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Description of document: Closing Status Reports for four (4) Export-Import Bank of the United States (Ex-Im Bank) Inspector General (OIG) investigations, 2009-2013

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Source of document: FOIA Request
Export-Import Bank of the United States
Freedom of Information and Privacy Office
811 Vermont Ave., NW
Washington, D.C. 20571
Fax: (202) 565-3294
E-Mail: foia@exim.gov
[Online Freedom of Information Act Request Form](#)

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**EXPORT-IMPORT BANK
of the UNITED STATES**

INSPECTOR GENERAL

March 30, 2015

Re: FOIA Request # 201500034F

This is the final response to your Freedom of Information Act (FOIA) request to the Export-Import Bank of the United States (Ex-Im Bank). We received your request in our office on March 3, 2015. You requested a copy of the following IG "reports, draft reports (if no final report published), closing memos, etc.:

10-0005
11-0007
13-0003
14-0002

A search of the records maintained by the Office of the Inspector General located approximately 19 pages of documents that are responsive to your request. We have reviewed these documents under the terms of FOIA. No pages have been withheld in full. Certain information is protected under FOIA Exemptions 2, 4, 5, 6, 7(A), 7(C), 7(D) and 7(E) and has been redacted. The documents are attached, and redactions are noted with the corresponding FOIA exemption:

FOIA Exemption 2 exempts from mandatory disclosure records that are related solely to the internal personnel rules and practices of an agency.

FOIA Exemption 5 protects inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy.

FOIA Exemption 7(C) protects records or information compiled for law enforcement purposes that could reasonably be expected to constitute an unwarranted invasion of personal privacy. This exemption takes particular note of the strong interests of individuals, whether they are suspects, witnesses, or investigators, in not being unwarrantably associated with alleged criminal activity. That interest extends to persons who are not only the subjects of the investigation, but those who may have their privacy invaded by having their identities and information about them revealed in connection with an investigation. Based upon the traditional recognition of strong privacy interest in law enforcement records, categorical withholding of information that identifies third parties in law enforcement records is ordinarily appropriate.

FOIA Exemption 7(D) provides protection for records or information compiled for law enforcement purposes which could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source.


FOIA Exemption 7(E) protects law enforcement information which would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. §552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all of our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You have the right to appeal the decision regarding non-disclosure of redacted information by writing to the Export-Import Bank of the United States, Attention: Assistant General Counsel for Administration, 811 Vermont Avenue, N.W., Washington, D.C., 20571. Any appeal must be received by that office within 30 days from the date of this letter. You may also submit an appeal via E-Mail at FOIA.Appeals@exim.gov. The phrase "FOIA APPEAL" should appear on the letter and on the outside of the envelope containing the appeal or in the "Subject" line of the E-Mail.

If you have any questions about this response, please contact me at (202) 565-3974 or by E-Mail at Parisa.Salehi@exim.gov.

Sincerely,


Parisa Salehi
Counsel



Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

| | |
|--|---|
| Title: Anonymous Letter: Prohibited Personnel Practices | Date Opened: December 23, 2009 |
| Case No: 10-0005-HOT-PI | Quarterly Date: October 13, 2010 |
| Agent: (b) (6) | |

Allegations:

On September 15, 2009, reporting agent received a referral from the Assistant Inspector General for Investigations, Office of Inspector General (OIG), Export-Import Bank of the United States (Ex-Im Bank). The referral consisted of an undated, anonymous letter to the OIG Hotline. The letter alleges that prohibited personnel practices are "rampant" at Ex-Im Bank. Specifically, it alleged that: (1) the (b) (6), (b) (7)(C) circumvented hiring rules when he hired, uncompetitively, a personal longtime family friend to the (b) (6), (b) (7)(C); (2) (b) (6), (b) (7)(C) received an unjustifiable high rating for a abnormal performance period that led to a large case award. The letter's author alleges that (b) (6), (b) (7)(C) received a significantly smaller bonus for a similar rating, and; (3) (b) (6), (b) (7)(C) takes a number of expensive, and perhaps unnecessary and unproductive, business trips to two foreign countries. It identifies (b) (6), (b) (7)(C) as one of the countries in question; but not the other.

Closing Summary:

Preliminary investigation determined that the (b) (6), (b) (7)(C) referred to in the allegations above is actually (b) (6), (b) (7)(C)

The individual who was allegedly hired as stated above is actually (b) (6), (b) (7)(C)

Based on preliminary reviews and meetings with Human Resources, it was evident that the anonymous complainant had confused (b) (6) instead of his actual position as (b) (6), (b) (7)(C) Interviews with (b) (6), (b) (7)(C)

were conducted and the Official Personnel records of (b) (6), (b) (7)(C)

were reviewed. Additionally, travel records of (b) (6), (b) (7)(C) were reviewed and analyzed and the trips were determined to be authorized and productive. In summary, the allegations were determined to be unfounded.

