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(OIG) Reports of selected closed investigations, 2017-2019

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Office of Inspector General
U.S. Department of Commerce
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Washington, DC 20230
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February 19, 2021

VIA E-MAIL

RE: FOIA Request No. DOC-OIG-2021-000825

This letter is regarding your Freedom of Information Act (FOIA) request, tracking number DOC-OIG-2021-000825, received by the Department of Commerce, Office of Inspector General (OIG) on January 26, 2021, in which you seek, "A copy of the final report, report of investigation, closing report, closing memo, closing letter, referral letter and referral memo, (i.e., the conclusory document) for each of the following Commerce Dept OIG closed investigations: 13-1234, 14-0433, 14-0480, 17-0062, 17-1110, 17-1166, 17-1391, 18-0749, 18-0767, 18-0948, 18-1001, 19-0063, 19-0108, 19-0425, 19-0529, 19-0690, 19-0721, 19-0857, 19-0869, 19-0917, and 20-0781. I do not request exhibits or attachments."

- With respect to file number 14-0483, that report is publicly available at https://www.oig.doc.gov/OIGPublications/OIG_Report_No_14-0480_West_Virginia_BTOP.pdf
- You requested file number 19-0690 in DOC-OIG-2021-000713. The report associated with 19-0690 is available at https://www.oig.doc.gov/OIGPublications/ROI-19-0108_redacted.pdf
- The reports associated with 18-0948 and 19-0690 were provided to you in response to FOIA request DOC-OIG-2021-000577.
- The reports associated with 13-1234, 14-0433, 17-0062, 17-1391, 18-1001, 19-0063, 19-0721, 19-0857, and 19-0917 were provided to you in response to FOIA request 2021-000713.

With respect to the remaining files, a search of records maintained by the OIG has located twenty-seven (27) pages that are responsive to your request. We have reviewed these pages under the terms of FOIA and have determined the pages may be released to you as follows:

- Four (4) pages may be released to you in full;
- Twenty-three (23) pages must be partially withheld under FOIA exemption (b)(6), 5 U.S.C. § 552(b)(6), which protects information in personnel, medical or similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and FOIA exemption (b)(7)(C), 5 U.S.C. § 552(b)(7)(C), which protects law enforcement information the disclosure of which could reasonably be expected to constitute an unwarranted invasion of personal privacy.

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) (2012 & Supp. V 2017). This

response is limited to those records that are subject to the requirements of FOIA. This is a standard notification to all OIG requesters and should not be taken as an indication that excluded records do, or do not, exist.

You have the right to appeal this determination. Any appeal must be received within ninety (90) calendar days of the date of this response letter. An appeal may be sent by e-mail to FOIA@oig.doc.gov or by FOIAonline, if you have an account in FOIAonline, at <https://www.foiaonline.gov/foiaonline/action/public/request>.

The appeal should include a copy of the original request and this letter. In addition, the appeal should include a statement of the reasons why you believe that the determination was in error. The appeal e-mail subject line should be clearly marked "Freedom of Information Act Appeal". The e-mail and FOIAonline are monitored only on working days during normal business hours (8:30 a.m. to 5:00 p.m., Eastern Time, Monday through Friday). FOIA appeals posted to the e-mail box and FOIAonline after normal business hours will be deemed received on the next normal business day. If the 90th calendar day falls on a Saturday, Sunday, or legal public holiday, an appeal received by 5:00 p.m., Eastern Time, the next business day will be deemed timely. An appeal received after the 90-day limit will not be considered.

If you have any questions or concerns or would like to discuss any aspect of your request, you may contact our office by email at foia@oig.doc.gov.

In addition, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
E-mail at ogis@nara.gov
Telephone at (202) 741-5770; toll free at 1 (877) 684-6448; facsimile at (202) 741-5769

Sincerely,
**JENNIFER
PIEL**
Jennifer Piel
FOIA Officer

Digitally signed by
JENNIFER PIEL
Date: 2021.02.19
13:04:36 -06'00'

Enclosures



**OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS**

REPORT OF INVESTIGATION

CASE TITLE: Nor-Cal Products (NIST)	FILE NO.: 17-1166
TYPE OF REPORT: <input type="checkbox"/> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental	

Basis for Investigation

The United States Department of Commerce (DOC), Office of Inspector General (OIG), initiated this investigation in July 2017 based upon information received from a confidential complainant (Complainant). The Complainant, a Nor-Cal Products, Incorporated (Contract Company) employee, provided a letter stating that between December 2010 and June 2017, the Contract Company procured government contracts and purchase orders by mistakenly representing itself as a small business.

The Complainant detailed the Contract Company was originally qualified and reported itself as a small business. However, on December 31, 2010, a private equity fund acquired 85% of the Contract Company's stocks, thus disqualifying the Contract Company, as a small business due to being affiliated with the private equity funds other companies. This resulted in the Contract Company incorrectly registering as a small business, affecting the small business set-aside contracts the Contract Company procured since January 1, 2011.

