



U.S. OFFICE OF SPECIAL COUNSEL
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The Special Counsel

April 9, 2024

The Honorable Adrienne Todman
Acting Secretary
U.S. Department of Housing and Urban Development
451 7th Street, S.W.
Washington, D.C. 20410

Re: OSC File No. DI-23-000873
Request for Investigation—5 U.S.C. § 1213(c)

Dear Acting Secretary Todman:

I am referring to you for investigation a whistleblower disclosure concerning employees of the Department of Housing and Urban Development (HUD), Fair Housing and Equal Opportunity (FHEO), Washington, D.C. The whistleblower, [REDACTED], a former Budget Director who consented to the release of her name, alleged that HUD employees engaged in activity that may constitute a violation of law, rule, or regulation and an abuse of authority. A report of your investigation on these allegations and any related matters is due to the Office of Special Counsel (OSC) by June 10, 2024.

Specifically, [REDACTED] disclosed that HUD employees may have violated 5 U.S.C. § 5724 and 41 C.F.R. Subpart D. The allegations to be investigated include:

- HUD employees improperly approved a senior executive service (SES) separation relocation allowance of over \$45,000 for General Deputy Assistant Secretary [REDACTED];
- [REDACTED] was not entitled to the SES separation relocation allowance because he did not meet the conditions in 41 C.F.R. § 302-3.307; and
- Any additional, related allegations of wrongdoing discovered during the investigation of the foregoing allegations.

According to [REDACTED], [REDACTED] announced his retirement from HUD on October 23, 2023. In December 2023, [REDACTED] submitted his request for an SES separation relocation allowance of \$45,185 for travel expenses and to move his houseboat to New Port Richie, Florida. [REDACTED], FHEO Deputy Assistant Secretary for Operations, certified and approved [REDACTED] request [REDACTED] retired on February 1, 2024.

Under 41 C.F.R. § 302-3.307, an employee must have been transferred or reassigned geographically at the expense of the Government from one official station to another for a permanent

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duty SES career appointment to be eligible for an SES separation relocation allowance. [REDACTED] alleged that [REDACTED] did not meet those requirements because when he moved to Washington, D.C. to start his employment at HUD in 2016, he did not receive an SES career appointment, as required by 41 C.F.R. § 302-3.307. Rather, [REDACTED] moved to Washington, D.C. to join HUD as a GS-15 employee. When [REDACTED] received an SES appointment in 2018, he was already stationed in Washington D.C., and thus, was not relocated geographically, which is required for entitlement to the SES separation relocation allowance at retirement. Accordingly, [REDACTED] alleged that HUD employees violated 5 U.S.C. § 5724 and 41 C.F.R. 302-3.304 by awarding an SES separation relocation allowance to [REDACTED].

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/Documents/Public Files/1213 Appendix.pdf>. 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,



Hampton Dellinger
Special Counsel

Enclosure

cc: The Honorable Rae Oliver Davis, Inspector General

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).