Allegation 1 – Uncompetitive Hiring Practices

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Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

Review of personnel files and interviews with (b) (6), (b) (7)(E) revealed that the Job Position Announcement for the position of the (b) (6), (b) (7)(C) was competed for both internally and externally, commonly known as all sources, from (b) (6), (b) (7)(C) ; a three week period. There were 79 applicants from the external sector (outside of federal government) and 8 internal sector (Federal Government employees) applicants. One internal applicant included an Ex-Im Bank employee.

The external applicant pool was reviewed by two Ex-Im Bank raters (b) (6), (b) (2). The raters used criteria pre-established by HR called a rating schedule crediting plan. The raters assessed the external applications and scored them on a scoring sheet. This sheet was reviewed and tallied by HR personnel who prepared the Delegated Examining Unit (DEU) Certificate of Eligibles (Cert.). HR used the Delegated examination "Rule of Three" when they prepared the Cert. This means that the only the top 3 scoring candidates are placed on the DEU Certificate of Eligibles. (b) (6), (b) (7)(C), (b) (2) score was 99 out of a possible 100. Another candidate's score was a perfect 100 and the third candidates matched (b) (6), (b) (7)(C), (b) (2) score of 99. These three names, including (b) (6), (b) (7)(C), (b) (2) were provided to the selecting official, (b) (6), (b) (7)(C), (b) (2) as the official External Applicants Cert.

There were a total of eight internal applicants including one Ex-Im Bank employee. HR determined that 3 applicants had failed to provide their Knowledge, Skills, and Assessment answers. Two other applicants lacked the mandatory experience qualifying factor. Therefore, only three internal applicants qualified for the Federal Cert. There were actually two Federal Certs because one of the qualified applicants was (b) (6), (b) (7)(C), (b) (2) mandating, per OPM rules, that they be placed in a separate Merit Promotion Non-Competitive Cert. These two Certs; a Merit Promotion Cert. and a non-compete Merit Promotion Cert. were provided (b) (6), (b) (7)(C), (b) (2) along with the Certificate of Delegated Authority (External Cert) (b) (6), (b) (7)(C), (b) (2).

HR informed the selection official that the Cert., as is typical, would expire (b) (6), (b) (7)(C), (b) (2) (30 days). Therefore, (b) (6), (b) (7)(C), (b) (2) has 30 days to contact the applicants, interview them, and either informs HR of his selection or non-selection.

(b) (6), (b) (7)(C), (b) (2) sent HR a memorandum for record (MFR) declining to select anyone from the internal Certs. This is the standard operating procedure when the selecting official chooses not to select anyone from a Cert. and a standard HR form is used by the selecting official in order to accomplish this procedure. (b) (6), (b) (7)(C), (b) (2) also wrote a Memorandum of Record to HR, as is their recommended procedure, informing them that he had selected (b) (6), (b) (7)(C), (b) (2) from the External Cert. for the position of the (b) (6), (b) (7)(C) and that he had performed two reference checks. Reporting

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Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

agent reviewed ^{(b) (6), (b) (7)(C)} summarized reference checks on ^{(b) (6), (b) (7)(C), (b) (2)}. Both references were highly complementary of his performance record. ^{(b) (6), (b) (7)(C)} selection memorandum did not reflect his interview results with the other two external candidates; nor did they reflect the interview results, if even applicable, with the non-selected internal applicants.

Once a candidate has been selected by the selecting official, HR re-audits and re-reviews the entire application process. This is done to ensure that all the paperwork is in order, that all policy, procedures, and regulations were followed, and that the file is prepared for the mandatory Office of Personnel Management audits performed on Ex-IM Bank's HR Department.

HR determined that all regulations, policies and procedures were followed in the ^{(b) (6), (b) (7)(C), (b) (2)} Position Announcement, Certification Process, and selection. The only event that ^{(b) (6), (b) (7)(C), (b) (2)} or her staff is not privy to is the actual interviews conducted by the selection official and the candidates.

^{(b) (6), (b) (7)(C), (b) (2)} stated she believes that the selection of ^{(b) (6), (b) (7)(C), (b) (2)} was fair and competitive. ^{(b) (6), (b) (7)(C), (b) (2)} was not involved in the external rule of neither three selection process nor the internal cert. preliminary selection. ^{(b) (6), (b) (7)(C), (b) (2)} stated that, "...while it is possible that the interview process could have been slanted by ^{(b) (6), (b) (7)(C), (b) (2)}, it was impossible for ^{(b) (6), (b) (7)(C), (b) (2)} to have influenced the Cert. process as ^{(b) (6), (b) (7)(C), (b) (2)} scored in the top 3 for external applicants out of a possible 79 by independent raters using pre-established criteria." Additionally, the raters were not employees of ^{(b) (6), (b) (7)(C)} and do not report to ^{(b) (6), (b) (7)(C)}