The Contract Company's government contract lawyers notified them that they were inappropriately registered as a small business in May 2017. The Contract Company took immediate action by registering as a large business, notifying their major customers, and conducting an inquiry to identify the extent of small business set aside contracts and unrestricted sales to the government after the January 1, 2011 change.

Distribution:	OIG, NIST
Signature of Case Agent: [Redacted]	Signature of Approving Official: [Redacted]

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Procuring small business government contracts and purchase orders by misrepresenting itself as a small business under applicable Small Business Administration regulations, would be a violation of 31 U.S.C. § 3729, False claims.

Summary of Investigative Findings

The OIG substantiated that the Contract Company violated 31 U.S.C. § 3729. The Contract Company did not qualify as a small business when they represented themselves as such to procure government contracts and purchase orders. As a result, the Contract Company submitted false claims for payments in connection with the small business contracts and purchase orders they wrongfully obtained.

Investigative Methodology

The DOC OIG conducted this investigation jointly with the Defense Criminal Investigative Service (DCIS), U.S. Air Force Office of Special Investigations (AFOSI), and the National Aeronautics and Space Administration (NASA) OIG. To address the allegations, the OIG reviewed contracts and purchase orders, small business certifications, consulted with an SBA attorney on the SBA regulations, and conducted interviews of NIST's technical points of contact for the contracts.

Details of Investigation & Findings

Background

The Contract Company was founded in 1962, with its headquarters based in Yreka, CA. They manufacture standard and customized vacuum components and pressure control components. The products are used in industries, including the semiconductor and microelectronic manufacturing industries. Their customer base is worldwide and includes commercial and government contracts.

Allegation: The Contract Company procured government contracts and purchase orders by misrepresenting itself as a small business under Small Business Administration regulations.

The OIG found sufficient evidence to substantiate that the Contract Company violated 31 U.S.C. § 3729. Between December 2010 and June 2017, the Contract Company, while registered as a small business, procured contracts with multiple government agencies and submitted purchase orders, when in fact they did not qualify as a small business. The Contract Company admitted they misrepresented themselves, but claimed it did so mistakenly. Between all government agencies, the amount of false claims submitted was a combined amount of approximately \$201,656.75. Of that amount, approximately \$80,519.92 came from contracts and purchase orders the Contract Company falsely procured from the National Institute of Standards and Technology (NIST), DOC.

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The DOC OIG reviewed invoices and contracts between the Contract Company and NIST, all the invoices contained a clause that required the contractor to represent itself as a small business in order for award eligibility. Reviews of small business certifications showed the Contract Company continued to certify as a small business in 2011, 2013, and 2015. DOC OIG consulted with an SBA attorney who confirmed companies are required to consider affiliations prior to registering as a small business and work through all affiliation rules before certifying as a small business. Interviews of the NIST's technical points of contact for the contracts pertaining to the Contract Company, all stated there were several other small businesses in competition with the Contract Company but that the government got what it paid for from the Contract Company without any issues or problems.

Consultation with the U.S. Department of Justice

The United States Attorney's Office for the Eastern District of Virginia, Civil Division, accepted the case for prosecution, which subsequently resulted in a settlement by the Contract Company. The Contract Company was ordered to pay the United States \$300,000 as part of the settlement agreement. At this time, the Contract Company has completed their payment of the agreed upon amount.

Due to the stipulations of the settlement agreement, the time that has passed since the offenses occurred, and the Contract Company coming forward to disclose the allegation against themselves under FAR 52.203-13, Contractor Code of Business Ethics and Conduct, suspension and debarment action was not pursued.

DOC OIG anticipates no further action and this matter will be closed.

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OFFICE OF INVESTIGATIONS

INDEX OF PERTINENT CASE FILE DOCUMENTS

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1	Initial Complaint (July 11, 2017)
2	Nor-Cal FPDS Pull (DOC Contracts) (July 20, 2017)
3	Nor-Cal System of Award Management Records (July 20, 2017)
4	USA Spending Information Provided by Nor-Cal (June 21, 2017)
11	IRF—Telephone Call between DOC, DOD, NASA, and USAF OIG Offices (Aug. 3, 2017)
15	IRF—Telephone Call between DOC OIG and SBA OIG (Aug. 9, 2017)
21	IRF—Review of Documents Provided by NIST on Aug. 14, 2017 (Aug. 22, 2017)
25	IRF—Review of Documents Provided by NIST on Aug. 23, 2017 (Aug. 25, 2017)
26	IRF—Review of Documents Provided by NIST on Sept. 8, 2017 (Sept. 11, 2017)
28	IRF—Review of Nor-Cal's Second (Supplemental) Disclosure on Sept. 13, 2017 (Sept. 15, 2017)
31	IRF—[REDACTED] Interview (Sept. 19, 2017)
32	IRF—[REDACTED] Interview (Sept. 19, 2017)
33	IRF—[REDACTED] Interview (Sept. 20, 2017)
34	IRF—Review of Flash Drive Documents Provided in Sept. 2017 (Sept. 22, 2017)
39	IRF—Meeting with DOJ Civil Fraud Division (Oct. 13, 2017)
46	Email between NIST and DOC OIG, Nor Cal Products Additional Information (Nov. 13, 2017)
49	Email between DOC, DOD, NASA, and USAF OIG Offices, Meeting/Call on Nor-Cal (Nov. 30, 2017)
56	IRF—Review of Documents Provided by Nor-Cal on Dec. 18, 2017 (Dec. 19, 2017)
70	Email between DOC, DOD, NASA, and USAF OIG Offices, Nor-Cal (July 11, 2018)
71	IRF—Document Receipt (Aug. 1, 2018)
72	IRF—Document Settlement Date (Mar. 12, 2019)

