



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

July 7, 2025

The President
The White House
Washington, D.C. 20050

Re: OSC File No. DI-25-000006

Dear Mr. President:

I am forwarding to you reports transmitted to the Office of Special Counsel (OSC) by the U.S. Department of Agriculture (USDA) in response to the Special Counsel's referral of a disclosure of wrongdoing at the Office of the Under Secretary for Rural Development, Washington, D.C.¹ OSC has reviewed the whistleblower's allegation, the USDA's reports, and the whistleblower comments, and in accordance with 5 U.S.C. § 1213(e), I have determined the reports contain the information required by statute and the findings appear reasonable. The following is a summary of the allegations, agency findings, and the whistleblower's comments in response.

The whistleblower, who chose to remain confidential, alleged that in September 2024, the Under Secretary for Rural Development executed a solicited cooperative agreement which was neither properly competed nor independently reviewed in violation of 2 C.F.R. § 415.1,² an implementing regulation of the Federal Grants and Cooperative Agreements Act of 1977 (the FGCA).³ The whistleblower reported that on August 1, 2024, the Rural Business-Cooperative Service employees informed the Washington State representative that under the FGCA, solicited cooperative agreements must be competed and independently reviewed prior to the obligation of funds. However, several weeks later, the funds were obligated by the Under Secretary for Rural Development to Northwest Rural Investment Strategy (NWRI), without competition and independent review.

¹ The whistleblower's allegations were referred to then-Secretary Thomas J. Vilsack for investigation pursuant to 5 U.S.C. § 1213(c) and (d). The USDA Office of General Counsel (OGC) conducted the investigation.

² 2 C.F.R. § 415.1(b) provides: "USDA awarding agencies must enter into discretionary grants and cooperative agreements *only after competition*" (emphasis added). Section (b)(2) further requires that solicited cooperative agreements be "evaluated objectively by independent reviewers in accordance with evaluation criteria set forth in writing by the USDA awarding agency."

³ 31 U.S.C. § 6301, *et seq.*

The investigation found that the cooperative agreement was properly entered into pursuant to the Secretary's authority in 7 U.S.C. § 2204b(b)(4). This authority is available notwithstanding the FGCA. Therefore, transactions entered into pursuant to Section 2204b(b)(4) are not subject to the FGCA or to the implementing regulations in 2 C.F.R § 415.1, including the competition and independent review requirements. In its report, the USDA OGC stated that Congress made clear its intent to exempt cooperative agreements under Section 2204b(b)(4), noting in the Conference Report that the provision "gives the Secretary the authority to enter into cooperative agreements . . . without being subject to the funding limitations imposed by the [FGCA]." ⁴ The quoted legislative history further indicates that Congress did not intend for the transactions entered into pursuant to Section 2204b(b)(4) to be subordinate to the FGCA. Rather, this authority operates independently and provides supplemental authority to agencies authorized to execute Section 2204b(b)(4) agreements. The agency stated that the cooperative agreement with NWRI falls within the scope of Section 2204b(b)(4) because it was designed to improve the coordination and effectiveness of development programs and services in rural areas. Specifically, the funds associated with the NWRI cooperative agreement are being used to roll out a platform that allows rural leaders to access a single information source outlining available federal resources and how to access them – a platform the agency states is deeply needed to expand access for rural communities seeking funding and resources. Because the NWRI cooperative agreement falls within the scope of Section 2204b(b)(4) and is not subject to the competition and independent review requirements in 2 C.F.R § 415.1, the agency did not substantiate the whistleblower's allegation.

The whistleblower expressed disappointment that the USDA did not use this referral as an opportunity to conduct a broader review of its cooperative agreement authority. The whistleblower pointed out that the Secretary's authority under Section 2204b(b)(4) has been extensively utilized by the agency despite lacking the regulatory structure of the FGCA. The whistleblower acknowledges that agreements under this authority can support worthwhile initiatives, but conveyed concern about accountability, transparency, oversight, and long-term sustainability. The whistleblower further expressed doubt about whether the use of cooperative agreement authority under Section 2204b(b)(4) benefits rural communities fairly, as awards under this section are coordinated by USDA leadership, leading to more favorable terms for recipients who are closely connected to the decisionmakers. The whistleblower suggests that the USDA examine its administration of 7 U.S.C. § 2204b(b)(4) to close oversight gaps in financial assistance and encourages Congress to undertake a comprehensive review of this authority to assess its effectiveness in rural development.

⁴ H. Rept. 104-494.

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I thank the whistleblower for bringing this allegation to OSC. As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the USDA's reports, and whistleblower's comments to the Chairmen and Ranking Members of the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture. OSC has also filed redacted copies of these documents and the letter referring the matter to the Secretary in OSC's public file, which is available online at www.osc.gov. This matter is now closed.

Respectfully,

A handwritten signature in cursive script that reads "Charles N. Baldis".

Charles N. Baldis
*Senior Counsel and Designee
of Acting Special Counsel Jamieson Greer*

Enclosures