Allegation 2 – Unjustified Rating & Subsequent Award

A review of the award paperwork and interviews with ^{(b) (6), (b) (7)(C), (b) (7)(D)} revealed that ^{(b) (6), (b) (7)} supervises ten employees within ^{(b) (6), (b) (7)(C)}. However, two of them, ^{(b) (6), (b) (7)(C)} did not receive performance ratings as they were not eligible to receive a rating. HR explained that an employee must have been supervised by that supervisor for 90 days in order to receive a performance evaluation per Federal regulation. HR provided reporting agent with a report compiled on performance ratings and performance based awards for the ^{(b) (6), (b) (7)(C), (b) (7)(D)}. The report shows that ^{(b) (6), (b) (7)(D), (b) (2)} were the two employees that did not receive performance ratings. However, ^{(b) (6), (b) (7)(C)} was given a \$2500.00 dollar performance award while ^{(b) (6), (b) (7)(C)} was only given a \$1000.00 award. HR researched ^{(b) (6), (b) (7)(C)} justification and found that ^{(b) (6), (b) (7)(C)} had justified ^{(b) (6), (b) (7)(C)} awards as, "because of his contribution in a short time."

Allegation 3 – Unnecessary/Unproductive Business Trips

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Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

A review of travel authorizations for (b) (6), (b) (7)(C) and interviews with (b) (6), (b) (7)(C) revealed that HR was unaware of any unnecessary travel issues in (b) (6), (b) (7)(C). However, (b) (6), (b) (7)(C), (b) (7)(D) recalled an incident where Ex-Im Bank managers were told that they were not allowed to “play golf” during the Ex-Im Bank picnic on government time. Evidently several managers were using the annual picnic day as an excuse to play golf rather than working or participating in the picnic. According to (b) (6), (b) (7)(C), (b) (7)(D), Senior Ex-Im Bank management has put a halt to this practice.

(b) (6), (b) (7)(C), (b) (7)(D)

provided reporting agent with the travel records of (b) (6), (b) (7)(C). A spreadsheet was created to allow the eighteen relevant trips to be reviewed and analyzed. Additionally, a thorough review of each of the travel records in question was examined and the following was determined:

- All travel requests and vouchers were thoroughly documented.
- The travel order/request and authorizations all contained justifications and trip purposes.
- All travel vouchers included hotels, transportation, gas, and phone calls. There were no unusual vouchered items. I.e. No non-standard expenses were vouchered or approved/
- No items on the traveler’s vouchers were ever disapproved after thorough Travel Team voucher audit reviews.
- The travel orders and vouchers were, on almost all occasions, approved by (b) (6), (b) (7)(C).
- Numerous other Bank officials accompanied (b) (6), (b) (7)(C) on many of the international trips.
- If Business Class was used, the mandatory Ex-Im Bank form was always present in the traveler’s file. The forms were signed by an authorizing official; typically (b) (6), (b) (7)(C)
- If actuals were required, the mandatory “Request for Actual Expense Reimbursement” form was always present in the travel file. The forms were properly filled out and they were authorized with a valid signature.
- All the Travel Records contained detailed “Voucher Schedule of Expenses and Amounts Claimed”.
- The international trips indicated that many meetings and work duties were typically conducted in several cities over a very short period of time. This indicates multi-purpose/multi-tasking and cost-savings to the US. Government.

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Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

Accordingly, this preliminary investigation found there was no evidence to suggest anything improper was done in (b) (6), (b) (7)(C) regarding illegal hiring, unfair award practices, or improper travel, as alleged. Therefore, this matter cannot be referred to the Department of Justice for possible prosecutorial acceptance or declination. Accordingly, this investigation is closed as unfounded and warrants no further investigation.

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CLOSING STATUS REPORT

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|---------------------------------------|------------------------------------|
| Title: Human Resources (et.al) | Date Opened: June 24, 2011 |
| Case No: 11-0007-PUB-PI | Closing Date: July 27, 2011 |
| Agent: (b) (6): | |

Allegations:

This preliminary investigation was opened on June 24, 2011, based on the receipt of a resignation letter from (b) (6), (b) (7)(C), (b) (7)(D), a former employee of Ex-Im Bank's (b) (6), (b) (7)(C); in which he alleged that his supervisor (b) (6), (b) (7)(C) had created a hostile work environment which is unacceptable and has caused many staff members to leave. A copy of the letter had been anonymously provided to the Inspector General (IG) on or about June 13, 2011. Additionally, the IG had also received an earlier email dated June 10, 2011, from former (b) (6), (b) (7)(C), (b) (7)(D) in which she alleged poor management behaviors (b) (6), (b) (7)(C). Based upon discussions between the IG and the Assistant Inspector General for Investigations, further review of this matter was deemed appropriate. The purpose of the preliminary investigation was to attempt to determine if such actions were indicative of bad management practices, or if they rose to the level of any specific violation of law, rule, or regulation.