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**OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS**

REPORT OF INVESTIGATION

CASE TITLE: <div style="background-color: black; width: 100px; height: 1.2em; margin-bottom: 5px;"></div> (USPTO)	FILE NO.: 18-0749 <hr/> TYPE OF REPORT: <input type="checkbox"/> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental
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Basis for Investigation

The United States Department of Commerce (DOC), Office of Inspector General (OIG), initiated this investigation in April 2018 based upon information received from [REDACTED] (Complainant), [REDACTED]. The Complainant notified the OIG that during a review of the USPTO email account belonging to [REDACTED] (Subject), [REDACTED] USPTO, there were multiple conversations discovered between the Subject and an outside patent attorney (Patent Attorney) where they shared documents and engaged in discussions about patents that may have been confidential. Based on the nature of the conversations, neither the Subject nor the Patent Attorney appeared to be involved with the patents in an official capacity.

Providing outside public sources with confidential information on patents still in the classified phase of the patent application process would be a violation of 35 U.S.C. § 122, Confidential status of applications; publication of patent applications.

Summary of Investigative Findings

The OIG unsubstantiated the allegation that the Subject violated 35 U.S.C. § 122. The information shared and discussed by the Subject pertained to patents that were no longer confidential and considered public knowledge.

Distribution:	N/A
Signature of Case Agent: [REDACTED]	Signature of Approving Official: [REDACTED]

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Details of Investigation & Findings

Background

The Subject had multiple complaints made against [REDACTED] stating that [REDACTED] would continuously reach out to [REDACTED] co-workers and give them unsolicited advice on how to do their jobs. The Subject was counseled for [REDACTED] actions and instructed to stop, but was subsequently reported for continuing to do so. This led to occasional and on-going pulls of the Subject's emails for review by a supervisor or a member of the security team, which is how the Complainant became involved.

Allegation: The Subject may have provided confidential information pertaining to patents to an outside public source.

The OIG did not substantiate that the Subject violated 35 U.S.C. § 122. Following the confidential phase of the application process, USPTO publishes the patents online, at which point they become public knowledge.

The OIG interviewed the Complainant who advised the emails were flagged and immediately provided to the OIG for further review. [REDACTED] department did not conduct further research or investigative activity into the patents.

The OIG interviewed the USPTO supervisor who conducted on-going reviews of the Subject's emails following the complaints made against [REDACTED]. At no point during the reviews did [REDACTED] encounter any situation where the subject was providing confidential information to any outside sources, including the conversations with the outside Patent Attorney.

The OIG reviewed the emails provided by the Complainant. Emails containing 18 patent application numbers were identified with the subject block reading "Case Watch." The Subject sent the emails to [REDACTED] both from and to [REDACTED] USPTO email account. A search of the application numbers was conducted through the USPTO Patent Application Full Text and Image Database. The search revealed the patents were published and the information was publically available when [REDACTED] sent [REDACTED] the emails.

Further review of the emails provided by the Complainant revealed four instances where the Subject sent documents and engaged in conversations about patents with the Patent Attorney. The documents and discussions pertained to patents that have completed the patent appeal process. The Subject shared the documents via internet links. The links direct the user to PDF files for the respective patents. The PDF files were stored on the United States Court of Appeals for the Federal Circuit website under the Cases Opinions & Orders tab. All documents, data, and information on the website is available to the public.

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The OIG reviewed work for the Subject in addition to those provided by the Complainant. The review yielded no evidence the Subject provided confidential information to an outside public source.

The Subject declined a request for an interview.

The OIG briefed the USPTO HRM WRD on the investigation and disposition of the allegation.

The OIG anticipates no further action and this matter will be closed.

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7	IRF—Document Receipt (June 14, 2018)
8	IRF—Email Review (Aug. 1, 2018)
9	IRF—Document Receipt OIG Threshold (Sept. 25, 2018)
10	IRF—Interview of Complainant (Sept. 27, 2018)
12	IRF—Interview of Supervisor (Oct. 17, 2018)
14	IRF—Subject Interview Declination (Feb. 5, 2020)
15	IRF—Presentation to Prosecutor (Feb. 11, 2020)

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REPORT OF INVESTIGATION

CASE TITLE: <div style="background-color: black; width: 100px; height: 1.2em; margin-bottom: 5px;"></div> (USPTO)	FILE NO.: 19-0529-I
TYPE OF REPORT: <input type="checkbox"/> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental	

Basis for Investigation

The United States Department of Commerce (DOC), Office of Inspector General (OIG), initiated this investigation in April 2019, based upon information received from a confidential complainant (Complainant). The Complainant provided a letter pertaining to [REDACTED] (Subject), a [REDACTED] with the DOC, United States Patent and Trademark Office (USPTO), [REDACTED], and [REDACTED] the Firehouse Restaurant Group (Restaurant Group).

