WCG) to repair elevators at the park's visitor center, using American Recovery and Reinvestment Act (ARRA) funds. The complainant alleged that NPS contracting officials mismanaged the project, failing to provide oversight and quality control, which led to price increases, project delays, unsafe construction practices, and faulty workmanship. The complainant also alleged an improper relationship between an NPS contracting official and the WCG (b) (7)(C), resulting in project issue cover-ups.

We determined that Government contracting officials properly awarded the contract to WCG, but did not provide adequate construction management oversight. We found no evidence of an improper relationship between NPS and WCG officials or misconduct by contracting officials.

Our investigation did reveal that WCG performed poorly on the contract. Substandard performance resulted in misaligned elevator guide rails, improper disposal of 152 lead paint-coated steel beams, and improper removal of lead paint and application of new protective coatings within the shaft. WCG's substandard performance also resulted in improper modification of elevator roller guides and failure to maintain adequate health and safety quality assurance during paint touchup work that resulted in a chemical fume incident at the worksite. NPS contracting officials issued letters of rejection when WCG's work proved unacceptable.

We also uncovered additional issues. First, we learned of a personal relationship between an NPS employee and a subcontractor. Second, we investigated but did not substantiate an allegation of a post-

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employment ethics violation by a former NPS employee working for the contractor that (b) (7)(C) the elevator repair project on behalf of NPS.

BACKGROUND

In May 2010, the National Park Service (NPS) awarded $3,656,644 in American Recovery and Reinvestment Act (ARRA) funds for contract No. 1443C2011101095 to White Construction Group (WCG). The contract was for structural steel repair and lead-paint abatement (the elimination of lead-based paint hazards) inside a 750-foot elevator shaft at the Carlsbad Caverns National Park visitor center in New Mexico (**Attachments 1 and 2**). WCG hired subcontractors to remove deteriorating steel beams in the elevator shaft, install new replacement beams, perform lead-paint abatement, and apply corrosion-resistant coating on structural components. The contract required WCG to remove lead paint from the beams taken from the shaft before recycling them. WCG also had to protect, in place, the elevator components not scheduled for replacement and restore the elevator to full operation. The project began in summer 2010, and was completed on July 9, 2013.

On December 13, 2012, WCG filed a civil action against NPS to request equitable adjustment and certified claims through the Civil Board of Contract Appeals (CBCA), claiming that NPS exceeded the contract's scope by failing to specify the method for removing and reinstalling the steel beams, a failure that led to misalignment of the elevator guide rails. WCG claimed that the additional repair and associated costs, as well as the time extension required for the rail alignment, should be charged under the contract, at an additional cost of almost $1.5 million. On July 25, 2013, NPS and WCG settled for $1 million, which resolved the liquidated damages WCG claimed to have incurred. On September 10, 2013, the CBCA judge signed a court order to dismiss WCG's appeal (**Attachments 3 through 5**).

DETAILS OF INVESTIGATION

On July 12, 2012, (b) (7)(C) contacted the U.S. Department of the Interior (DOI) Office of Inspector General (OIG) with allegations of contract mismanagement, poor oversight, and waste related to an elevator repair project at the park's visitor center. (b) (7)(C) alleged that NPS contracting officials failed to employ expert Government construction inspectors to monitor the contract awarded to WCG, and therefore mismanaged the contract. This mismanagement led to contract price increases, project delays, and faulty workmanship. (b) (7)(C) also alleged an improper relationship existed between an unidentified NPS contracting official and (b) (7)(C), WCG's (b) (7)(C) (**Attachments 6 and 7**).

Contract File Reviews

Using ARRA funds, the NPS Denver Service Center (DSC) awarded contract No. 1443C2011101095 to WCG on May 13, 2010, for elevator system maintenance at the Carlsbad Caverns National Park. DSC contracting officials had received and considered three bid proposals from commercial contractors, one of whom protested the award. Upon review, NPS affirmed the award on June 25, 2010, and issued a notice to proceed as approval for WCG to begin work on September 10, 2010 (**Attachment 8,** and see Attachment 1).

The project specifications outlined contractor responsibility for replacing deteriorating, lead paint-coated steel beams, as well as repairing and recoating selected steel angles and attachments, for visitor center elevators 3 and 4, and restoring both elevators and associated equipment to full working order. Elevators and equipment not scheduled for replacement would be protected for the duration of the work. The

contract also noted that the presence or absence of a Government inspector did not alleviate the contractor's responsibility to perform the work to specifications (see Attachment 2).

The contract file indicated that DSC contracting officials approved 15 contract modifications from August 30, 2010, to August 24, 2012, for reasons ranging from an extension of the performance period and changes in scope to a request for reimbursement of costs that WCG claimed to have incurred due to unforeseeable weather and site conditions. By the end of the contract, DSC had approved 18 modifications. WCG completed the project on July 9, 2013 (see Attachment 8).

On August 9, 2010, DSC awarded a separate contract to H.H. Henningson, Durham, and Richardson, Inc. (HDR) for construction oversight, with the expectation that HDR would serve as the construction management representative, providing offsite and onsite inspections, as well as oversight of contract administration. Various HDR representatives submitted daily progress reports from September 2010 to October 2011, which included details of weather conditions, equipment, subcontractors, and work status. Whether HDR provided construction management services throughout the entire project was unclear. DSC also awarded a contract to Jacobs Engineering (Jacobs) on May 25, 2010, for an experienced construction (b) (7)(C) Jacobs assigned (b) (7)(C) to the job for the duration of the contract (**Attachments 9 and 10**).

Alleged Contract Mismanagement

Our investigation revealed several weaknesses in contract management associated with the elevator repair project. Specifically, over the duration of the WCG contract, DSC designated multiple contracting officials, HDR provided multiple inspectors with varying accountability and inspection quality, an NPS employee performed oversight work she was not qualified to do, and contractors provided inadequate health and safety quality assurance.

Multiple Contracting Officials

Due to personnel transfers, reassignments, and a retirement, eight DSC officials were assigned to the elevator project team during the 3-year contract performance period (see Attachments 6 through 8):

- Contracting Officer (b) (7)(C) served as the project's contracting officer until his transfer to (b) (7)(C), in (b) (7)(C) 2012 (**Attachment 11**).
- After (b) (7)(C) was transferred, (b) (7)(C) and former contracting official (b) (7)(C) temporarily served as contracting officers, until (b) (7)(C) (b) (7)(C) was assigned to the role in December 2012, continuing until the project's completion. (b) (7)(C) also noted that she briefly served as the contracting officer during the pre-award phase, prior to (b) (7)(C) assignment (**Attachments 12 and 13**).
- (b) (7)(C) served as project manager until his NPS retirement in (b) (7)(C) 2011, at which time (b) (7)(C) (b) (7)(C) assumed (b) (7)(C) duties until the project's completion (**Attachment 14**). When (b) (7)(C) took over as (b) (7)(C) the job moved from design to construction and was about 50 percent complete.
- Project (b) (7)(C) served as the contracting officer's (b) (7)(C) representative for the entire project (**Attachment 15**).
- Contract (b) (7)(C) served as (b) (7)(C) for the entire project (**Attachment 16**).

These contracting officials reported various levels of involvement from the pre-award to the execution phase of the project. (b) (7)(C) noted that DSC's high employee turnover left NPS with understaffed project teams during the WCG contract work.

According to (b) (7)(C) park maintenance staff believed that DSC contracting officials did not have the park's best interest in mind from the project's start. He said that maintenance staff challenged WCG's decisions and work products, expecting DSC to end the contract, which was a misunderstanding of DSC's administrative role. [redacted] said that the project was not a typical DSC-administered contract and noted that considering all the issues, it was the worst project she had ever worked on (see Attachments 12 and 14).

Despite DSC assigning four contracting officers to oversee the elevator project, (b) (7)(C) described (b) (7)(C) as an effective contracting officer who prepared three letters of rejection for unacceptable work by WCG. (b) (7)(C) recalled that (b) (7)(C) rejected WCG's work in December 2011, because the elevator system failed to operate properly (**Attachment 17**). (b) (7)(C) had also issued rejection letters when WCG damaged the elevator governor ropes and failed to keep the roller guides from deflating. (b) (7)(C) required WCG to provide an acceptable corrective action plan for the identified failures. [redacted] also confirmed (b) (7)(C) "due diligence" when enforcing the contract through letters of rejection for unacceptable work by WCG, such as poor lead paint abatement and coatings applications inside the shaft, inappropriate alteration of elevator roller guides, and the July 2012 paint fumes incident (**Attachment 18**). She noted that (b) (7)(C) also notified WCG's surety bond company about the unacceptable workmanship and sent HDR a notice about their unacceptable work.

(b) (7)(C) told us that the WCG personnel changes presented a challenge in keeping the contract moving forward (**Attachment 19**). (b) (7)(C) noted that DSC's assignment of different contracting officers undermined project oversight for several reasons (**Attachment 20**), namely—

- overseeing a project from the DSC office in Lakewood, CO, several hundred miles away, was problematic;
- DSC management changed personnel during the construction, affecting the contract administration continuity; and
- NPS depleted its funds for onsite inspectors several months into the contract, leaving few inspectors who performed daily WCG site inspections.