Closing Summary:

On June 27, 2011, (b) (6), (b) (7)(C), (b) (7)(D), former (b) (6), (b) (7)(C), (b) (7)(D) was interviewed at which time he described a hostile and poor working environment under (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) had no information concerning specific violations under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, or the Americans with Disabilities Act of 1990 (Acts).

On June 29, 2011 (b) (6), (b) (7)(C), (b) (7)(D) contacted reporting agent and provided further information concerning (b) (6), (b) (7)(C), anger and violence in the work environment.

On June 29, 2011, (b) (6), (b) (7)(C), (b) (7)(D) was interviewed at which time he provided information concerning his last day at Ex-Im Bank and the circumstances leading up to the confiscation of his government identification badge by Building Security. (b) (6), (b) (7)(C), (b) (7)(D) described a hostile and poor working environment under (b) (6), (b) (7)(C). (b) (6), (b) (7)(C), (b) (7)(D) had no information concerning specific violations of the Acts.

On June 29, 2011, (b) (6), (b) (7)(C), (b) (7)(D) was interviewed at which time she described a hostile and poor working environment under (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) had no information concerning specific violations of the Acts.

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

On July 6, 2011, (b) (6), (b) (7)(C), (b) (7)(D) , was interviewed at which time she described a poor working environment under (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (7)(D) had no information concerning specific violations of the Acts.

On July 6, 2011, (b) (6), (b) (7)(C), (b) (7)(D) , was interviewed at which time he described a poor working environment under (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (7)(D) had no information concerning specific violations of the Acts.

On July 8, 2011, an individual who requested confidentiality was interviewed at which time they provided information concerning a hostile and poor working environment under (b) (6), (b) (7)(C). They had no information concerning specific violations of the Acts.

On July 14, 2011, (b) (6), (b) (7)(C), (b) (7)(D) t, Ex-Im Bank, was interviewed at which time he reported how he came to (b) (6), (b) (7)(C), (b) (7)(E)

On July 14, 2011, (b) (6), (b) (7)(C), (b) (7)(D) , was interviewed at which time he reported that (b) (6), (b) (7)(C) requested he (b) (7)(E)

On July 15, 2011, (b) (6), (b) (7)(C), (b) (7)(D) , was interviewed at which time she described a hostile and poor work environment under (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), (b) (7)(D) had no information concerning specific violations of the Acts.

On July 15, 2011, an individual who requested confidentiality was interviewed. Prior to commencing the interview, the individual reported they had to postpone the interview due to other family matters and would contact reporting agent at a later date. The individual did not contact reporting agent, and has not responded to messages left by reporting agent seeking to continue the interview. No pertinent information was obtained from the individual.

On July 21, 2011, the Inspector General provided a letter to Mr. Fred Hochberg, Ex-Im Bank Chairman and President, in which the results of this investigation were shared, and recommended a management review be conducted to address and remedy what appears to be a significant and pervasive problem which has negatively impacted the morale of (b) (6), (b) (7)(C) and the performance of (b) (6), (b) (7)(C). The IG requested that he be notified within 30 days of any action the Ex-Im Bank will take on this matter.

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

On July 25, 2011, the Inspector General personally met with Chairman Hochberg and Executive Vice President Alice Albright to further discuss the letter and findings in this matter.

In summary, the investigation found no evidence of any specific or actionable violations of laws, rules, or regulations in this matter which would prompt presentation to the Department of Justice or other authorities, and the IG has promptly reported the findings of poor management practices to the Chairman of Ex-Im Bank. However, there is no guarantee that management will take any action, or even deem that action is warranted in this matter, or that such action will be taken and reported in a timely fashion. Accordingly, on July 27, 2011, the AIGI determined that rather than maintain an open case file indefinitely in anticipation of possible results, this case file can be closed under these circumstances and any action taken by senior management, if forthcoming at all, can be included in the case file at a later time and reported under separate cover. This preliminary investigation is closed.