The Complainant stated the Subject, prior to becoming a [REDACTED], [REDACTED] with the Restaurant Group. The Complainant believed the Subject had knowledge of fraudulently obtained trademarks by the Restaurant Group, and alleged the Subject directly [REDACTED] with the Restaurant Group.

Participating in [REDACTED] as a [REDACTED], on cases involving a business [REDACTED] [REDACTED] would be a violation of 18 U.S.C. §208, Acts affecting a personal financial interest, 5 C.F.R. §2635.502, Personal and business relationships, and 5 C.F.R. §2635.701, Misuse of Position.

Summary of Investigative Findings

The OIG found no evidence to substantiated allegations that the Subject participated as a USPTO [REDACTED] involving the Restaurant Group. Subsequent to being hired as a [REDACTED] the Subject disclosed all previous working relationships to [REDACTED] chain of command, who ensured the Subject was not involved with any [REDACTED] related to the Restaurant Group.

Distribution:	N/A
Signature of Case Agent: [REDACTED]	Signature of Approving Official: [REDACTED]

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Investigative Methodology

The OIG reviewed emails, trademark application/registration documents, and conducted inquiries of the USPTO [REDACTED] database pertaining to the Restaurant Group and the Subject. The OIG coordinated with the DOC Ethics and Law Programs Division (ELPD), and the USPTO Office of Enrollment and Discipline. The OIG also conducted interviews of the Complainant, witnesses, and the subject.

Details of Investigation & Findings

Background

The Subject worked as a [REDACTED]. During [REDACTED] tenure, the Subject was briefly assigned as the [REDACTED]. Prior [REDACTED], predecessor represented them in a proceeding pertaining to fraudulently obtained trademarks. The Restaurant Group lost the initial trial, but submitted an appeal; the decision was overturned and subsequently expunged from the Restaurant Group record. In [REDACTED], the Subject was hired and began working as a DOC USPTO [REDACTED].

The OIG's findings regarding the allegations raised in this case are set forth below along with supporting evidence.

Allegation: Subject had knowledge of fraudulently obtained trademarks by the Restaurant Group, and directly [REDACTED] [REDACTED] with the Restaurant Group, a violation of 18 U.S.C. §208, Acts affecting a personal financial interest; 5 C.F.R. §2635.502, Personal and business relationships; and 5 C.F.R. §2635.701, Misuse of Position.

There is insufficient evidence to substantiate that the Subject participated in proposals and projects involving a pending employer that had a financial interest, after initiating employment negotiations with said employer.

The OIG reviewed work emails from the Subject's DOC email account, which showed no evidence to support the allegation. The OIG reviewed [REDACTED] records and Trademark Portfolio pertaining to the Restaurant Group, which showed no evidence to support the allegation. The Subject was not listed as a [REDACTED] on any of the proceeding records. Coordination with ELPD yielded no information to support the allegation. The OIG interviewed the DOC USPTO [REDACTED] [REDACTED] which resulted in no information to support the allegation. The [REDACTED] received a list from the Subject of companies [REDACTED] [REDACTED] to ensure nothing was assigned to the Subject that might lead to a conflict of interest. As [REDACTED] one of [REDACTED] roles was assigning [REDACTED] to [REDACTED] and [REDACTED] confirmed that the Subject has not been assigned any cases that could result in a conflict of interest. The OIG interviewed the Subject who denied the allegations.

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The OIG coordinated with the DOC USPTO Office of Enrollment and Discipline (OED) who confirmed they received the identical complaint from the Complainant on several occasions. However, they did not believe the information was credible enough to initiate an investigation. The information was provided to the [REDACTED] who subsequently discussed the matter further with the Subject to ensure there was no conflicts before, during, or after the complaint was made.

The OIG anticipates no further action and this matter will be closed.

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13	IRF – Review of Subjects USPTO Emails
14	IRF – Complainant Interview and Document Review
15	IRF – Review of Restaurant Groups Trademark Portfolio
17	IRF – Review of all [REDACTED] Proceedings for the Restaurant Group
18	IRF – Interview of [REDACTED]
19	IRF – Coordination with Office of Enrollment and Discipline
20	IRF – Coordination with USPTO Attorney
21	IRF – Interview - [REDACTED]

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**OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS**

REPORT OF INVESTIGATION

CASE TITLE: [REDACTED]; [REDACTED] (NOAA [REDACTED])	FILE NO.: 19-0425 TYPE OF REPORT: <input type="checkbox"/> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental
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Basis for Investigation

In March 2019, the U.S. Department of Commerce (DOC), Office of Inspector General (OIG), received a confidential complaint involving National Oceanic and Atmospheric Administration (NOAA), [REDACTED]. The complainant reported concerns related to [REDACTED] (Subject), [REDACTED], who was pending employment with [REDACTED] while doing market research for an upcoming NOAA acquisition. [REDACTED] was among the companies competing for the acquisition.