Although (b) (7)(C) said he did not believe that DSC personnel had done anything wrong legally or civilly, he opined that DSC made some misjudgments and honest mistakes that led to poor contract administration. He also believed that [redacted] did her best but felt that on occasion, engineers, experts, and consultants pressured her. (b) (7)(C) noted, however, that contracting officials had taken corrective action against WCG to rectify problems once they learned of them.

Several other park employees we interviewed also noted that the contract had poor oversight from DSC. (b) (7)(C) said that DSC had not hired an elevator consultant to review the project's safety aspects before selecting a vendor. He also said that DSC required WCG to maintain the elevator cars at the bottom of the shaft during the construction project, yet prohibited the contractor from working on top of the cars. A year later, the park discovered $70,000 worth of rust damage to the elevators' safety brakes and undercarriage from high humidity inside the shaft. According to (b) (7)(C) maintaining the cars at the bottom of the shaft led to rail misalignment. Park (b) (7)(C) employee (b) (7)(C) noted that neither [redacted] nor (b) (7)(C) had prior elevator construction experience (**Attachment 21,** and see Attachments 6, 7, and 20).

(b) (7)(C) reported receiving little guidance from DSC regarding her responsibilities when she was assigned to be the onsite project (b) (7)(C) after HDR stopped providing inspectors (**Attachment 22**). With no previous experience, (b) (7)(C) had to learn while on the job. She noted that, to prevent delays, WCG should have assigned an elevator consultant at the project's start. She also felt that some of the project delays could have been better controlled by DSC officials; as an example, she said that WCG had to delay work while waiting for DSC's approval to proceed. She said that WCG submitted 20 to 30 information requests to DSC that did not receive response for several days. This led to contract changes and job delays, since WCG could not work until it received the requested information.

Multiple HDR Inspectors, Poor Inspection Quality

DSC had separate construction oversight contracts with HDR and Jacobs for this project. HDR was expected to provide a qualified onsite construction manager/coatings inspector to review WCG's daily work. Jacobs provided (b) (7)(C) a (b) (7)(C) manager who was assigned to DSC's project team. HDR, however, assigned three employees with varying qualifications as construction management representatives/inspectors: (b) (7)(C), and (b) (7)(C) (see Attachments 8 and 9).

(b) (7)(C) told us that (b) (7)(C) did not have construction management experience (see Attachment 15). HDR replaced him with (b) (7)(C) who oversaw the project for about 9 months. (b) (7)(C) was replaced by (b) (7)(C) who worked intermittently for approximately a month but added little value because at that time WCG was coating beams, an area in which (b) (7)(C) had no expertise. (b) (7)(C) also noted that at some point while HDR's inspectors were on the job, WCG began working double shifts (days and nights, 6 days a week) because the project was behind schedule. Because HDR only provided inspectors for day shifts, the project had no oversight during night shifts. By late 2011, all ARRA funding had been exhausted, so DSC had no inspectors on the job as WCG fell behind on project delivery. (b) (7)(C) said that in lieu of paying liquidated damages, WCG agreed to cover the cost of construction management representative services for DSC until project completion.

(b) (7)(C) also said that during some phases of the construction, HDR did not assign inspectors with the necessary qualifications, specifically NACE Coating Inspector Program (CIP) Level 3 certification, as required by the contract (see Attachment 15). Instead, HDR proposed that it would provide a qualified NACE CIP Level 3 certified inspector when DSC requested it. When DSC made its requests, however, the inspectors were unavailable. (b) (7)(C) said that having a qualified coating inspector was "vital" during structural repairs to ensure proper surface preparation and successful coating applications, and HDR's failure to meet that requirement was problematic. (b) (7)(C) further noted that WCG's poor planning and HDR's limited availability of NACE CIP Level 3 certified inspectors made coating issues a huge project problem, which DSC did not learn about until October 2012 when another inspector, (b) (7)(C), identified poorly abated steel components in the shaft. DSC officials met with HDR in February 2013 to insist on a NACE CIP Level 3 inspector at HDR's expense, since HDR inspectors had previously missed coating work that failed to meet industry standard. (b) (7)(C) felt appalled that DSC did not impose more accountability on HDR.

(b) (7)(C) said that HDR struggled to hire qualified inspectors and felt that HDR could have done a better job inspecting WCG's work and submitting the required status reports (see Attachment 11). (b) (7)(C) said that HDR's failure to provide proficient, onsite construction management contributed to project problems, noting that the individuals HDR provided understood neither DSC's contracting procedures nor general construction. He added that as a result of the poor onsite oversight, DSC tried to manage the project from its Colorado office through conference calls (see Attachment 14).

told us that she knew park maintenance staff had been unhappy with the level of inspection on the project and recommended that DSC not use HDR's services for future projects. Nevertheless, DSC continued contracting with HDR, holding the individual inspectors responsible, rather than the company. DSC had HDR representatives on other projects, and believed that if DSC had problems with an inspector, it would not use that inspector in the future. Regarding the daily inspection report submissions, believed that HDR had provided the required documentation (see Attachments 8 and 12).

Four park employees we interviewed noted that HDR inspectors were not properly qualified or did not perform quality work for all phases of the contract. (b) (7)(C) noted that many issues could have been avoided if a credible inspector had been assigned from the onset of the project. (b) (7)(C) (b) (7)(C) said that HDR inspectors not only failed to inspect the work but also never monitored its progress. He added that the inspectors seemed to "side with" WCG when issues or problems arose; he suspected that WCG (b) (7)(C) influenced and manipulated the inspectors (**Attachment 23,** and see Attachments 6, 7, 20, and 21).

cited a few examples of poor oversight by HDR inspectors. As the first example, he referred to WCG completing work in fall 2010 in isolated shaft areas without having daily inspections. At the time, WCG had inappropriately used a needle gun (rather than a grit blast gun) to prepare steel beams for painting, but because no one—including (b) (7)(C) the HDR inspector at the time—saw WCG's work until most of the job had been completed, the error was not caught and WCG ultimately had to redo the work. As another example, noted that WCG decided to bolt brackets to the steel elevator frame in an effort to correct rail misalignment. Using the bolted brackets altered the contract specifications, but WCG persuaded DSC officials to approve them. WCG subcontracted with Schindler Elevator to install and tighten the bolts to a certain tension specification; however, the subcontractor did not use a "slip critical" torque tool and failed to meet the industry standard for proper tightening, which was not identified by inspectors (see Attachment 23).

HDR (b) (7)(C) reported that limited resources made it difficult for HDR to find someone who possessed certification as a NACE CIP Level 3 coatings inspector and an American Welding Society inspector, and had a construction management background, as DSC had requested (**Attachment 24**). (b) (7)(C) said that he asked DSC to consider staffing the position with multiple qualified individuals. He also proposed that HDR provide one full-time construction management representative and bring in additional inspectors for coating and welding inspections, when warranted, because the project did not require ongoing coatings work. After negotiations with Contracting Officer (b) (7)(C) and (b) (7)(C) , this plan was agreed upon.

(b) (7)(C) acknowledged that park maintenance staff had complained that (b) (7)(C) was "too close" to WCG (see Attachment 24). When (b) (7)(C) spoke to (b) (7)(C) to reaffirm his responsibilities, (b) (7)(C) denied any partiality, acknowledged his (b) (7)(C) representative role, and justified his contact with WCG personnel as an attempt to establish good communications among all parties. (b) (7)(C) noted that (b) (7)(C) did a fine job, providing complete reports, even though he had not inspected the coatings or welding aspects of the job. (b) (7)(C) who replaced (b) (7)(C) seemed to have an understanding of NPS' contracting processes but was not qualified to perform inspections. Park maintenance staff complained that (b) (7)(C) spent little time in the shaft. According to (b) (7)(C) in October 2011, when the project appeared to be close to completion, (b) (7)(C) firm reassigned him to another project, and (b) (7)(C) replaced (b) (7)(C)

Project Monitoring by an Unqualified NPS Employee

Park staff (b) (7)(C), and (b) (7)(C) reported that in fall 2011, when ARRA funding ran out, DSC gave (b) (7)(C) responsibility for inspections as a collateral duty, even though she was not a qualified elevator inspector (see Attachments 6, 7, and 20 through 23). (b) (7)(C) provided daily briefings and status reports to DSC, but park maintenance staff still wanted a certified inspector to approve the construction work before making the elevator available to transport visitors. According to (b) (7)(C) when he questioned the assignment of (b) (7)(C) to an inspection role, DSC officials essentially told him to remain impartial and mind his own business. (b) (7)(C) said that he thought (b) (7)(C) was unfairly admonished for raising the park's concerns to DSC.

(b) (7)(C) claimed that WCG (b) (7)(C) influenced (b) (7)(C) causing her to lose objectivity. He recalled a memorandum (b) (7)(C) wrote to DSC officials, reporting that (b) (7)(C) and (b) (7)(C) had approved new wheels on the roller guides (see Attachment 23). (b) (7)(C) said that he had not approved new wheels and suspected that (b) (7)(C) may have reported his alleged approval to (b) (7)(C) also recalled hearing (b) (7)(C) use the word "we" in phrases such as "we are working on this," suggesting that she identified with the contractor's perspective, rather than that of the Government. (b) (7)(C) also questioned (b) (7)(C) assignment to perform inspections but believed that DSC wanted to avoid contract delays so that WCG could complete the work (see Attachment 21). According to (b) (7)(C) DSC officials wanted a "warm body . . . who would not make waves," since DSC officials considered park maintenance staff meddlesome.

