



The Special Counsel

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

June 30, 2025

Timothy Whitehouse
Public Employees for Environmental Responsibility
962 Wayne Ave.
Suite 610
Silver Spring, MD 20910

Re: June 11, 2025 Request for Advisory Opinion

Dear Mr. Whitehouse:

Thank you for your letter. The Office of Special Counsel (OSC) does not provide advisory opinions on matters unrelated to chapter 15 or subchapter III of chapter 73 (the Hatch Act), but to the extent that your letter alleges potential prohibited personnel practices (PPP), pursuant to 5 U.S.C. § 1214, I am able to share with you OSC's initial conclusions regarding those concerns.

Your allegation is that the requirement by the Office of Personnel Management (OPM) in its May 29, 2025 [Merit Hiring Plan](#) that "all Federal job vacancy announcements graded at GS-05 or above will include four short, free-response essay questions" may violate 5 U.S.C. §§ 2302 (b)(1), (b)(10), and (b)(12).

OSC has examined the Merit Hiring Plan in full, as well as the more recent document issued by OPM on June 23, 2025: [Additional Merit Hiring Plan Guidance on Using the Four Short Essay Questions](#) (Additional Guidance). The Additional Guidance was issued subsequent to your letter to OSC.

OSC has concluded that OPM's Additional Guidance resolves the concerns raised in your letter and, at this time, we cannot conclude that a PPP has occurred, exists, or is to be taken.

The original Merit Hiring Plan did not specify the function or purpose of the four essay questions or how those questions or any answers were to be treated or used in the hiring process, establish clear limits on the use of those questions for ideological or political purposes, or provide clarification about the optionality of using those questions. While OSC cannot conclude that the original Merit Hiring Plan constituted or directly encouraged a PPP, we understand the concern that the four essay questions may be used by agencies in an improper way that could constitute such a violation.

For this reason, OSC is thankful that OPM's Additional Guidance provides clarification establishing the following:

- that these questions are not mandatory for agencies to use or for applicants to answer;
- that answers to these questions must not be "scored or rated" and that they should be treated the same as a cover letter;
- that agencies must not use these questions to impose any ideological litmus tests or disqualify any applicants who fail to answer any questions; and
- that any use of these questions must comply with the merit system principles and avoid commission of any PPPs.

These clarifications should help prevent agencies from misusing the four questions in a manner as you describe, and OSC stands ready to help prevent such misuse.

We thank you for the concerns raised in your letter and assure you that OSC will continue to receive and review any complaints raised about the implementation of the Merit Hiring Plan to ensure that no PPPs are committed and that the merit system principles are upheld.

Sincerely,

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

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