If true, the Subject would be in violation of 5 C.F.R. § 2635, Standards of Ethical Conduct for Employees of the Executive Branch.

Summary of Investigative Findings

The OIG unsubstantiated the allegation that the subject committed an ethical violation. The Subject was not a member of the market research team for the NOAA Big Data Project, nor did [REDACTED] perform any duties on the project.

Details of Investigation

Background

The NOAA Big Data Project was created to explore the benefits of research data on cloud based servers to allow computing directly on the data without requiring further distribution. This also

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allowed NOAA to expand public access to the data. During an out-of-state conference held in [REDACTED] the Subject was seen by a Google employee (Google Employee) attending meetings with [REDACTED], [REDACTED], and [REDACTED], pertaining to the NOAA Big Data Project. The Google Employee knew the Subject was pending employment with [REDACTED] and assumed [REDACTED] was there to participate in the NOAA Big Data Project meeting. The Google Employee thought this might be a conflict of interest and contacted the complainant (Complainant) to voice [REDACTED] concern. The Complainant was not an attendee at the conference. The NOAA Big Data Project acquisition was subsequently awarded to all three competitors in a collaborative effort to manage the stored data.

A. The allegation that the subject participated on a research team for a project involving [REDACTED] while pending employment with [REDACTED] was unsubstantiated.

The OIG reviewed project records pertaining to the NOAA Big Data Project and there was no evidence to show the Subject was a member of the market research team, or that [REDACTED] was involved with the project in any capacity. The OIG interviewed the Complainant who related [REDACTED] was aware of the Subject's pending employment, but was not certain of the Subject's involvement with the market research team. The OIG coordinated with Google to interview the Google Employee, but the employee was unable to recall making such a complaint. The OIG interviewed the Subject's supervisor, the [REDACTED] for the NOAA Big Data Project, and the NOAA [REDACTED] employee assigned to the NOAA Big Data Project. They all confirmed that the Subject was not a member of the project research team, nor was [REDACTED] involved with the NOAA Big Data Project in any way. The Subject attended the [REDACTED] conference, but was there for the NOAA Cloud Pilot Project targeting Small Businesses. The project was unrelated to the NOAA Big Data Project and [REDACTED] was not involved.

There was nothing to present to a U.S. Attorney's Office. DOC OIG anticipates no further action and this matter will be closed.

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INDEX OF PERTINENT CASE FILE DOCUMENTS

CMS DOCUMENT #	DESCRIPTION
1	Complaint (Mar. 19, 2019)
2	IRF—Complainant Telephone Conversation (Mar. 22, 2019)
11	IRF—Coordination with Complainant and Identification of Witness (Sept. 17, 2019)
12	IRF—Coordination with ELPD (Oct. 21, 2019)
13	IRF—Coordination with Attorney, Google Legal Team (Jan. 10, 2020)
14	IRF—Supervisor Interview (Feb. 5, 2020)
15	IRF—[REDACTED] Representative Interview (Feb. 5, 2020)
16	IRF—[REDACTED] Interview (Feb. 25, 2020)
17	Presentation to Prosecution (Feb. 5, 2020)

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**OFFICE OF INSPECTOR GENERAL
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REPORT OF INVESTIGATION

CASE TITLE: [REDACTED] (NOAA)	FILE NO.: 18-0767-I TYPE OF REPORT: <input type="checkbox"/> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental
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BASIS FOR INVESTIGATION

The Department of Commerce (DOC), Office of Security (OSY), Investigations and Threat Management Division (ITMD), conducted a number of system-wide inquiries of DOC-wide email servers to identify employees who may be engaged in unethical conduct associated with their participation in a foreign talent recruitment program. ITMD uncovered evidence that [REDACTED] (Subject), who is a [REDACTED] at the National Oceanic and Atmospheric Administration (NOAA), may be engaged in paid employment for an entity of the Chinese government, and a member of the Chinese government's Thousand Talents Program. ITMD requested assistance from the DOC, Office of Inspector General, Office of Investigations (OIG OI), to jointly investigate this matter, with additional support from the Federal Bureau of Investigation (FBI).

SUMMARY OF INVESTIGATION

The OIG reviewed the Subject's official NOAA email account. Several pertinent emails were identified which evidence the Subject's employment activities for an entity of the Chinese government, as well as unauthorized use of official time and government equipment to perform this outside employment. The Subject's email traffic shows that [REDACTED] received an unsigned employment contract from the [REDACTED] for [REDACTED] review, which the Subject appears to have forwarded to [REDACTED] personal email account. This investigation has not yet uncovered a signed copy of the contract.

Coordination with the DOC, Office of General Counsel (OGC), revealed the Subject may have accepted an unauthorized travel gift. OGC reported the Subject previously requested ethics advice on whether to accept \$3,000 in gifted travel funds from the University [REDACTED] to speak at the [REDACTED]

[REDACTED] On May 28, 2013, OGC advised the Subject that this travel should not be approved because the University [REDACTED] had ongoing contracts with the National Weather Service. A review of the Subject's WebTA records indicated [REDACTED] was on leave from [REDACTED], during the time of this conference. Further, the Subject's DOC email records indicated that [REDACTED] appeared to have applied for a

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tourist visa for traveling to China [REDACTED]. Open-source information, to include an article on the [REDACTED] website, showed a group photograph of the conference attendees. The Subject appears to be in the group photograph.