(b) (7)(C) confirmed that inspection duties were assigned to (b) (7)(C) after ARRA funding ended, but said that (b) (7)(C) performed only limited activities, such as photographing completed aspects of the job and tracking workers onsite each day. (b) (7)(C) NPS employment ended in (b) (7)(C) 2012, prior to completion of the elevator repair project (see Attachment 15).

(b) (7)(C) acknowledged that her (b) (7)(C) as the onsite elevator project liaison for DSC was a collateral duty to her role as the (b) (7)(C). She informed DSC of her limited experience in general construction and elevator installation and repair. (b) (7)(C) reported to (b) (7)(C), and other DSC contracting officials on WCG's daily progress. She was instructed to review WCG's work in the shaft. According to (b) (7)(C) she made no project decisions, nor did she direct WCG to perform certain tasks or approve their work while she was the project liaison (see Attachment 22).

Inadequate Health and Safety Quality Assurance During Contract

Park staff reported overpowering fumes in the visitor's center on the morning of July 22, 2012, after WCG's subcontractor had applied new coats of touchup paint in the shaft (**Attachment 25**). The fumes, which had come from the shaft and leftover paint containers, solvents, and rags left in the lobby, caused (b) (7)(C) to close the park for 2 days. As a result of being exposed to the fumes, 70 employees either sought medical attention or filed claims with the U.S. Department of Labor's Office of Workers' Compensation. An independent investigation team, brought in by NPS management, conducted a chemical exposure incident investigation and provided NPS management a report of its findings and recommendations. The report noted that safety and health quality assurance was inadequate for much of the contract but especially during the paint fumes incident. The investigation revealed that DSC and WCG failed to monitor the coating process because neither had a representative at the worksite while the job was being performed.

Agent Note: *The fume incident is further discussed, from a contract management performance perspective, later in this report.*

WCG's Substandard Contract Performance

Our investigation revealed substandard performance by WCG that resulted in—

- improper alignment of elevator guide rails;
- improper disposal of lead paint-coated steel beams;
- failure to eliminate lead-based paint;
- improper application of new paint coatings inside the shaft;
- failure to follow safety precautions during paint touchups;
- unacceptable workmanship by a subcontractor; and
- improper modification of elevator roller guides.

DSC issued WCG letters of rejection for poor workmanship and requested a corrective action plan when WCG's work was unacceptable.

Improper Alignment of Elevator Guide Rails

Four of the park employees we interviewed claimed that WCG misaligned the guide rails when it replaced 152 corroded steel beams with new ones (see Attachments 6, 7, 21, and 23). (b) (7)(C) told us that WCG admitted having no prior experience with a full elevator shaft overhaul. He also said that he was present when WCG tested the elevators' performance and discovered the rail misalignment. (b) (7)(C) said that he had noticed a spot where five beams had been removed, causing the contractor to lose a "point of reference" for rail alignment integrity. He added that the improper rail alignment caused the elevator car and counterweight to malfunction (i.e., scrape) while traveling up and down the shaft, because the rails in some areas were too close and, in others, too far apart. He also said that removing several beams at a time contradicted WCG's original proposal, which described removing beams one at a time in intervals to guarantee vertical rail alignment. (b) (7)(C) the park's (b) (7)(C) (b) (7)(C) claimed that DSC allowed WCG to install the beams haphazardly. He told us that rather than having WCG straighten the beams and correct mistakes, DSC approved WCG's request for a change in the specifications, claiming that the specifications couldn't be achieved. (b) (7)(C) noted that as a quick fix, WCG manipulated the size and hardness of the rubber wheels on the elevator car and counterweight.

WCG hired multiple subcontractors to perform the work related to replacement of steel beams inside the shaft and to help address the rail misalignment problem once it was discovered that the elevator cars would not operate properly. During our interviews, DSC contracting officials and representatives from WCG and some of its subcontractors described the work involved, summarized below (**Attachments 26 through 29,** and see Attachments 14 and 19).

WCG subcontracted with steel company LPR Construction to remove and replace 152 deteriorating, lead paint-coated steel beams inside the shaft. After replacing the beams, LPR told WCG that it would not accept responsibility for the final work product. (b) (7)(C) told us that WCG failed to provide oversight and should not have agreed to this condition, which became problematic when the rail misalignment was discovered (see Attachment 14). WCG hired a number of subcontractors, including Thyssen Krupp, KONE Corporation, Vertical Viewpoint, and Schindler Elevator, to get the elevator cars running after the new beams were installed. KONE and Schindler noted that they discovered the guide rails were out of alignment when they took measurements during their assessments of the shaft (see Attachments 11, 14, 15, 22, and 26 through 29). WCG consulted with Lerch Bates in late 2011, when WCG still could not get the elevators to operate at full speed. Lerch Bates discovered the misalignment, finding that the rails were 2½ inches out of alignment in some places, which alarmed DSC contract officials, as the

elevators had been fully operational before work began on the WCG contract. After Lerch Bates reported the results of its elevator assessment, Schindler was contracted to fix the problem.

In January 2012, DSC contracted elevator consultant HH Angus to review WCG's work product. Based on Schindler Elevator's assessment and consultation with Lerch Bates, WCG had suggested using brackets rather than welding rails directly to beams. When HH Angus disagreed, DSC issued WCG a rejection letter for poor work resulting in rail misalignment. WCG then filed a claim against NPS for defective plans and specifications, asserting unforeseen conditions because NPS had not informed WCG about the rail alignment work, or how to align the rails, prior to awarding the contract. WCG claimed $1.5 million in costs incurred to realign the rails (**Attachment 30,** and see Attachments 12 and 15).

(b) (7)(C) noted that the contract specified restoration of the elevator system to its original operating condition upon contract completion, but that DSC did not have to specify how this was achieved. (b)(7)(C) added that it was the contractor's responsibility to determine the means and methods to accomplish the work under the contract. (b) (7)(C) added that WCG had filed a $1.5 million claim for "defective specifications," because the contract specifically did not require WCG to align the elevator guide rails. Although WCG wanted specific instructions, DSC did not provide them, claiming it was a "means and method" issue (see Attachments 2, 12, 13, and 15).

WCG met with park maintenance staff and DSC contracting officials in late January 2012 to discuss the project status and determine a rail alignment procedure that would be acceptable to all parties. Upon reaching an agreement, Schindler installed adjustable brackets to correct the distance between the rail guards, realigning the rails to conform to industry standards. In June 2012, a test of the elevator cars showed the cars operating successfully at full speed (see Attachments 14, 15, 28, and 29).

(b) (7)(C) said that installation of the new beams inside the shaft and the rail misalignment issue, discovered while attempting to place the elevator cars back into service, were two challenges encountered during the contract work (see Attachment 19). Despite hiring subcontractors, WCG could not get the cars operating at full speed, as specified in the contract. The extra work required to resolve the issue incurred additional cost, placing WCG in liquidated damages status as it tried to get the cars operating properly. (b) (7)(C) noted that park maintenance staff seemed to influence the course of the contract at this time due to their displeasure with WCG's work. WCG hired consultant Lerch Bates, which helped move the project forward. Although the contract specifications included information for installing and removing the beams, Lerch Bates reported that the beams could not have been taken out of the shaft as the contract required. The consultant proposed using adjustable, bolted brackets to address fix the misalignment, and DSC agreed to Lerch Bates' recommendation.

(b)(7)(C) told us that the discovery of the misaligned rails occurred when the project was thought to be almost complete (see Attachment 12). She explained that per the contract, WCG was responsible for informing DSC when the project was complete and ready for final inspection. In late 2011, the project was nearly 80 percent complete. WCG had scheduled a ride quality test, with the expectation that the contract was going to be completed. (b)(7)(C) recalled that the rail misalignment was discovered either at the final inspection or about that time. (b)(7)(C) also told us that DSC could have considered terminating WCG's contract after learning the elevator guide rails were out of alignment, but the contract specifications did not address aligning the rails to a specific measurement and, as a result, DSC could not hold the contractor to the park's expectations. She said that is why the rails remained as they were. (b)(7)(C) also noted advice from DOI's Office of the Solicitor (SOL) that, prior to a contractor termination, DSC needed to attempt to resolve or settle disputes through corrective action notices that allow the contractor to fix the problem.

Improper Disposal of Steel Beams

The WCG contract required the contractor to abate the lead paint from the 152 original beams removed from the shaft and recycle the steel. Instead, the subcontractor that WCG hired to handle the beams disposed of them in the Eddy County Sandpoint Landfill, Carlsbad, NM, without abating the lead paint as contractually required (see Attachments 8, 11, 12, 15, and 19).

