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OSC Issues Two Reports On Hiring Violations at Federal Agencies

FOR IMMEDIATE RELEASE

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WASHINGTON, D.C./May 17, 2017 –

The U.S. Office of Special Counsel (OSC) recently issued two reports concerning prohibited personnel practices at the U.S. Department of Justice (DOJ) and the U.S. Department of the Treasury. The reports contain OSC's investigative findings and are posted to OSC's website to better educate the federal workforce and help prevent future prohibited personnel practices.

In one [report](#), OSC found hiring violations for two positions at DOJ where officials sought to encourage preference eligible veterans to withdraw their applications. DOJ wanted to hire a non-veteran candidate. When the veterans declined to withdraw, DOJ selected the non-veteran candidate, despite rules mandating that veterans receive priority in hiring over non-veterans in certain circumstances. After DOJ human resources staff refused to process the selection of the non-veteran, DOJ re-announced the positions with new qualification requirements that effectively excluded all veterans who applied. During the course of its investigation, OSC sought and obtained a stay from the U.S. Merit Systems Protection Board to ensure that DOJ did not fill the positions while OSC investigated.

OSC found that DOJ attempted to influence the veterans to withdraw from competition in violation of 5 U.S.C. § 2302(b)(5). OSC also found that DOJ violated 5 U.S.C. § 2302(b)(11), which prohibits recommending a personnel action that would violate a veterans' preference requirement, when it selected the non-veteran candidate. OSC recommended disciplinary and corrective action for the violations, including appropriate training for DOJ staff. Additionally, OSC advised DOJ to consult with the U.S. Office of Personnel Management (OPM) about the appropriate use of the qualification criteria DOJ utilized when it re-announced the two positions.

In a separate PPP [report](#), OSC found hiring violations at the Treasury Department's Financial Crimes Enforcement Network (FinCEN). A joint audit conducted by the Treasury Department and OPM determined that FinCEN required attorney experience and prior federal service for a series of GS-1801 investigator positions, although neither requirement was listed in the corresponding vacancy announcements. The matter was referred to OSC to determine whether the resulting appointments were prohibited personnel practices.

OSC found that FinCEN's hiring actions did not comply with federal hiring rules and regulations regarding merit system principles, which constitutes a violation of 5 U.S.C. § 2302(b)(12). In addition, by misleading applicants about the qualifications required for the jobs, FinCEN willfully obstructed the right of applicants without attorney experience and with no prior federal service to compete for the positions, in violation of 5 U.S.C. § 2302(b)(4). By the time OSC issued its report, the Treasury Department had already taken steps to regularize the appointments in question. OSC also recommended that all FinCEN managers and human resources staff receive appropriate training.

After receiving the reports of investigation, both DOJ and the Treasury Department took action consistent with OSC's recommendations.

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: The Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC's primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing. For more information, please visit our website at www.osc.gov.