DETAILS OF INVESTIGATION

OIG is consolidating foreign talent recruitment program subjects under investigation jointly with ITMD and the FBI under Case Number 18-0766 for further investigation. All additional case activity on this matter will be adjudicated from that file. As such, Case Number 18-0767-I is submitted for closure at this time, and the below list of pertinent documents will be carried over to the new file as attachments to this report.

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OFFICE OF INVESTIGATIONS

INDEX OF PERTINENT CASE FILE DOCUMENTS

CMS DOCUMENT No.	DESCRIPTION
1	Initial Complaint (Apr. 18, 2018)
2	IRF—Initial Investigative Steps (May 9, 2018)
3	FBI Notification (May 10, 2018)
5	Investigative Plan (May 14, 2018)
6	IRF—Email Reviews and Contract Review (July 19, 2018)
7	IRF—Receipt of Records (July 20, 2018)
8	IRF—MAGLOCLLEN RFI (Aug. 2, 2018)
9	IRF—OSY Coordination (Aug. 15, 2018)
10	Review of Ethics Documents (Oct. 1, 2018)
11	Coordination with ESPA (Oct. 4, 2018)
12	IRF—DHS OIG Coordination (Nov. 16, 2018)
13	IRF—Data Analytics Coordination (Nov. 16, 2018)
14	IRF—[REDACTED] Interview (Dec. 3, 2018)
15	IRF—[REDACTED] Interview (Dec. 6, 2018)
16	IRF—Interview of NOAA Finance (Dec. 12, 2018)
17	IRF—Interview of [REDACTED] (Dec. 14, 2018)
18	IRF—Coordination with Data Analytics (Dec. 17, 2018)
19	Prosecutorial Declination (Mar. 7, 2019)
20	IRF—[REDACTED] Email Review (Apr. 2, 2019)
21	IRF—OGE 202 (Apr. 16, 2019)
22	IRF—Meeting with OSY (Aug. 5, 2019)
23	IRF—Meeting with OSY and USAO-MD (Aug. 14, 2019)
24	IRF—Coordination with OGC (Oct. 16, 2019)
25	IRF—Receipt and Review of OGC Records (Oct. 22, 2019)
26	IRF—Unauthorized China Travel (Oct. 23, 2019)
27	IRF—Second Email Review (Nov. 1, 2019)
28	IRF—Second Review of Emails and Open Source Data (Nov. 27, 2019)
29	Ethics Training Certificate (Jan. 31, 2020)

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**OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS**

REPORT OF INVESTIGATION

CASE TITLE: [REDACTED] (NOAA)	FILE NO.: 17-1110-I
TYPE OF REPORT: <input type="checkbox"/> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental	

Basis for Investigation

The United States Department of Commerce (DOC), Office of Inspector General (OIG), initiated this investigation in July 2017 based upon information received from [REDACTED] (Complainant), [REDACTED], National Oceanic and Atmospheric Administration (NOAA). The Complainant reported [REDACTED] concern of possible ethics violations by [REDACTED] (Subject), [REDACTED] NOAA.

The Complainant stated the Subject, while a federal employee, might have continued to perform work on grant proposals and research projects involving [REDACTED] University (University), after beginning employment negotiations with them.

Participating in projects and grant proposals after beginning employment negotiations with an outside agency that has a financial interest in the work being done would be a violation of 18 U.S.C. §208, Acts affecting a personal financial interest, 5 C.F.R. §2635.403, Prohibited financial interests, and 5 C.F.R. §2635.702, Use of public office for private gain.

Summary of Investigative Findings

The OIG found no evidence to substantiate the allegation the Subject participated in activities where a pending employer had a financial interest. Through project discussions and ethics consultations, the Subject and [REDACTED] management team identified, addressed, and avoided all potential conflicts involving the Subject and the University.

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Investigative Methodology

The OIG reviewed all grant proposals and research projects pertaining to the Subject, and the University. The OIG reviewed emails, project discussion notes, and Ethic and Law Programs Division (ELPD) consultations. The OIG also conducted interviews of the Complainant, witnesses, and the subject.

Details of Investigation & Findings

Background

The Subject began employment negotiations with the University in [REDACTED] and began employment with them in [REDACTED]. The University was affiliated with the University [REDACTED] an active member of the NOAA [REDACTED].

The OIG's findings regarding the allegations raised in this case are set forth below along with supporting evidence.

Allegation: The Subject continued to perform work on grant proposals and research projects involving a potential employer, after beginning employment negotiations with them, a violation of 18 U.S.C. §208, Acts affecting a personal financial interest; 5 C.F.R. §2635.403, Prohibited financial interests; and 5 C.F.R. §2635.702, Use of public office for private gain.

There is insufficient evidence to substantiate that the Subject participated in proposals and projects involving a pending employer that had a financial interest, after initiating employment negotiations with said employer.

