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**Analysis of Disclosure, Agency Investigation and Report,
Whistleblower Comments, and Comments of the Special Counsel**

OSC File No. DI-07-2534

Summary

An anonymous whistleblower, United States Department of Agriculture (USDA), Office of the Chief Information Officer (OCIO), Washington, D.C., disclosed to the Office of Special Counsel (OSC) that over 100 pornographic images were stored on an OCIO computer server. The whistleblower believed the images were placed onto the server by an employee of a USDA contractor.

The USDA's Office of the Inspector General (OIG) investigated the whistleblower's allegation pursuant to delegations by then-Acting Secretary Charles F. Conner and Secretary Edward T. Schafer. OSC received a report dated March 26, 2008. The OIG investigation confirmed the existence of pornographic images on the OCIO computer server. The investigation determined that the images were placed onto the server during an earlier inquiry into pornography but had inadvertently been left on the server at the conclusion of the inquiry. The images were removed as of February 27, 2008. OSC finds that the agency's report contains all of the information required by statute and that its findings appear to be reasonable.

The Whistleblower's Disclosure

The whistleblower alleged that between 100 and 150 pornographic images were stored on an OCIO shared network drive. The whistleblower discovered the images on the (S:) drive server under the directory, S:\Restricted_Files\evan\Evan's USB\Ladies\. While the whistleblower did not know which employee placed the files onto the server, the whistleblower believed it was Evan Huq, a contractor, because he was the only OCIO employee named Evan of whom the whistleblower was aware. Department Regulation 3311-1 Section 5a(2)(d) prohibits using any USDA telecommunications equipment for any use involving pornography.

Report of the U.S. Department of Agriculture

The agency's March 26, 2008, report confirmed the whistleblower's allegation that pornographic images were stored in a shared folder on an OCIO computer server. Evan Huq was interviewed by an investigator on February 5, 2008. Mr. Huq was aware of a previous inquiry into pornography stored on an OCIO computer server but denied any involvement with the incident. Mr. Huq was cleared of any wrongdoing during the earlier inquiry. Mr. Huq did not know that the pornographic images still remained on the server at the time of his interview. During the OIG investigation, Craig Goscha, Director, National Computer Forensic Division,

USDA-OIG, examined Mr. Huq's assigned government computer. Mr. Goscha found no indication that pornographic images were stored on it.

The previous inquiry into pornography stored on the OCIO server began around April 12, 2007. The inquiry was performed by employees at Information Systems Security (ISS), Rural Development (RD), USDA, because RD employees share access to the same computer server as OCIO employees. Once all RD employees had been cleared of wrongdoing, the inquiry was continued by OCIO. The pornographic images were removed from the server before the completion of the inquiry. As a result, the pornographic images had to be restored using a backup tape to complete the forensic inquiry. However, because the images had been previously erased, it was not possible to determine who originally placed them on the server. The OIG investigator believed that the pornographic images were never removed from the server after the ISS/OCIO inquiry was completed.

On February 27, 2008, OCIO provided confirmation to OIG that the pornographic images had been completely removed from the server. General Counsel Marc L. Kesselman determined that the allegations have been fully addressed, all necessary remedial actions have been taken, and that no further steps by USDA are required.

The Whistleblower's Comments

The whistleblower provided comments on the agency's report. The comments consisted of a list of thirteen factual assertions that call into question some of the report's findings. While Mr. Huq claimed in his interview that he cannot access the OCIO network from home, the whistleblower claimed Mr. Huq has a government-issued blackberry and does have such access. The whistleblower also suggested a conflict of interest between Stacy Fogelman and Evan Huq. Mr. Fogelman was involved in the 2007 ISS/OCIO inquiry into the pornographic images on the computer server. The whistleblower claimed that Mr. Fogelman worked for the same contractor as Mr. Huq. In addition, some of the whistleblower's statements involve allegations unrelated to the present matter.

Conclusion

Based on my review of the original disclosure and the agency's report, I have determined that the agency's report contains all of the information required by statute and the findings appear to be reasonable.