



U.S. OFFICE OF SPECIAL COUNSEL

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Washington, D.C. 20036-4505

The Special Counsel

February 4, 2020

Mr. Richard K. Delmar
Acting Inspector General
Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Re: OSC File No. DI-19-003697
Referral for Investigation – 5 U.S.C. § 1213(c)

Dear Mr. Delmar:

Pursuant to an agreement with the Council of the Inspectors General on Integrity and Efficiency, I am referring to you for investigation a whistleblower disclosure alleging that an employee of the Department of the Treasury (Treasury), Office of the Inspector General (OIG), Office of Audit, engaged in conduct that may constitute a violation of law, rule, or regulation and an abuse of authority. A report in response to these allegations and any related matters is due to the Office of Special Counsel (OSC) by April 6, 2020.

The whistleblower, [REDACTED], Audit Director, who consented to the release of her name, disclosed that [REDACTED], Assistant Inspector General for Audit, improperly influenced the selection of a contractor, Careerstone Group, LLC (Careerstone), and misused a Government Purchase Card to procure training services from Careerstone. The allegations to be investigated include:

- [REDACTED] violated the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Ethical Conduct), namely 5 C.F.R. § 2635.101(b)(8) and (14) by having a personal relationship with [REDACTED], President and Chief Executive Officer of Careerstone, and by awarding Careerstone a contract; and
- [REDACTED] violated the Federal Acquisition Regulations (FAR) by awarding a contract to Careerstone and purchasing contractual services from Careerstone using a Government Purchase Card.

[REDACTED] explained that Treasury OIG awarded a training contract to Careerstone in December 2016 (Contract No. GS-10F-0156V). [REDACTED] alleged that [REDACTED] has a personal relationship with [REDACTED]. Prior to the solicitation for the contract, [REDACTED] contended that [REDACTED] personally spoke to [REDACTED] and outlined the agency's training needs and requested a proposal. [REDACTED] further stated that, upon receiving the proposal, [REDACTED] directed her to draft a Performance Work Statement using the same language as the proposal. [REDACTED] stated that [REDACTED] directed her to conduct a technical evaluation of

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Careerstone's proposal alone. [REDACTED] contended this was outside of the agency's normal procedure, which is to have a panel of three employees conduct a technical evaluation of a bid proposal. [REDACTED] contended [REDACTED] actions ensured the selection of Careerstone for the contract.

Additionally, [REDACTED] alleged that [REDACTED] has committed fiscal misconduct by directing agency employees to improperly purchase training and personal coaching from Careerstone on a Government Purchase Card. [REDACTED] explained that in April 2019, Careerstone provided a one-day team building workshop for Office of Audit employees. [REDACTED] stated that the cost of this workshop was \$5,040, which is more than the micro-purchase threshold of \$2,500 for services as defined at FAR 2.101.

Pursuant to my authority under 5 U.S.C. § 1213(c), I have concluded that there is a substantial likelihood that the information provided to OSC discloses a violation of law, rule, or regulation and an abuse of authority. Please note that specific allegations and references to specific violations of law, rule, or regulation are not intended to be exclusive. If, in the course of your investigation, you discover additional violations, please include your findings on these additional matters in the report to OSC. As previously noted, your agency must conduct an investigation of these matters and produce a report, which must be reviewed and signed by you. Per statutory requirements, I will review the report for sufficiency and reasonableness before sending copies of the agency report, along with the whistleblower's comments and any comments or recommendations I may have, to the President and congressional oversight committees and making these documents publicly available.

Additional important requirements and guidance on the agency report are included in the attached Appendix, which can also be accessed at <https://osc.gov/Services/Pages/DU-Resources.aspx>. If your investigators have questions regarding the statutory process or the report required under section 1213, please contact Catherine A. McMullen, Chief, Disclosure Unit, at (202) 804-7088 or cmcmullen@osc.gov, for assistance. I am also available for any questions you may have.

Sincerely,



Henry J. Kerner
Special Counsel

Enclosure

cc: The Honorable Michael E. Horowitz, Chair, Council of the Inspectors General on Integrity and Efficiency

APPENDIX
AGENCY REPORTS UNDER 5 U.S.C. § 1213

GUIDANCE ON 1213 REPORT

- OSC requires that your investigators interview the whistleblower at the beginning of the agency investigation when the whistleblower consents to the disclosure of his or her name.
- Should the agency head delegate the authority to review and sign the report, the delegation must be specifically stated and include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5).
- OSC will consider extension requests in 60-day increments when an agency evidences that it is conducting a good faith investigation that will require more time to complete.
- Identify agency employees by position title in the report and attach a key identifying the employees by both name and position. The key identifying employees will be used by OSC in its review and evaluation of the report. OSC will place the report without the employee identification key in its public file.
- Do not include in the report personally identifiable information, such as social security numbers, home addresses and telephone numbers, personal e-mails, dates and places of birth, and personal financial information.
- Include information about actual or projected financial savings as a result of the investigation as well as any policy changes related to the financial savings.
- Reports previously provided to OSC may be reviewed through OSC's public file, which is available here: <https://osc.gov/Pages/Resources-PublicFiles.aspx>. Please refer to our file number in any correspondence on this matter.

RETALIATION AGAINST WHISTLEBLOWERS

In some cases, whistleblowers who have made disclosures to OSC that are referred for investigation pursuant to 5 U.S.C. § 1213 also allege retaliation for whistleblowing once the agency is on notice of their allegations. The Special Counsel strongly recommends the agency take all appropriate measures to protect individuals from retaliation and other prohibited personnel practices.

EXCEPTIONS TO PUBLIC FILE REQUIREMENT

OSC will place a copy of the agency report in its public file unless it is classified or prohibited from release by law or by Executive Order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs. 5 U.S.C. § 1219(a).

EVIDENCE OF CRIMINAL CONDUCT

If the agency discovers evidence of a criminal violation during the course of its investigation and refers the evidence to the Attorney General, the agency must notify the Office of Personnel Management and the Office of Management and Budget. 5 U.S.C. § 1213(f). In such cases, the agency must still submit its report to OSC, but OSC must not share the report with the whistleblower or make it publicly available. See 5 U.S.C. §§ 1213(f), 1219(a)(1).