On June 28, 2011, DSC notified WCG of noncompliance with the contract, directing WCG to recover the beams from the landfill and transport them to an approved recycling facility. DSC required WCG to provide an acceptable corrective action plan to address the matter (**Attachment 31**). On June 30, 2011, WCG responded that the disposal had been a subcontractor error and not a negligent act by WCG, noting also that the beams could not be recovered from the landfill until WCG received permission to excavate from the agencies in charge of landfill operations (**Attachment 32**). DSC notified WCG on August 19, 2011, that it expected WCG to comply with applicable State and Federal regulations with regard to removing the beams from the landfill (**Attachment 33**). Two letters from DSC to WCG, dated October 13, 2011, and November 14, 2011, acknowledged the decision by Eddy County public works officials to leave the beams in the landfill (**Attachments 34 and 35**). NPS informed WCG that WCG was noncompliant with its contract, and was expected to cover costs accrued as a result of its mistake. (b) (7)(C) reported that WCG offered a $12,000 credit for improperly disposing of the beams (see Attachment 13).

(b) (7)(C), and (b) (7)(C) learned that the beams had been mistakenly dumped at a local landfill 3 weeks after their removal from the park (see Attachments 6, 7, 20, 21, and 23). (b) (7)(C) and (b) (7)(C) confirmed that officials from the New Mexico Environment Department concluded that removing the beams would be more detrimental to public health and safety than leaving them buried (**Attachment 36**). According to (b) (7)(C) and (b) (7)(C) WCG sampled steel from inside the shaft and submitted it to a laboratory for analysis to determine the lead paint contamination level. Test results revealed a low percentage of lead, making the disposed beams a nonhazardous material. The New Mexico Environment Department's Solid Waste Bureau accepted the test results, allowing the beams to remain in the landfill.

(b) (7)(C) reported that WCG hired subcontractor Purcell Painting and Coatings to perform paint abatement and recycle the beams at another site (see Attachment 19). Several weeks after the beams had been transported, park maintenance staff requested copies of the transport manifests and learned that the beams had been disposed at the landfill (**Attachment 37**). The driver for Waste Management, the company Purcell hired to transport the beams, had mistakenly transported the beams to a local landfill in Carlsbad, NM. After DSC directed WCG to remove the beams, (b) (7)(C) contacted the New Mexico Environment Department's Solid Waste Bureau and learned that the beams could not be excavated without a court order. (b) (7)(C) denied that he or anyone working on behalf of WCG withheld information from DSC about the handling of the beams, or that they had inappropriately influenced personnel at the landfill or Solid Waste Bureau to cover up the mistake. According to (b) (7)(C) DSC resolved the matter and WCG had no further involvement with the Solid Waste Bureau or the local landfill.

(b) (7)(C) blamed (b) (7)(C) for the situation because as (b) (7)(C) had signed off on the shipping manifest that initiated the transport to the landfill. In May 2011, WCG had prepared containers with the lead-contaminated steel beams for transport to Hobbs, NM, and Texas for paint abatement and recycling. (b) (7)(C) said that when (b) (7)(C) handed him the manifests for signature, he did not notice that the paperwork referred to nonhazardous rather than hazardous waste. (b) (7)(C) told us that he signed the manifests without noticing the labeling error on the forms (**Attachment 37,** and see Attachment 18).

(b) (7)(C) told us that she believed that WCG's subcontractor made an honest mistake transporting the beams to the wrong location. She said that WCG would have had no reason to deviate from the contract and would in fact have profited from it because the recycling center would have provided a credit for the steel. She also noted that DSC did not feel the situation warranted contract termination. She said that the improper disposal was the first major issue during the project; it occurred prior to discovery of the elevator guide rail misalignment (see Attachments 12, 14, and 15).

Eddy County (b) (7)(C) reported that the landfill did not accept contaminated materials, although hazardous waste was sometimes dumped there despite signage posted at the facility entrance (**Attachment 38**). He recalled a July 2011 request from a construction company to dig up some steel beams, to which he replied that a court order and approval from the New Mexico Environment Department would be required. Subsequently, he was notified by the New Mexico Environment Department that the construction company's request had been denied.

Agent's Note: *We notified the Environmental Protection Agency (EPA) Criminal Investigation Division (CID) about the lead paint-coated beams buried in the Eddie County Sandpoint Landfill to see whether it wanted to investigate the matter. EPA declined, citing a number of problematic issues, including public safety concerns* (**Attachment 39**).

Lead Paint Abatement and Coating Application Failures Inside the Shaft

The WCG contract required lead paint abatement within the elevator shaft to remove existing lead-based paint and apply a new protective coating. In September 2012, DSC contracting officials learned of problems with the work on this job. WCG had subcontracted with Purcell to remove all remaining lead paint from the elevator system and recoat the steel to industry standards, and HDR was to provide onsite inspections of the work. DSC officials learned, however, that Purcell had not completely removed all the lead paint and had poorly coated the elevator components as required by contract specifications. Although DSC was in the process of performing the final acceptance of WCG's work, when lead paint was discovered remaining in the shaft, DSC imposed corrective action (see Attachments 12 and 15).

(b) (7)(C) told us that DSC was concerned that WCG's "means and methods" for paint abatement were harmful to the elevator system, since the contractor had failed to protect the elevator guide rails, electrical wires, and conduit from corrosion during sandblasting activities. (b) (7)(C) also said that WCG failed to adequately capture the debris, which resulted in limestone, grout, metal, and paint falling down the 750-foot elevator shaft. Although WCG used plastic wrap and tape to cover the cables for the elevator cars, (b) (7)(C) questioned how WCG could prevent air from permeating the wrap. (b) (7)(C) noted that the contract required WCG to create a containment process for capturing the dust and lead debris while working. The contractor's process failed, however, and the debris infiltrated the visitor center's heating, ventilation, and air conditioning system, which led to heated discussions between DSC and WCG (see Attachment 15).

(b) (7)(C) said that the paint abatement work done in the overhead area (above the park visitor's lobby) did not meet contract specifications, because at the end of the project lead paint still remained in the area (see Attachment 15). WCG redid the work and DSC rejected it again for failing to meet specifications; ultimately DSC had to address the coating deficiencies three times with the contractor. In addition, HDR's failure to provide NACE CIP Level 3-certified inspectors during the coating process contributed to the problems with paint abatement. After learning of the poor workmanship, DSC instructed HDR to provide a NACE CIP Level 3 inspector at the company's expense, since HDR inspectors had previously failed to identify coating work that did not meet industry standards. DSC issued WCG a letter of rejection

for poor coating applications in September 2012. [redacted] confirmed the substandard application of paint in the shaft (see Attachment 12). The paint from the original beams had peeled, revealing lead paint that should have been removed at the onset of the project. WCG offered to correct the coating deficiencies through a corrective action plan.

According to (b) (7)(C) inadequate inspection work done by HDR's first NACE CIP Level 3 inspector, (b) (7)(C), meant that the poor work done by Purcell was not initially known (see Attachment 14). HDR's (b) (7)(C) said that (b) (7)(C) provided inspection reports to DSC between January 2011 and August 2011, after which time she was unavailable, and so HDR provided a second NACE CIP Level 3 inspector, (b) (7)(C), who performed three subsequent inspections of coating work (see Attachment 24). The inspection reports [redacted] submitted were detailed and included photographs and data on humidity levels, temperature, and paint consistency and adherence. In contrast, the reports (b) (7)(C) had provided contained very little detail and no information about lead or rust being present inside the shaft.

(b) (7)(C) added that in September 2012, HDR's third NACE CIP Level 3 inspector, (b) (7)(C), performed an inspection and found that WCG's subcontractor had failed to properly coat the steel structures in the overhead area (above the park's visitor lobby) of the shaft (see Attachment 14). WCG hired Cape Environmental toward the end of the project to complete the lead-paint abatement and application of coatings on the structural steel in the shaft. DSC assigned a paint coatings expert, [redacted] to provide further analysis and a second expert opinion. After (b) (7)(C) assessed the coating applications, she reported that there were problems with the work that Cape Environmental had done. DSC subsequently rejected the coating touchup work and directed WCG to provide a corrective action plan. In March 2013, WCG submitted an action plan, which DSC accepted. The plan included the assignment of NACE CIP Level 3 inspector (b) (7)(C) to the project at HDR's cost.

Although many issues caused the project to fall behind schedule, (b) (7)(C) told us that he believed that HDR's work had been satisfactory throughout the process (see Attachment 24). He also said that he believed that HDR's coating and welding inspections had been good, and he was unaware of any inspection issues. (b) (7)(C) acknowledged, however, that questions had been raised about the quality of (b) (7)(C) inspections and written reports. Although he did not consider (b) (7)(C) reports to be substandard, he admitted that before the elevator project, he had never seen a NACE CIP Level 3 inspection report and had nothing to compare (b) (7)(C) work to.

(b) (7)(C) reported that WCG had subcontracted with Purcell and Cape Environmental to perform coating applications and lead-paint abatement (see Attachment 19). Purcell performed the initial abatement inside the shaft. Near project conclusion, and after Purcell's contract ended, WCG subcontracted with Cape Environmental for the final touchup coatings. At this point, when unabated areas at the bottom of the shaft were found, (b) (7)(C) was surprised because he believed that Purcell's abatement and coating work "had been inspected to death and signed off" as meeting industry standards before that subcontract ended. Nevertheless, WCG addressed the deficiency and redid the work, which upon re-inspection met industry standards.