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Office of Investigations

CLOSING STATUS REPORT

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|----------------------------------|---------------------------------------|
| Title: Diebold, Inc. | Date Opened: October 25, 2013 |
| Case No: 14-0002/AGT/PI/C | Closing Date: December 2, 2013 |
| Agent: (b) (6) | |

Allegations:

This Preliminary Investigation was initiated after (b) (6), (b) (7)(C) located a FBI/DOJ press release which indicated that Diebold, Inc. had reached a settlement agreement with DOJ and SEC for FCPA violations pursuant to conduct in China and Russia between 2005-2009. The case was investigated by the FBI and SEC Enforcement. (b) (7)(E), (b) (5)

Ex-Im systems indicated that Diebold had a total of \$18,868,683 in claims with Ex-Im, of which \$18,238,618 were from the 2005-2009 time period in Kazakhstan. (b) (5), (b) (7)(E)

listed on all Ex-Im exporter's certificates (... ..in addition, neither we nor anyone acting on our behalf, such as agents, have engaged, or will engage, in any activity in connection with this transaction that is a violation of the Foreign Corrupt Practices Act of 1917, 15 U.S.C. 78dd-l, et seq. (which provides for civil and criminal penalties; against companies and individuals who directly or indirectly make or facilitate corrupt payments to foreign officials to obtain or keep business). Ex-Im claim files showed that (b) (6), (b) (7)(C)

signed exporter's certificates on behalf of Diebold. This investigation was worked in relation to possible violations of 18 USC 1001, false statements and 18 USC 287, violations of the False Claims Act.

Closing Summary:

On November 18, 2013, (b) (6), (b) (7)(C) conducted a conference call with (b) (6), (b) (7)(C)

(b) (7)(E), (b) (5)

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations

CLOSING STATUS REPORT

(b) (7)(E), (b) (5) the specific Exporter's Certificate language cited above, *in addition, neither we nor anyone acting on our behalf, such as agents, have engaged, or will engage, in any activity in connection with this transaction that is a violation of the Foreign Corrupt Practices Act of 1917, 15 U.S.C. 78dd-l, et seq.*

A review of the DOJ FCPA court and settlement documents for Diebold revealed that all of the FCPA violations occurred in China and Russia and not in Kazakhstan. The FCPA violations in China and Russia occurred between 2005 and 2009, which means (b) (7)(E) . (b) (7)(E), (b) (5)

(b) (7)(E), (b) (5)

Based on the aforementioned facts and due to limited Ex-Im OIG personnel and financial resources, further investigation would not appear to produce actionable results, and this PI is being closed.

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Export-Import Bank of the United States
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Office of Investigations
CLOSING STATUS REPORT

| | |
|-----------------------------------|---------------------------------------|
| Title: HR Hiring Practices | Date Opened: December 10, 2012 |
| Case No: 13-0003-GOV-PI | Quarterly Date: June 14, 2013 |
| Agent: (b) (6) | |

Allegations:

This Preliminary Investigation was initiated based on a referral from an employee (referred to herein as (b) (6), (b) (7)(C), (b) (7)(D)) in (b) (6), (b) (7)(C)

Export-Import Bank of the United States (Ex-Im Bank), who reported allegations of improper hiring practices within the Ex-Im Bank. The employee alleged that (b) (6), (b) (7)(C) took actions during past vacancy announcements and hiring of staff at Ex-Im Bank which could be construed as preferential hiring practices or other types of actions which circumvented the intention and spirit of fair play in the hiring process. Furthermore, (b) (6), (b) (7)(C) alleged that (b) (6), (b) (7)(C) treats her staff poorly which has led to numerous employee departures, and indicated that the lack of policy (b) (6), (b) (7)(C) has resulted in a lack of staff direction. (b) (6), (b) (7)(C) reported that the unfair hiring practices, lack of policy, and (b) (6), (b) (7)(C) "style of leadership" is directly attributable to the high employee turnover (b) (6), (b) (7)(C) said many of these matters were reported by (b) (6), (b) (7)(C) to the Office of Personnel Management (OPM) during their audit and compliance review of the HR Division during July 2012. Subsequently, during the course of this preliminary investigation, OPM released their report dated March 8, 2013. Amongst other things, the OPM report (b) (2), (b) (5)

On June 13, 2013, the Ex-Im Bank HR Division responded to the report's findings.

This Preliminary Investigation attempted to determine if there were any reasonable indications of violations of the Standards of Ethical Conduct for Employees of the Executive Branch (the Standards of Ethical Conduct - 5 C.F.R. 2635) and Merit System Principles (5 U.S.C 2301) or any specific violation of law, rule, or regulation otherwise not addressed by OPM under their purview, which would warrant further investigation and presentation to the Department of Justice or management for action deemed appropriate.

Closing Summary:

During the investigation, several interviews were conducted with (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), (b) (7)(D)

Each of these matters were assessed to

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

determine if further investigation was warranted, or were otherwise addressed and resolved by OPM and corrections to HR policy and procedures.