The OIG reviewed email between the subject, complainant, ELPD, the Subjects NOAA leadership, and employees of the university, which provided no evidence to support the allegation. ELPD was consulted with on an ongoing basis for guidance and advice as plans were made to remove the Subject from potential conflicts.

The OIG reviewed the Subject's grant proposals, projects and a memorandum documenting a meeting between the Subject and [REDACTED] chain of command, where all projects and proposals were discussed. There were six total identified instances of potential conflict. Further review of the memorandum showed a planned course of action for the identified projects/proposals to either reassign projects to a different NOAA employee, cancel pending proposals, or withdrawal [REDACTED] involvement.

The OIG interviewed the Complainant who stated [REDACTED] made the complaint because [REDACTED] knew the [REDACTED] and the University would cross paths in the research field. [REDACTED] team worked hard to

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prevent all possible conflicts and [REDACTED] believed they did so successfully. The OIG interviewed NOAA employees who verified all planned actions pertaining to the Subject's projects/proposals were carried out, and the Subject was removed from all identified potential incidences. The OIG interviewed the Subject's University Supervisor who confirmed the Subject was not involved in projects that would cause a conflict of interest. The OIG interviewed the Subject who denied participating in any proposals or projects that would cause a conflict of interest between the [REDACTED] and the University.

The OIG anticipates no further action and this matter will be closed.

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INDEX OF PERTINENT CASE FILE DOCUMENTS

CMS DOCUMENT No.	DESCRIPTION
1	Initial Complaint
3	IRF – Interview for [REDACTED]
6	IRF – Conversation with ELPD
7	NOAA Production
8	Email from [REDACTED] ELPD. w/supporting attachments
10	Email – Ethics Advice
12	IRF – Subject and Grant Research
13	IRF – Email Review between [REDACTED] -ELPD
14	IRF – Review of 2017 Grant Preproposals
15	IRF – Research and Review of [REDACTED] NOAA Grants and Projects
16	IRF – Interview of [REDACTED]
17	IRF – [REDACTED] Interview
18	IRF – Research on EPA Star Spending Project
19	IRF – [REDACTED] Interview

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REPORT OF INVESTIGATION

CASE TITLE: <div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div> (NOAA)	FILE NO.: 19-0869
TYPE OF REPORT: <input type="checkbox"/> Interim <input checked="" type="checkbox"/> Final <input type="checkbox"/> Supplemental	

BASIS FOR INVESTIGATION

In 2018, Department of Commerce (DOC), Office of Inspector General (OIG), Office of Investigations (OI) and DOC Office of Security (OSY) initiated a DOC wide email search in response to China state-run talent recruitment programs. The programs incentivize individuals engaged in research and development in the U.S. to transmit knowledge and research they gain in the U.S. to China in exchange for salaries, research funding, and lab space. This search used the key words provided by the Federal Bureau of Investigation (FBI) to identify DOC employees, contractors and guest researchers who committed scientific misconduct, intellectual property theft and other criminal activity associated with China's talent recruitment programs. The search identified thirty-six (36) individuals, including [REDACTED] (Subject), whose DOC email records contained information related to China's talent recruitment programs. Open source internet websites showed the Subject was/is employed as an [REDACTED] while working as a full-time federal employee at NOAA.

The Subject possibly violated the Emolument Clause, 18 USC §§208, 209 and Department Administrative Order 202-735-A by engaging in employment with the Chinese Government while making recommendations and decisions as a federal employee to benefit [REDACTED] Chinese employer. The Subject is also suspected of engaging in time and attendance fraud. This investigation has been accepted under advisement by the United States Attorney's Office, District of Maryland, Northern Division.

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SUMMARY OF INVESTIGATION

The Subject is a [REDACTED] at NOAA [REDACTED], Office of Oceanic and Atmospheric Research, [REDACTED]. [REDACTED] has been a federal employee at NOAA since [REDACTED]. The Subject began working for [REDACTED] as an [REDACTED] on [REDACTED]. [REDACTED] is a Chinese public university and a Chinese government instrumentality. It was established in [REDACTED] by the [REDACTED] Meteorological Administration. It is currently under [REDACTED] Government's administration. The Subject also worked for the [REDACTED]. The Subject spent significant amount of time during [REDACTED] normal NOAA working hours working on [REDACTED] matters, to include arranging a [REDACTED] lecturer as a NOAA guest researcher. The Subject did not have clearance from DOC Office of General Counsel (OGC) Ethics Law and Program Division (ELPD) to engage in any outside employment.

The Subject's activities in China are connected with several other individuals (CMS Case No. [REDACTED] [REDACTED]) who are also being investigated by OSY and FBI. For consolidation, this investigation and Case No. [REDACTED] are being merged into Case No. [REDACTED].