Chemical Exposure Incident

Six park employees cited details of a paint/chemical fume incident that occurred in July 2012 when Cape Environmental touched up the paint on steel beams in the shaft (**Attachment 40,** and see Attachments 6, 7, and 20 through 23). On July 18, 2012, while preparing to open the park visitor's center, (b) (7)(C) noticed a terrible chemical smell, which he learned was related to paint work that Cape Environmental

had done in the shaft. (b) (7)(C) said that WCG had failed to seal off the shaft, use air monitoring equipment, and properly ventilate the area after completing the job.

(b) (7)(C) said that WCG deviated from established work procedures for the paint job despite having discussions with the park about the procedures the week before. According to (b) (7)(C) when he confronted (b) (7)(C) about the manner in which used painting supplies and containers had been left out in the open, (b) (7)(C) said that WCG was "letting the solvents evaporate" before disposing of the materials. (b) (7)(C) said that the painting materials needed to be properly contained and listed on a manifest indicating proper disposal. (b) (7)(C) ranger, said that (b) (7)(C) told her that people were imagining the odors, that he couldn't smell the fumes, and that it was "the biggest bull he had ever seen," whereas (b) (7)(C) said that (b) (7)(C) reported that the situation had been "blown out of proportion" and that no one would suffer any long-term effects from the fumes (see Attachment 40).

When staff continued to complain about the odor, (b) (7)(C) closed the park at 2 p.m. on July 23, 2012. On July 24, DSC issued a stop-work order to WCG requiring that WCG remedy the identified hazards and submit a health and safety plan for immediate implementation; WCG also removed (b) (7)(C) at DSC's request and assigned him elsewhere. On July 25, the park reopened after the Occupational Safety and Health Administration and U.S. Department of Energy confirmed a safe work environment. DSC then granted WCG a resumption of work order, but permitted no coating work until WCG had fully complied with the requirements under the July 24 suspension of work order.

According to (b) (7)(C) at a pre-construction meeting of park staff with (b) (7)(C), and representatives from Cape Environmental to discuss coating procedures, everyone believed that the air circulation was sufficient to ventilate the shaft during the painting project. Upon completion of the job, however, she learned that someone had closed the pit door to the shaft, preventing natural ventilation. As the (b) (7)(C) had given safety protocol information to WCG. She and (b) (7)(C) drafted a health and safety plan specific to coating the steel beams (see Attachment 22).

(b) (7)(C) reported that the paint fumes incident could have led to a termination for cause action, but the monetary damages that could have been attributed to the incident were unclear (see Attachment 13). He further explained that termination for cause is a last-resort option for the Government when the contractor fails to perform contractual obligations and usually results in litigation. Contracting officers only reluctantly take this action because if the Government loses, substantial loss could result.

An NPS incident report by NPS Ranger (b) (7)(C) and a supplemental report prepared by (b) (7)(C) (b) (7)(C) noted that, while responding to fumes on July 22, 2012, (b) (7)(C) discovered trash bags containing rags and multiple open containers, painting materials, and liquid solvents next to WCG's trailer (**Attachments 41 and 42**). (b) (7)(C) reported that WCG had failed to seal off the elevator that was being worked on and ventilate the area. (b) (7)(C) told (b) (7)(C) that standard operating procedure was to dry used materials out in the open, and thus the supplies had been left near the trailer.

(b) (7)(C) said that although she had limited involvement with (b) (7)(C) overall she considered him an ineffective (b) (7)(C) who provided poor contract oversight for WCG (see Attachment 12). He failed to carry out his duties, including the requirement to be onsite 100 percent of the time to ensure the project went well. Under (b) (7)(C) watch, issues occurred with rail alignment, disposal of steel beams, ventilation and disposal of paint materials, and applications of protective coatings inside the shaft. DSC and park staff were frustrated with (b) (7)(C) performance, especially after the paint fumes incident that resulted in park personnel having to seek medical attention and closure of the park to

visitors. After the paint fumes incident, DSC required (b) (7)(C) removal from the contract (**Attachment 43**).

(b) (7)(C) told us that he believed there was no inspector onsite during the touchup work performed by Cape Environmental (see Attachment 23). (b) (7)(C) reported that as the (b) (7)(C), she arrived on the scene after learning about the fumes (see Attachment 22). She found that the shaft had not been ventilated, and noted that fans should have been used at the bottom of the shaft to expel the air. She also found paint materials in the visitor center's lobby. (b) (7)(C) believed that she, (b) (7)(C) and the subcontractor had overlooked the limited ventilation inside the shaft and should have considered using fans (see Attachments 20 through 23, and 40 through 42).

Unacceptable Workmanship by KONE Corporation

On September 8, 2011, DSC issued WCG a letter of rejection for poor workmanship related to a pipe installation for the main power supply (**Attachment 44**). WCG's subcontractor, KONE Corporation, had applied the wrong adhesive to fasten PVC pipes together inside the shaft. In the letter, DSC required WCG to provide an acceptable corrective action plan and replace KONE with a new subcontractor. In our interview with KONE representatives, they admitted using the wrong type of adhesive on a PVC conduit and bell housing unit (see Attachment 26). They agreed to redo the project and pay for the materials, but they received notification from WCG that the park required KONE's removal from the project. WCG provided KONE with a copy of the letter from DSC indicating that KONE was an "unacceptable subcontractor" because of the substandard installation of the PVC conduit in the shaft.

According to (b) (7)(C) his company contracted with KONE to help get the elevator cars operating at full speed, as part of WCG efforts to address the rail misalignment (see Attachment 19). In an attempt to accomplish this, KONE replaced the governor ropes (part of the speed monitoring system) and conduit PVC piping (housing for electrical wires), mistakenly applying the wrong adhesive to seal the piping, as described above. (b) (7)(C) noted that KONE was unable to get the cars operating at full speed, and that DSC requested that KONE be removed from the project due to substandard work.

Modification of Elevator Roller Guides

Park maintenance staff reported that elevator roller guides were improperly ground down to adjust for rail misalignment in an attempt to get the elevators to function properly (see Attachments 20 and 21). The roller guides travel along the rails to keep the elevator car and counterweight properly aligned as they move in the shaft. (b) (7)(C) noted that about 1/8-inch clearance is maintained between a roller guide and the rail to prevent metal-to-metal contact. He said that modifying the roller guides, rather than fixing the rail misalignment, endangered the public's safety because the elevator car and counterweight could have come off track and collided during operation.

(b) (7)(C) the park's (b) (7)(C) (b) (7)(C), told us that while inspecting the shaft with WCG and two employees from Schindler Elevator in March 2012, he discovered that the roller guides had been ground down to enlarge the throats, the "U"-shaped part of the guides that keeps car and counterweight in place while ascending and descending (see Attachment 21). As the team traveled to midpoint in the shaft, (b) (7)(C) noticed light reflecting off a shiny surface inside the throats of the counterweight roller guides. Upon closer inspection, he saw that someone had ground down the guides to make the "U" shape larger.

(b) (7)(C) recalled that one of the Schindler mechanics told (b) (7)(C) that the modification to the roller guides was a serious issue and that "no one in their right mind would do this." He also recalled that (b) (7)(C) stood quietly and seemed embarrassed by what he heard, giving (b) (7)(C) the impression that (b) (7)(C) knew that the guides had been improperly modified. In our interview with (b) (7)(C) he denied that he or any of his helpers had ground out the roller guides; he also told us that subcontractor Vertical Viewpoint had suggested to him that the roller guides needed to be "worked on" to resolve the problems with car operation, which he did not further question because the subcontractor had been hired for its elevator expertise (**Attachment 45**). (b) (7)(C) said that he notified his supervisor, (b) (7)(C) of the situation.

(b) (7)(C) told us that WCG temporarily ceased work in the shaft when the altered roller guides were discovered and asked Lerch Bates to inspect the equipment (see Attachment 23). After Lerch Bates confirmed the safety hazard, WCG replaced the equipment to correct the situation. (b) (7)(C) believed that WCG had manipulated the roller guides to fix the rail misalignment and to prevent the elevator car and counterweight from grinding as they traveled up and down the rails. He noted that widening the throats of the roller guides allowed the car to move freely in the locations where the rails were misaligned. (b) (7)(C) said that the alteration could have caused a catastrophic incident and demonstrated a total disregard for safety. (b) (7)(C) , and (b) (7)(C) believed that WCG willfully failed to disclose modification of the roller guides (see Attachments 7, 20, and 21).

(b) (7)(C) , Schindler (b) (7)(C) , told us that he could tell that someone had purposefully enlarged the throats of the roller guides rather than it being the result of wear and tear (see Attachment 27). He could offer no acceptable reason to grind down the throats of the roller guides and emphasized that it was ethically wrong to put the altered equipment into use. Employees from KONE also told us that they knew of no legitimate reason to modify the roller guides, including as an attempt to address a rail misalignment issue, and that removing steel from the equipment compromised the structural integrity of the device (see Attachment 26). (b) (7)(C) suggested that the alteration to the roller guides might have been an attempt to address the rail misalignment issue. (b) (7)(C) also said that while in the process of removing the altered roller guides from the elevator system, he noted that in some areas the guide rails were twisted and appeared to have been ground out in the same manner as the roller guides. (b) (7)(C) said that his work crew was able to bring the misaligned guide rails back to specific tolerance and within industry standards.