Allegation (1): In summary, (b) (6), (b) (7)(C) reported some instances they believed were indicative of pre-selection and preferential hiring practices by (b) (6), (b) (7)(C), and stated they reported these same concerns to OPM during their review of the HR Division, as follows:

1. In one instance, (b) (6), (b) (7)(C) reported that (b) (6), (b) (7)(C) was hired within the (b) (6), (b) (7)(C) after an HR certifying specialist deemed her to be unqualified and did not meet the vacancy announcement certification. It was reported that selecting official (b) (6), (b) (7)(C) Ex-Im Bank, repeatedly asked the certifying specialist why (b) (6), (b) (7)(C) had failed to qualify for the certification listing. The HR Specialist then confirmed (b) (6), (b) (7)(C) non-certification rating and disqualification with another HR Specialist, who also agreed with the initial rating. However, (b) (6), (b) (7)(C) reportedly circumvented the Specialist's assessment and brought the matter to the (b) (6), (b) (7)(C), who allegedly overrode the Specialist's finding and determined that (b) (6), (b) (7)(C) was qualified and she was subsequently hired. The investigative assessment of this matter found as follows:

- All interviewed HR Specialists informed OI that they are prohibited from discussing an applicant's certification score, or underlying reasons, with the vacancy announcement's selecting official.
- (b) (6), (b) (7)(C) had no direct knowledge of the (b) (6), (b) (7)(C) hiring and could only relate the allegations as they were told to him by (b) (6), (b) (7)(C)
- OPM reported (b) (2), (b) (5)
- (b) (6), (b) (7)(C) said she did not recall anything about this certification, or if (b) (6), (b) (7)(C) acted as the subject matter expert, and never recalled (b) (6), (b) (7)(C) ever acting in such a position.

2. In another instance, a vacancy in the (b) (6), (b) (7)(C) was announced and the Ex-Im Bank's selecting official, (b) (6), (b) (7)(C), related to

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

(b) (6), (b) (7)(C) that he had advised several individuals currently working (b) (6), (b) (7)(C) announcement, and had been told by at least one of those individuals that they had applied for the position. However, (b) (6), (b) (7)(C) certified four veterans as the best qualified candidates and none of the other individuals from (b) (6), (b) (7)(C) made the certification list. (b) (6), (b) (7)(C) reportedly asked (b) (6), (b) (7)(C) for the reasons behind their non-certification and then elevated his concerns. Subsequently, (b) (6), (b) (7)(C) held a meeting with the HR Specialists in which the (b) (6), (b) (7)(C) announcement's candidates and their qualifications are openly discussed and debated. At the conclusion of the meeting, (b) (6), (b) (7)(C) ordered (b) (6), (b) (7)(C) to close the announcement and re-assigned the announcement to (b) (6), (b) (7)(C). Subsequently, the new announcement was changed to reflect (b) (6), (b) (7)(C) experience. Reportedly, (b) (6), (b) (7)(C) let it slip to (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) had someone specifically in mind for the position. The investigative assessment of this matter found as follows:

- All interviewed HR Specialists informed OI that they are prohibited from discussing an applicant's certification score, or underlying reasons, with the vacancy announcement's selecting official.
- (b) (6), (b) (7)(C) denied that the new announcement was a form of pre-selection or that qualified veterans were denied the opportunity obtain employment. (b) (6), (b) (7)(C) reported that she discourages Ex-Im Bank selecting officials from directly interfacing with the HR Specialist during the position announcement application process. (b) (6), (b) (7)(C) related that she had met with the selecting official after the initial applicant screening process and that they had determined that the first job announcement failed to capture the position's core competencies. Therefore, (b) (6), (b) (7)(C) re-wrote the position's basic requirements and re-announced it. (b) (6), (b) (7)(C) stated that the initial announcement had simply failed to capture the essence of the position and that both HR (b) (6), (b) (7)(C) had observed this oversight in the first vacancy announcement's applicant resumes.
- OPM reported (b) (2), (b) (5)

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

(b) (5), (b) (2)

3. In another instance, (b) (6), (b) (7)(C) rated a job applicant (b) (6), (b) (7)(C) as a 10-Point certified veteran who beat all other certified applicants for a vacancy announcement within (b) (6), (b) (7)(C), working under (b) (6), (b) (7)(C). However, (b) (6), (b) (7)(C) reportedly interviewed the applicant by phone and determined that (b) (6), (b) (7)(C) certification score should be lowered. Reportedly, (b) (6), (b) (7)(C) directed (b) (6), (b) (7)(C) to lower the score, and the position was offered to an (b) (6), (b) (7)(C). However, this person turned the position down. Thereafter, instead of offering candidate (b) (6), (b) (7)(C) the position, the vacancy was re-announced with additional mandated educational qualifications which prevented (b) (6), (b) (7)(C) from even applying for the position. The investigative assessment of this matter found as follows:

- (b) (6), (b) (7)(C) believe that Director (b) (6), (b) (7)(C) circumvented the normal hiring process by improperly advising (b) (6), (b) (7)(C) to conduct a telephonic interview of the applicant in order to lower his score. According to (b) (6), (b) (7)(C) interviewed, telephonic interview results only permit a lowered certification score if an Agency policy exists permitting this type of pre-scoring process.
- (b) (6), (b) (7)(C) stated that since HR has no such policy, the actions taken by (b) (6), (b) (7)(C) constituted an improper hiring practice.
- OPM reported (b) (2), (b) (5)