METHODOLOGY OF INVESTIGATION

The following investigative steps were taken in this investigation:

- Reviewed the subject's NOAA email records
- Coordinated with DOC OGC Ethics and Program Law Division
- Reviewed the subject's Commerce Learning Center training records
- Reviewed the subject's professional publications
- Reviewed the subject's international travel records
- Reviewed the subject's TLO, FINCEN, NCIC and SF-50 records
- Searched the subject's information on open source websites
- Reviewed the subject's WebTA records

DETAILS OF INVESTIGATION

Unauthorized Employment with Chinese Government Instrumentalities

Open source websites and the Subject's NOAA email records showed an announcement on the [REDACTED] website that the Subject was appointed as a part-time [REDACTED] an official appointment letter and a copy of the subject's [REDACTED] employment contract.

The Subject also identified [REDACTED] as a current [REDACTED] for [REDACTED]

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DOC ELPD did not have any record of inquiry from the Subject concerning [REDACTED] employment in China or travel gifts from China. The Subject's Commerce Learning Center (CLC) training records showed that [REDACTED] completed NOAA Annual Ethics Training on [REDACTED].

Time and Attendance Issue

A review of the Subject's work emails and WebTA from [REDACTED] showed [REDACTED] spent approximately 196 hours (\$15,636.88) on NOAA time, working on [REDACTED] matters. [REDACTED] used [REDACTED] NOAA email account and [REDACTED] personal email account to communicate with [REDACTED] colleagues. [REDACTED] also set Outlook calendar reminders to work on [REDACTED] tasks while on NOAA time. It appears that the Subject stopped using [REDACTED] NOAA email account to communicate with [REDACTED] colleagues in late [REDACTED].

The Subject's CLC training records showed that [REDACTED] completed the training "Ensuring Accurate and Complete Time and Attendance Recording" twice, in [REDACTED] and [REDACTED] respectively.

[REDACTED] Contractual Duties Completed

1. According to the Subject's [REDACTED] contract, [REDACTED] was required to work on-site 1-2 months each year. The Subject's international travel records show that [REDACTED] traveled to China at least once a year from [REDACTED]. [REDACTED] travel pattern suggests that [REDACTED] fulfilled [REDACTED] obligation of working onsite at [REDACTED].

2. The Subject's second contractual obligation was to publish or assist a [REDACTED] lecturer to publish a SCI citing [REDACTED] as first employer. According to Web of Science, the Subject published [REDACTED] professional articles. A review of the Subject's publications reveals that six of [REDACTED] articles were co-authored with individuals affiliated with [REDACTED]. In one of the articles [REDACTED] published in [REDACTED], the Subject claimed that [REDACTED] was affiliated with [REDACTED].

3. The Subject's third contractual obligation was to establish and teach an elective course at [REDACTED]. The Subject was responsible for teaching graduate students. A review of the Subject's work emails revealed [REDACTED] taught at least [REDACTED] graduate students. The Subject also signed a commitment letter confirming [REDACTED] commitment to a research project led by one of the graduate students and funded by [REDACTED]. The project's title was "[REDACTED]

[REDACTED]"

4. The Subject's fourth contractual obligation was to support the [REDACTED] of [REDACTED] and participate in all aspects of [REDACTED] development. Specifically, the Subject was required to assist in recruiting overseas high level talents, bringing [REDACTED] key researchers overseas for further education, building a research team, developing curriculum and teaching graduate students etc.

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The Subject's NOAA emails show that [REDACTED] helped bring a [REDACTED] lecturer to NOAA as a guest researcher and actively engaged in [REDACTED] development strategy discussions. The Subject also set up a meeting between [REDACTED] and [REDACTED] leadership to discuss collaboration in joint laboratory and joint degree programs.

Compensation from China

According to the Subject's [REDACTED] employment contract, [REDACTED] earns approximately \$13,200 plus bonus and all travel expense a year. The Subject's NOAA emails and open source information show that [REDACTED] is a [REDACTED] for a [REDACTED] research project that receives \$37,000 in grant fund from [REDACTED]. It's likely the Subject receives a portion of that grant. The Subject's NOAA emails show that [REDACTED] instructed a [REDACTED] colleague to wire money to [REDACTED], and [REDACTED] reimbursed [REDACTED] travel expenses.

Status

This case has been merged into DOC OIG case #18-0766. This case is closed.

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OFFICE OF INSPECTOR GENERAL
OFFICE OF INVESTIGATIONS

INDEX OF PERTINENT CASE FILE DOCUMENTS

CMS Doc #	Description
1	IRF – Basis for Investigation
2	IRF – Review of Open Source Data
3	IRF – Review of NOAA Policy & The Emolument Clause
4	IRF – Legal Authorities
8	IRF – Coordination with OGC and Other Agencies
10	IRF – Initial Investigative Steps
11	IRF – Request for Email Records
13	IRF – Review of [REDACTED] Email Records
14	IRF – Email Preservation Request
15	IRF – Referral to DOJ
16	IRF – 2 nd Review of [REDACTED] Email Records
17	IRF – Coordination with OGC Ethics Law Division
18	IRF – Review of [REDACTED] CLC Training Records
20	IRF – Review of [REDACTED] Publications
21	IRF – Review of [REDACTED] ELPD Records
22	IRF – Time and Attendance Fraud Evidence Analysis
23	IRF – [REDACTED] Receiving Chinese Government Grant
24	IRF – [REDACTED] International Travel Records

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