(b) (7)(C) said that when park maintenance staff advised DSC that someone had inappropriately ground out the elevator roller guides, DSC considered the modifications unsafe and required that new roller guides be installed (see Attachment 15). DSC sent WCG and its surety bond company a letter of rejection on November 14, 2011, indicating that the contractor's work had been rejected because the modified roller guides created a critical life safety issue. (b) (7)(C) told us that she had been unaware of the altered elevator roller guides, although she did know that WCG subcontracted with Vertical Viewpoint to work on the project (see Attachment 12).

(b) (7)(C) said that WCG discovered that the roller guides had been modified while subcontractor Vertical Viewpoint was onsite (see Attachment 19). (b) (7)(C) also said that Lerch Bates assessed Vertical Viewpoint's work and reported to WCG that the subcontractor's workmanship was poor and that employees did not know what they were doing. This evaluation resulted in WCG releasing Vertical Viewpoint from the project. (b) (7)(C) believed that Vertical Viewpoint was responsible for altering the equipment and emphatically denied that anyone from WCG would have tampered with the elevator system. When we interviewed employees from Vertical Viewpoint, they denied that anyone from their company had altered the roller guides (**Attachments 46 through 51,** and see Attachment 19).

According to (b) (7)(C) when Vertical Viewpoint personnel attempted to straighten the guide rails, they damaged the wiring, conduit junction box, and the entire electrical system (see Attachment 14). WCG discontinued Vertical Viewpoint's services due, in part, to poor workmanship; for example, Vertical Viewpoint had shaved metal from the misaligned guide rails to obtain a smoother ride.

Alleged Conflict of Interest

Improper Relationships Between NPS and WCG Personnel

We found no evidence to support allegations of improper relationships between NPS contracting officials and WCG that negatively affected the Government. Although WCG's (b) (7)(C) and the (b) (7)(C) from Jacobs Engineering, (b) (7)(C) were old acquaintances, they worked together professionally during the elevator repair project (**Attachment 52,** and see Attachment 19). A review of the NPS-Jacobs contract file revealed that NPS has an ongoing contract with Jacobs for projects administered by DSC (see Attachment 10). On May 25, 2010, DSC and Jacobs entered into an agreement to provide (b) (7)(C) for construction management services for the park's elevator repair project. Interviews with park staff revealed a general opinion that there was an improper relationship between (b) (7)(C) and (b) (7)(C) or (b) (7)(C) and (b) (7)(C) (see Attachments 6, 7, 20, 21, and 23). These beliefs were based on rumors that park staff had heard and suspicions that (b) (7)(C) and (b) (7)(C) had known one another for many years, which they felt affected (b) (7)(C) effectiveness as the Government's representative while overseeing the project.

Because (b) (7)(C) had not been part of the procurement process for the elevator contract, he could not have influenced award of the contract to WCG. Although (b) (7)(C) alleged an improper relationship that might have caused an increase in the contract amount, he said that he did not think the contract was improperly awarded and had no evidence of a kickback scheme between any DSC and WCG employees (see Attachment 7). (b) (7)(C) said that (b) (7)(C) claimed to have known (b) (7)(C) for years, since they participated in (b) (7)(C) together more than 20 years earlier (see Attachment 22). Despite such a long friendship, (b) (7)(C) believed that (b) (7)(C) maintained his objectivity as the Government's representative. She did not believe that their friendship had adversely influenced the project or that (b) (7)(C) had given preferential treatment to WCG, and recalled occasions when (b) (7)(C) was direct with WCG employees.

Contrary to the beliefs of park maintenance staff, (b) (7)(C) told us that she thought (b) (7)(C) protected the Government's best interests when dealing with (b) (7)(C), and WCG subcontractors, and that he provided "a voice of reason" when park staff interests and those of WCG were in conflict (see Attachment 15). According to (b) (7)(C) when park staff reported that WCG's work was not up to their standards, (b) (7)(C) never acted inappropriately or "crossed the line" due to his relationship with (b) (7)(C) (b) (7)(C) had no information or suspicion that WCG ever paid for (b) (7)(C) meals, and she did not think that (b) (7)(C) and (b) (7)(C) ever socialized after work; she noted that they (b) (7)(C) in (b) (7)(C), and (b) (7)(C) in (b) (7)(C)

Regarding (b) (7)(C) and (b) (7)(C) personal relationship, (b) (7)(C), and (b) (7)(C) said that they were aware that (b) (7)(C) and (b) (7)(C) had known one another prior to working on the elevator project. (b) (7)(C) never concealed the relationship, letting park and DSC officials know that he had history with (b) (7)(C) (b) (7)(C) and (b) (7)(C) said that (b) (7)(C) who worked on several DSC projects at the time, spent most of his time on the elevator project since he had to monitor the contractor's work. (b) (7)(C) noted that (b) (7)(C) had no personal interest in WCG and that what existed between (b) (7)(C) and (b) (7)(C) was an old friendship (see Attachments 12, 14, and 15).

[redacted] reported that he had known [redacted] for most of his life (see Attachment 52). He and [redacted] attended the [redacted], participated in [redacted] for years, and socialized with mutual friends. In the past, he, [redacted] and [redacted] had socialized with each other as couples, occasionally attending holiday events together. [redacted] said that he had not worked with WCG prior to the elevator project and did not believe a conflict of interest existed when he learned that WCG had been awarded the contract. Prior to the pre-construction meeting, he and [redacted] had not seen one another for more than [redacted]. [redacted] told DSC [redacted] that he had known [redacted] most of his adult life and considered him a good friend, although they had not socialized in recent years.

According to [redacted] he occasionally had dinner with [redacted] consultants, and park employees in [redacted], but he said that [redacted] never paid for his meals. [redacted] said that at no time did his personal friendship with [redacted] affect his ability to perform his job, noting that during the project, he and [redacted] spent most of their time in conflict over contract specifications. When [redacted] disagreed with the contract requirements, [redacted] reinforced the Government's position. [redacted] believed that his contributions helped DSC develop a decent schedule at the onset of the project, which WCG agreed to follow. During the occasions when WCG had to redo work, [redacted] provided the necessary information to the contracting officer in the best interest of the Government.

[redacted] reported that he received ethical conduct training from his employer, Jacobs Engineering, which the company required because the Federal Government was its largest client. [redacted] said that [redacted] has an extensive ethics training program and ethical business conduct policy that he is required to complete every calendar year. [redacted] explained that when he is confronted with a potential or actual conflict of interest, he is required to report it. He noted that he had not received any ethical conduct training from NPS.

[redacted] acknowledged knowing [redacted] and [redacted] prior to the contract, although he did not know that they were part of the project team when he submitted his company's bid and only realized their roles during the pre-construction meeting (see Attachment 19). [redacted] said that his relationships with [redacted] and [redacted] were professional, and he recalled seeing them at construction projects in the past. He had known [redacted] longer than he had known [redacted] since [redacted] was a past acquaintance who participated in the same [redacted] that he did when they were younger; but he said that he had not been in touch with [redacted] for numerous years. He added that his relationship with [redacted] was purely work-related. He said: "[redacted] protected his [Government] interest and I protected mine."

Personal Relationship Between NPS and Schindler Personnel

During the investigation, we learned that a personal relationship occurred between an NPS term employee and an employee of WCG's subcontractor Schindler Elevator, when both were assigned to the elevator repair project. NPS term employee [redacted] and Schindler's [redacted], [redacted] during Schindler's subcontract to get the elevator cars operating properly. Our investigation disclosed that [redacted] had no authority to make decisions on behalf of the Government. [redacted] term ended and she no longer worked on the project (see Attachments 22, 27, 40, and 52).

[redacted], said that after the project ran out of funds for trained onsite inspectors, [redacted] had been assigned to monitor WCG's work by taking photographs and reporting status information to DSC (see Attachment 40). [redacted] said that [redacted] disclosed [redacted] and subsequently shared the information with [redacted] as well.

(b) (7)(C) characterized (b) (7)(C) as trustworthy, even though she seemed at one point to be preferential toward WCG after spending time with (b) (7)(C) and others.

(b) (7)(C) said that he knew of the relationship between (b) (7)(C) and (b) (7)(C) but did not believe that it adversely affected the contract (see Attachment 52). (b) (7)(C) said that he knew and worked with both individuals and believed they did a good job on the project. Regarding (b) (7)(C) he said that she was one of the hardest working employees on the project, recalling that she had helped a third-party elevator consultant with inspections. (b) (7)(C) also said that in his work with (b) (7)(C) during problem-solving sessions, he found (b) (7)(C) to be ethical and above reproach. (b) (7)(C) added that (b) (7)(C) "went out of his way" to ensure that the park received quality work products.

(b) (7)(C) said that his work relationship with (b) (7)(C) on the elevator project turned into a friendship that (b) (7)(C) (see Attachment 27). He apologized, (b) (7)(C) (b) (7)(C). Although he did not know (b) (7)(C) project title and role, he knew that she had no authority or decision-making power. (b) (7)(C) denied having any influence over (b) (7)(C) that would have compromised her work or loyalty to the Government. He added that WCG had not benefited in any way from the situation.

During our interview with (b) (7)(C) (b) (7)(C) (see Attachment 22). (b) (7)(C) (b) (7)(C) reported that her relationship with (b) (7)(C) had no effect on her objectivity as project liaison. She denied having "crossed the line" or compromising her professionalism and said that she took her job and the project "very personally" and wanted the project work to be done correctly. She adamantly denied that anyone from WCG had influenced or persuaded her to compromise her job or loyalty. She (b) (7)(C), and she reported it to (b) (7)(C) and (b) (7)(C) said that after (b) (7)(C) learned the encounter was an isolated incident, he said that he felt she was uninfluenced by the situation and that the matter was her personal business.