- (b) (6), (b) (7)(C) recalled the veteran that applied for the (b) (6), (b) (7)(C) vacancy but believes that (b) (6), (b) (7)(C) interview of (b) (6), (b) (7)(C) determined that (b) (6), (b) (7)(C) was unsuitable for the position. Subsequently, Director (b) (6), (b) (7)(C) determined that the position should be re-

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

announced because they both thought it would be better suited for a candidate that held (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) said she had purposefully refrained from being involved in the certification process, and (b) (2), (b) (5)

4. In another instance, (b) (6), (b) (7)(C) reported that (b) (6), (b) (7)(C) , may have submitted an application a few years ago for his own supervisory position improperly six hours after the closing deadline of the vacancy announcement, and did so as a Systems Administrator of the Vacancy Database (USAJobs) - rather than as a normal USAJobs applicant. The investigative assessment of this matter found as follows:
- (b) (6), (b) (7)(C) reported that (b) (6), (b) (7)(C) returned the certification listing as unfulfilled and re-announced the position at a later point in time. (b) (6), (b) (7)(C) applied to the subsequent HR announcement and received both the position and its related promotion.
 - OPM reported (b) (2), (b) (5) (b) (6), (b) (7)(C) (b) (2), (b) (5)
 - (b) (6), (b) (7)(C) disagreed with OPM's finding, stating that in (b) (6), (b) (7)(C) (b) (2), (b) (5)

Allegation (2): (b) (6), (b) (7)(C) reported that the HR Division at Ex-Im Bank has no policies on hiring practices and that HR Specialists lack specific departmental guidance or procedures when it comes to performing their duties and (b) (6), (b) (7)(C) has repeatedly told her Specialists that internal policies would restrict the hiring process and that staff should use OPM guidelines and regulations. The investigative assessment of this matter found as follows:

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

- OPM reported (b) (5), (b) (2)
- (b) (6), (b) (7)(C) stated that HR is currently in the process of updating a number of HR policies. (b) (6), (b) (7)(C) stated that while some of these updates were spurred on by the negative findings in the OPM report, most of the updates were "already in the works". Furthermore, (b) (6), (b) (7)(C) said that the age of the existing HR policies and newly issued Executive Orders on Veterans preference hiring and acceptable federal resume formats were really the driving factors behind the HR policy updates, and several of the policies were finalized prior to the OPM review and were currently with senior management pending review.

Allegation (3): (b) (6), (b) (7)(C) reported poorly written Position Descriptions (PD) are submitted to the Specialists by managers and other senior Ex-Im Bank personnel. (b) (6), (b) (7)(C) alleged that hiring officials at Ex-Im Bank are improperly authoring PDs because they are not following the mandated OPM guidelines and factors. (b) (6), (b) (7)(C) believes that the PDs provided to Ex-Im Bank HR staff are "canned and lack detail" and that these PDs do not necessarily fit the positions that are expected to be filled. The investigative assessment of this matter found as follows:

- (b) (6), (b) (7)(C) said that no job analysis is being conducted by HR on Ex-Im Bank vacancy announcements, which is an OPM required step. Furthermore, (b) (6), (b) (7)(C) believes that (b) (6), (b) (7)(C), who has recently been assigned to do the new Position Classification analysis, is not trained or qualified to perform the position analysis.
- (b) (6), (b) (7)(C) cited an (b) (6), (b) (7)(C) position that was announced in (b) (6), (b) (7)(C) where (b) (6), (b) (7)(C) asked HR to announce a vacancy as for (b) (6), (b) (7)(C). However, (b) (6), (b) (7)(C) met with (b) (6), (b) (7)(C) and explained that the duties were those of (b) (6), (b) (7)(C) and not an (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) insisted that the position be announced as (b) (6), (b) (7)(C) and went around the HR Specialist to (b) (6), (b) (7)(C) to ensure that the vacancy went out as (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) believes this to be an example of improper classification and of interference from both the selecting official (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) cited a number of positions at the Ex-Im Bank that have been announced for over nine months and have yet to be filled. (b) (6), (b) (7)(C) believes that if these

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

positions can remain vacant for such a long period of time, it is obvious that the position is not needed and does not need to be filled and could possibly be eliminated.