Post-Employment Ethics Violations

Our investigation determined that the assignment of a former NPS contracting official to oversee the construction management aspect of the contract did not violate post-employment ethics regulations. (b) (7)(C) HDR's (b) (7)(C), was assigned by his company to oversee construction management representatives and coating inspectors for the elevator repair contract. Regulations in 18 U.S.C. § 207, "Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches," state, in part, that a former employee may be prohibited from having contact with an employee of any Federal agency, on behalf of another person or entity, concerning an official matter with which the former employee was involved as a Government employee.

When we interviewed NPS Human Resources (b) (7)(C), he reported that (b) (7)(C) personnel file noted that (b) (7)(C) retired from (b) (7)(C) in (b) (7)(C) 2004 (**Attachment 53**). At the time of his retirement, (b) (7)(C) said that although (b) (7)(C) file had no specific information about the post-employment ethics briefings he received, the file contained no derogatory notes that would have affected his post-employment opportunities. (b) (7)(C) told us that after retiring from Federal service, he worked for engineering firm (b) (7)(C) for 6 years (see Attachment 24). In (b) (7)(C) 2010, he left that company to work for (b) (7)(C) as its (b) (7)(C) (b) (7)(C) and (b) (7)(C) with oversight responsibilities for inspectors on NPS projects. (b) (7)(C) told us that during his prior Federal service, he had no involvement in selecting (b) (7)(C)

for the NPS contract. He also said that he had no direct contact with anyone from DSC after [redacted] had been selected. He noted, however, that several of his NPS project managers had occasional contact with [redacted] while issuing task orders on other projects unrelated to the elevator repair contract.

SUBJECTS

- (b) (7)(C) San Francisco, CA.
- (b) (7)(C), Carlsbad Caverns Visitor's Center, Carlsbad, NM.
- White Construction Group, Castle Rock, CO.
- (b) (7)(C), Castle Rock, CO.
- (b) (7)(C), Jacobs Engineering, Pueblo, CO.
- (b) (7)(C), Schindler Elevator, El Paso, TX.
- (b) (7)(C), Englewood, CO.

DISPOSITION

We are forwarding this report to the Director of NPS for review and any administrative action deemed appropriate.

ATTACHMENTS

1. National Park Service (NPS) contract with White Construction Group (WCG), dated March 10, 2010.
2. Project specifications provided in the WCG contract, dated March 3, 2010.
3. Civil Board of Contract Appeals WCG Notice of Appeal, dated July 25, 2012.
4. Civil Board of Contract Appeals Stipulation for Settlement, dated August 6, 2013.
5. Civil Board of Contract Appeals court order for dismissal of WCG's appeal, dated September 10, 2013.
6. Investigative Activity Report (IAR) – Receipt of complaint from (b) (7)(C), received July 3, 2012.
7. IAR – Interview of (b) (7)(C), on September 5, 2012.
8. IAR – Review of WCG contract with NPS, dated October 16, 2012.
9. IAR – Review of HDR contract with NPS, dated October 16, 2012.
10. IAR – Review of Jacobs Engineering contract with NPS, dated November 6, 2012.
11. IAR – Interview of (b) (7)(C), on April 30, 2014.
12. IAR – Interview of (b) (7)(C), DSC employee, on April 17, 2013.
13. IAR – Interview of (b) (7)(C), DSC employee, on April 16, 2013.
14. IAR – Interview of (b) (7)(C), DSC employee, on June 4, 2013.
15. IAR – Interview of (b) (7)(C), DSC employee, on April 16-17, 2013.
16. IAR – Interview of (b) (7)(C), DSC employee, on April 17, 2013
17. DSC letter to WCG, Project Concerns/(b) (7)(C), dated December 1, 2011.
18. DSC letters to WCG, Suspension of Work/Accident Prevention and Letter of Concern/Unacceptable Project Management, dated July 24, 2012, and July 26, 2012, respectively.
19. IAR – Interview of (b) (7)(C), on July 22, 2014.
20. IAR – Interview of (b) (7)(C) employee, on September 4, 2012.
21. IAR – Interview of (b) (7)(C) employee, on September 5, 2012.

22. IAR – Interview of (b) (7)(C) employee, on September 6, 2012.
23. IAR – Interview of (b) (7)(C) employee, on September 4 and 6, 2012.
24. IAR –Interview of (b) (7)(C), on August 12, 2013.
25. Report of the Independent Investigation Team, Chemical Exposure Incident, dated January 17, 2013.
26. IAR – Interview of KONE Corporation employees, on December 5, 2012.
27. IAR – Interview of (b) (7)(C), Schindler Elevator employee, on March 11, 2013.
28. IAR – Interview of (b) (7)(C), Schindler Elevator employee, on March 11, 2013.
29. IAR – Interview of (b) (7)(C), Schindler Elevator employee, on March 11, 2013.
30. HH Angus Deficiency Report, dated September 18-19, 2012.
31. DSC letter to WCG, Non-Compliant Disposal, dated June 28, 2011.
32. WCG reply to DSC's Non-Compliant Disposal letter, dated June 30, 2011.
33. DSC letter to WCG, Government direction for beam disposal, dated August 19, 2011.
34. DSC letter to WCG, Non-Compliant Disposal of Beams, dated October 13, 2011.
35. DSC letter to WCG, Final Decision on Non-Compliant Disposal, dated November 14, 2011.
36. Waste Management memorandum, dated August 9, 2011.
37. Nonhazardous waste manifests for materials at Carlsbad Caverns National Park, dated May 12, 2011.
38. IAR – Interview of (b) (7)(C), Carlsbad, NM, on April 8, 2013.
39. IAR – Contact with Environmental Protection Agency, Criminal Investigation Division, on November 8 and 10, 2012.
40. IAR – Interview of (b) (7)(C) employee, on September 6, 2012.
41. NPS Incident Report, (b) (7)(C), dated August 12, 2012.
42. Supplemental Report, (b) (7)(C), dated August 14, 2012.
43. DSC letter to WCG removing (b) (7)(C), dated (b) (7)(C) 2012; WCG's letter to KONE about removal from project, dated September 9, 2011.
44. Letter of Rejection – KONE's use of wrong adhesive, dated September 8, 2011.
45. IAR – Interview of (b) (7)(C), on July 22, 2014.
46. IAR – Interview of (b) (7)(C) employee, on March 20, 2014.
47. IAR – Interview of (b) (7)(C) employee, on March 20, 2014.
48. IAR – Interview of (b) (7)(C) employee, on March 19, 2014.
49. IAR – Interview of (b) (7)(C) employee, on March 20, 2014.
50. IAR – Interview of (b) (7)(C) employee, on March 19, 2014.
51. IAR – Interview of (b) (7)(C) employee, on March 13, 2014.
52. IAR – Interview of (b) (7)(C) employee, on June 3, 2013.
53. IAR – Interview of (b) (7)(C), on June 3, 2013.

OFFICE OF INSPECTOR
U.S. DEPARTMENT OF

REPORT OF INVESTIGATION

Case Title Stonebridge Corporation	Case Number OI-OG-14-0162-I
Reporting Office Energy Investigations Unit	Report Date July 25, 2016
Report Subject Final Report of Investigation	

SYNOPSIS

The Energy Investigations Unit (EIU), Office of Inspector General (OIG), U.S. Department of the Interior (DOI) initiated this investigation based on information received from the Bureau of Land Management (BLM), (b) (7)(C). BLM reported that Stonebridge Operating Co., LLC, (Stonebridge) submitted payments to the Office of Natural Resources Revenue (ONRR), for gas production associated with private acquired leases located in the Wayne National Forest, Ohio. BLM also reported the wells were incapable of production, and the payments were believed to be false submissions to ONRR for the purpose of maintaining the leases.

Working jointly with the BLM's Special Investigations Group (SIG), we conducted interviews, reviewed records, conducted site visits, and consulted with the United States Attorney's Office. Our observation found evidence of Stonebridge actively working at one well site, and we found that two wells were producing gas. Our review of Stonebridge's production identified minimal differences between the gas produced and the gas volumes Stonebridge reported to ONRR.

Our investigative findings were referred to the United States Attorney's Office, Southern District of Ohio, which declined prosecution. As a result, this matter is being referred to BLM for consideration and any administrative action deemed appropriate. We are also referring this matter to the United States Forest Service (USFS), for consideration of any surface violations. This investigation is closed, and no further investigative activity by this office on the matter is anticipated.

Reporting Official/Title	Signature
(b) (7)(C) /Special Agent	Digitally signed.
Approving Official/Title	Signature
(b) (7)(C) /SAC	Digitally signed.

Authentication Number: 2D0BE17AC47FF3E41FF43DDDE6397EBE

BACKGROUND

A private acquired lease is a mineral lease that has been purchased by, or donated to, the Federal Government. Minerals subject to these terms were generally leased prior to government acquisition and thus are not subject to many of the common Federal leasing laws, such as the Royalty Simplification and Fairness Act (RSFA) or the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA). The leases are subject to the terms of the original acquired lease, and also may be subject to state and common law. For additional information regarding the legal issues associated with private acquired leases, see **Attachments 1 and 2**.

Many leases have initial terms that describe development requirements for the minerals. After an initial term, leases are typically "held by production," which means the lease is valid and enforceable as long as hydrocarbons are produced and royalties are paid. If production ceases or all of the wells are plugged and abandoned, the lease terminates, and the mineral owner is free to issue a new lease for the minerals. It is possible, as in the allegations in this case, that an operator may falsely report production and pay royalties in order to "hold" a lease in hopes of selling the lease or avoid plugging and abandonment costs. Falsely reporting production and royalties could constitute a false statement, in violation of Title 18 of the United States Code, Section 1001.

The USFS is the responsible surface management agency when it comes to the development of minerals underlying National Forest lands. Federal law allows for mineral development on National Forest System lands, including the Wayne National Forest. The USFS and BLM hold a Memorandum of Understanding (MOU) that requires coordination between these agencies related to the leasing and management of federal minerals under National Forest land. The MOU with the BLM was signed on April 14, 2006, in compliance with Section 363 of the Energy Policy Act of 2005. Since the Wayne National Forest started land purchases in 1935, 244,242 acres have been acquired, creating a complex mosaic of ownership in 12 counties on Southeast Ohio. Beneath approximately 41 percent or 100,139 acres of the Wayne National Forest, oil and gas are federally owned. Privately owned oil and gas rights underlie approximately 59 percent or 144,103 acres of Wayne National Forest system land[1].

DETAILS OF INVESTIGATION

We received this allegation from (b) (7)(C), BLM (b) (7)(C) alleged Stonebridge was paying royalties for oil and gas production from 62 acres of private acquired leases within the borders of the Wayne National Forest, OH, even though the wells were not capable of production (**Attachment 3**). (b) (7)(C) believed Stonebridge was paying a royalty to hold the leases, which are located in a popular area known for Utica and Marcellus shale production.

(b) (7)(C) said during one BLM inspection, a company (b) (7)(C) told (b) (7)(C), BLM (b) (7)(C) Stonebridge did not realize one of the wells belonged to them, thus it had not been maintained (**Attachment 4**). (b) (7)(C) said the wells were not connected to gas sales lines, were overgrown with brush, and had been in disrepair for many years.

Because private acquired leases are not subject to typical Federal mineral regulations, BLM requested

[1]*Administration of Oil and Gas Activities.* United States Forest Service. Web. Accessed June 16, 2016. < http://www fs.usda.gov/detail/wayne/home/?cid=stelprdb5376502>.

production records pursuant to Ohio law, which allows lessees to request production information from lessors. As of February 2014, Stonebridge had not provided any production information to BLM, despite a June 20, 2013 Incident of Non-compliance (INC). (b) (7)(C) theorized that Stonebridge was avoiding providing information because the wells did not have any production.

Agent's Note: *Stonebridge has argued that the private acquired wells are not subject to INCs, as the wells are not governed by Federal statute. BLM attempted to issue an INC to gain compliance, however the ultimate authority to request production records for private acquired wells is based in state law. This matter is being referred to BLM to work with the state of Ohio or the DOI Solicitor's office as deemed appropriate.*

Stonebridge's Response Denied Holding Allegation

We interviewed (b) (7)(C), Attorney, (b) (7)(C), and (b) (7)(C), Washington Resources Group, regarding oil and gas operations conducted by Stonebridge (**Attachment 5**). (b) (7)(C) identified himself as Stonebridge's counsel and statutory agent, and (b) (7)(C) stated he managed landowner issues on behalf of Stonebridge. According to (b) (7)(C) Stonebridge operates 958 wells in Ohio. Positron Energy Resources, Inc. is the owner of the wells. (b) (7)(C) identified (b) (7)(C) as the (b) (7)(C) Stonebridge and the (b) (7)(C) Positron.

(b) (7)(C) claimed only one well operated by Stonebridge was subject to FOGRMA; other wells operated by Stonebridge were private acquired leases.

(b) (7)(C) stated that "most" of Stonebridge's wells (Federal and private) were producing. Stonebridge was attempting to recomplete some wells, and was trying to plug and abandon a few; however, issues with private land owners were causing some complications. A few private land owners have tried to get restraining orders to prevent Stonebridge from conducting activities on their land. (b) (7)(C) further explained that Stonebridge has lost some cases related to ownership of wells.

(b) (7)(C) stated that ultimately (b) (7)(C) as the (b) (7)(C) Stonebridge, was responsible for the company's activities, including compliance and regulatory programs, and royalty and production accounting. (b) (7)(C) stated that Stonebridge issues paper checks when the company pays royalties. According to (b) (7)(C) the check stub contains royalty accounting and production information.

Investigative Results Were Inconclusive

We interviewed (b) (7)(C), BLM Eastern States, regarding a production accountability review for Stonebridge's only conventional Federal lease, OHES51101 (**Attachment 6**). (b) (7)(C) said it is a conventional Federal lease with one well, the Russell #1. His review determined the Russell #1 produced (b) (4) MCF of gas in a six month period. According to (b) (7)(C) Stonebridge reported (b) (4) MCF of gas was produced. A "Plug or Produce" letter was issued to Stonebridge in April 2014. Stonebridge had 60 days from the receipt of the letter to plug and abandon the well or return it to producing status.

Agent's Note: *Producing status refers to the ability of a well to produce hydrocarbons from a well bore. In order to produce hydrocarbons, wells must have surface production equipment, meters, and other equipment as required by BLM, in addition to proper subsurface characteristics, such as sufficient reservoir pressure.*

Our documentary reviews included:

- Issuance of an IG subpoena to Stonebridge (**Attachment 7**). Stonebridge produced electronic copies of communications with the BLM, maintenance records, and accounting information for seven private acquired oil and gas wells operated by Stonebridge on the Wayne National Forest. They also provided images of paper checks issued to ONRR for royalties and copies of circular charts and chart integration statements.

- Issuance of an IG subpoena to Dominion East Ohio Gas Company (**Attachment 8**). Dominion provided a spreadsheet containing well sales information (**Attachment 9**). The spreadsheet indicated that Stonebridge had gas sales at multiple delivery points throughout Ohio.

- Obtaining a summary of oil purchases made by Ergon Oil, an oil purchaser in Ohio **(Attachment 10**). The purchase history provided by Ergon identified one purchase, on March 26, 2013, for $6,106.97 from Stonebridge lease OHES46010, one of the private acquired leases in question.

- Comparing copies of paper checks issued by Stonebridge to ONRR with gas production information provided by Stonebridge (**Attachment 11**). The review identified 28 checks submitted to ONRR with information that was different from the chart integration statement provided by Stonebridge, totaling approximately (b) (4) MCF. Attempts to schedule interviews with Stonebridge staff to determine the source of the discrepancy were frustrated by a continued lack of cooperation by Stonebridge's counsel.

Together with BLM-SIG, BLM (b) (7)(C), and representatives from USFS, we visited multiple Stonebridge well sites on April 6 and 7, 2015 (**Attachment 12**). The visit determined most of the wells appeared to be producing small quantities of gas and tanks with what appeared to be crude oil were observed. Only one well site visited, the Russell well, was not connected to metering equipment, oil tanks, or gas lines. There was workover equipment on the well site. During the visit, long term surveillance of two sites was established.

On November 9, 2015, we received copies of the photos taken during long term surveillance of two wells (**Attachment 13**). The photos indicated that Stonebridge was routinely visiting one well and appeared to be conducting activities on the Russell well.

SUBJECT(S)

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(b) (7)(C)

(b) (7)(C)

DISPOSITION

On March 25, 2016, this matter was referred to the United States Attorney's Office for the Southern District of Ohio, which declined prosecution of the case. This matter will be referred to the USFS and BLM for any further action deemed appropriate. Conversations with USFS representatives in the Wayne National Forest indicate that the images collected during long term surveillance may be used to support a case related to unauthorized storage of equipment on USFS lands.

ATTACHMENTS

1. 1983 Solicitor's Opinion regarding private acquired lease lands.
2. Memorandum – Department Authority over Private Acquired Oil and Gas Leases, May 31, 2013.
3. IAR – Receipt of Complaint, January 22, 2014.
4. IAR – Complaint Follow Up, February 10, 2014.
5. IAR – Interview of (b) (7)(C) and (b) (7)(C), June 30, 2014.
6. IAR – Interview of (b) (7)(C), June 10, 2014.
7. IAR – Service of OIG Subpoena No. 001583, July 1, 2014.
8. IAR – Service of Subpoena – Dominion East Ohio Gas, January 30, 2015.
9. IAR – Receipt of Dominion East Ohio Subpoena Prod. – Feb. 4, 2015, February 5, 2015.
10. IAR – Review of Purchase Records from Ergon Oil Purchasing, May 5, 2014.
11. IAR – Preliminary Review of Stonebridge Subpoena Information and Paper Check Comparison, August 28, 2015.
12. IAR – Review of Photos from Stonebridge Well Site Visit, May 7, 2015.
13. IAR – Preliminary Findings Report – Request for Digital Image Content Analysis from Three Surveillance/Game Cameras in Support of Forensic Request #6, March 29, 2016.