- OPM reported (b) (2), (b) (5)
- (b) (6), (b) (7)(C) reported that many of the cited issues identified in the OPM report are simply not applicable to Ex-Im Bank's unique chartered government corporation, and there are numerous gray areas in the rules governing HR and personnel hiring. (b) (6), (b) (7)(C) said that since the OPM report, she has personally conducted several internal reviews on a number of vacancy announcements and positions that were filled at Ex-Im Bank during the past two years. (b) (6), (b) (7)(C) has noticed large discrepancies and found that many of the vacancy announcement files "are not up to snuff" and are missing a number of required items. Missing items include certifying specialist notes, response letters, and other types of documentation that (b) (6), (b) (7)(C) considers mandatory. (b) (6), (b) (7)(C) stated that she has had a number of (b) (6), (b) (7)(C) who, while certified in the DEU hiring process, remain "technically weak" in the personnel certification and hiring process. (b) (6), (b) (7)(C) attributed "sloppy record keeping" and other deficient findings to her staff for failing to follow her guidelines and directives when it comes to documenting their vacancy announcements, certifications, applicant response letters, and filled positions.

Allegation (4): (b) (6), (b) (7)(C) behaviors as a supervisor have caused (b) (6), (b) (7)(C) to leave Ex-Im Bank and have created a poor working environment. The investigative assessment of this matter found as follows:

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

- (b) (6), (b) (7)(C) stated that, “(b) (6), (b) (7)(C) treats people like dirt” and (b) (6), (b) (7)(C) 03 reported that, (b) (6), (b) (7)(C) is a bully” and is constantly yelling and pointing her finger at her employees.
- (b) (6), (b) (7)(C) recounted an instance where (b) (6) demanded that (b) (6), (b) (7)(C) at her when she’s being spoken to as (b) (6), (b) (7)(C) repeatedly pounded the desk with her index finger. According to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was asked by one of her employees why she constantly pointed at her employees when verbally addressing them and was told by (b) (6), (b) (7)(C) that she “trained her dog that way and she found it an extremely effective training method.” (b) (6), (b) (7)(C) feels intimidated by (b) (6), (b) (7)(C) and that Ex-Im Bank has done nothing about (b) (6), (b) (7)(C) failings as a supervisor. (b) (6), (b) (7)(C) decided that the best course of action is to leave Ex-Im Bank before the situation worsens.
- (b) (6), (b) (7)(C) informed OI that he/she and another (b) (6), (b) (7)(C) employee reported their concerns to the Ex-Im Bank (b) (6) (b) (6)
- OIG investigation 11-0007-PUB-PI already addressed similar allegations concerning (b) (6), (b) (7)(C) behaviors and the poor working environment (b) (6), (b) (7)(C). That investigation was closed on July 27, 2011 at which time findings were reported to senior Ex-Im Bank management for action deemed appropriate.

With regard to Allegation (1), (b) (2), (b) (5)

The selecting officials’ questioning as to why certain individuals did not make the certification may have been viewed by the HR Specialists as improper but, absent appropriate policy and/or management training, such communications would not warrant further investigation by this office. With respect to the re-announcements concerning (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), OPM required (b) (2), (b) (5) and (b) (6), (b) (7)(C) has addressed the same, and in part contests the facts reported by OPM. (b) (6), (b) (7)(C) reported she and the selecting officials included additional requirements in the re-announcements appropriately for the purpose of capturing the essence of the position needed. It also appears that telephonic interviews resulting in a lower certification score are not necessarily in-and-of themselves prohibited, only in the absence of established policy. Nevertheless, OPM directed (b) (2), (b) (5)

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Export-Import Bank of the United States
Office of Inspector General
Office of Investigations
CLOSING STATUS REPORT

(b) (2), (b) (5)

(b) (2), (b) (5) With regard to the timeliness of applications,
(b) (2), (b) (5) disputes OPM's findings (b) (2), (b) (5)
(b) (6), (b) (7)(C) (b) (2), (b) (5)

(b) (2), (b) (5)

Accordingly, no further investigation appears warranted by this office.

With regard to Allegations (2) and (3), (b) (2), (b) (5)

With regard to Allegation (4), matters of poor managerial behaviors and a poor working environment have been brought to the attention of the OIG and Ex-Im Bank management on several occasions, and thoroughly investigated under prior case 11-0007-PUB-PI. The information provided in allegation (4) did not appear to contain any additional or actionable information regarding (b) (6) behaviors which have not already been substantially investigated and provided to Ex-Im Bank management for action deemed appropriate.

Accordingly, the information provided above was further reported by the complainants to OPM and the EEO & Diversity Officer. And, whereas the OPM Office of Merit System Audit & Compliance appears to have fully addressed these, and many other, concerns and deficiencies (b) (2), (b) (5)

further investigation by this office would not appear warranted at this time. This Preliminary Investigation did not find any reasonable indications of violations of the Standards of Ethical Conduct for Employees of the Executive Branch (the Standards of Ethical Conduct - 5 C.F.R. 2635) and Merit System Principles (5 U.S.C. 2301) or any specific violations of law, rule, or regulation which were not fully or adequately addressed by OPM under their purview. In light of this, no matters herein appeared to warrant further investigation or presentation to the Department of Justice or management for action deemed appropriate. This preliminary investigation is closed.

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