



DEPARTMENT OF AGRICULTURE  
OFFICE OF THE DEPUTY SECRETARY  
WASHINGTON, D.C. 20250

JAN 26 2010

William E. Reukauf, Esq.  
Acting Special Counsel  
Office of Special Counsel  
1730 M Street, NW, Suite 218  
Washington, D.C. 20036

Dear Mr. Reukauf:

This is in response to your letter to Secretary of Agriculture Thomas J. Vilsack dated April 14, 2009, regarding the Office of Special Counsel (OSC) File Nos. DI-08-2143 and DI-09-0033  
OIG File No. HY-0801-0094. We responded to you initially by letter dated August 17, 2009.

Subsequent to that, your staff has submitted additional questions which Phyllis K. Fong, Inspector General of the Department of Agriculture (USDA), has now addressed. Copies of the Inspector General's letter to Secretary Vilsack, dated December 22, 2009, and of the further report on this matter by the Office of Inspector General (OIG), dated December 16, 2009, are enclosed.

According to Ms. Fong, two specific questions have now been highlighted for our further consideration. First, your staff has asked whether USDA believes that, in considering bonus eligibility for career Senior Executive Service (SES) appointees, distinctions should be made between an appointee's performance, on the one hand and, conduct issues, on the other. This question addresses specifically whether, when allegations have been made regarding serious misconduct on the part of an SES appointee, it is appropriate to approve a performance bonus while such allegations are pending. In our opinion, no distinction should be made between performance and conduct factors in such circumstances. Bonuses are not a matter of right, either for SES appointees or for other employees, and they should not be approved for any employee if there is reason to believe he or she has engaged in serious misconduct of any kind. In our opinion, the kind of misconduct alleged to have occurred in the subject case can, and should be, considered as part of an employee's record of performance. We are disappointed that the Department of Justice decided not to pursue criminal charges.

Second, your staff has again requested that the Department identify any disciplinary action which has been taken against USDA employees in connection with these cases, and any other corrective actions or measures which may have been taken as a result of USDA's investigations into this matter.

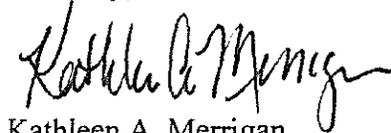
William E. Reukauf, Esq.  
Page 2

Had the employee involved not taken a voluntary retirement, the Department was prepared and would have taken steps to remove him from Federal service. However, we believe there is insufficient evidence to bring disciplinary action against other USDA officials or employees. As indicated in our earlier letter of August 17, 2009, we will take steps in the future to assure that performance bonuses are not awarded to SES or other appointees who are the subjects of serious ongoing investigations without prior careful review by the Office of the Secretary.

Also enclosed are copies of my memorandum of August 18, 2009, to Thomas Tidwell, recently appointed Chief of the Forest Service, and Chief Tidwell's response to me dated August 20, 2009, both of which reflect our views regarding the seriousness of this matter.

I hope that these additional responses are helpful.

Sincerely,



Kathleen A. Merrigan  
Deputy Secretary

Enclosures



UNITED STATES DEPARTMENT OF AGRICULTURE  
OFFICE OF INSPECTOR GENERAL  
Washington D.C. 20250



DEC 22 2009

The Honorable Tom Vilsack  
Secretary  
U. S. Department of Agriculture  
1400 Independence Avenue SW.  
Washington, D.C. 20250-0001

Dear Mr. Secretary:

Pursuant to the requirements of 5 U.S.C. Section 1213(d), the enclosed supplemental investigative report is in response to the U.S. Office of Special Counsel (OSC) referrals OSC-DI-08-2143 and DI-09-0033 (Office of Inspector General (OIG) Complaint Number PS-0801-0305). The referrals are whistleblower disclosures alleging that Jesse King, the former Chief Financial Officer at the Department of Agriculture (USDA), Forest Service (FS), violated Federal regulations and abused his position by falsifying his official duty station, misused his Government-issued travel credit card, and failed to pay his travel credit card account in a timely fashion. It was also alleged that the employee and other FS and USDA officials were involved in gross mismanagement and abuse of authority concerning this matter.

On August 12, 2009, OIG provided the Report of Investigation to your office in response to the OSC referrals. On August 17, 2009, Deputy Secretary Kathleen Merrigan sent a letter to William Reukauf, Esq., Acting Special Counsel. This letter provided USDA's response to allegations raised in the OSC referrals and a copy of OIG's Report of Investigation. Deputy Secretary Merrigan, in her letter, advised that the allegations regarding Mr. King's actions were substantiated. Further, she stated that these actions violated Federal and USDA regulations and policies. Deputy Secretary Merrigan concurred with OSC that there should have been much closer oversight by senior FS officials of Mr. King's reporting, travel, and travel card use and that no Senior Executive Service performance award should have been paid to Mr. King, as was done in this instance. As corrective action on the part of USDA, Deputy Secretary Merrigan advised, "We will instruct Forest Service and OHCM [Office of Human Capital Management] officials to assure that no such awards are paid in the future to the subjects of serious ongoing investigations without prior careful review by the Office of the Secretary." Deputy Secretary Merrigan pointed out that because Mr. King retired from Federal service, he is not subject to "any disciplinary action which might otherwise be appropriate" and that "the allegations have been fully addressed, that all necessary remedial actions have been taken and, as a result, that no further steps by USDA are required."

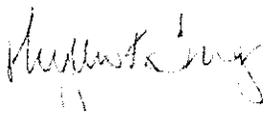
Upon receipt of the Department's response to the referrals, OSC requested additional information from OIG. Enclosed is the list of questions that OSC provided to OIG. In order to adequately respond to these questions, OIG conducted additional interviews and prepared a

The Honorable Tom Vilsack  
Page 2

supplemental Report of Investigation on this matter. The supplemental report is enclosed for your review and consideration. While the OIG supplemental report is responsive to these questions in most instances, OSC raises questions pertaining to USDA's position on certain issues. In light of the additional information OIG is now providing, I am highlighting questions for your consideration to which OSC will be expecting a departmental response. Specifically, OSC has asked if FS and USDA agree that a distinction should be made between performance and conduct prior to awarding a bonus when there are allegations of serious misconduct on the part of an employee. OSC has again requested that USDA identify any disciplinary action taken against USDA employees or any corrective actions or measures taken as a result of the USDA or OIG investigations.

Should you desire additional information about this response, please call me at (202) 720-8001, or have a member of your staff contact Assistant Inspector General for Investigations Karen L. Ellis at (202) 720-3306.

Sincerely,



Phyllis K. Fong  
Inspector General

Enclosures



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Northeast Region

Suite 2-2230

5601 Sunnyside Avenue, Stop 5300

Beltsville, Maryland 20705-5300



DATE: December 16, 2009

REPLY TO

ATTN OF: HY-0801-0094

TO: Special Agent-in-Charge  
Investigations Liaison & Special  
Operations Division (IL&SOD)  
Washington, D.C.

FROM: Brian L. Haaser  
Special Agent-in-Charge  
for Investigations

SUBJECT: Jesse King, former Chief, Financial Officer, Forest Service - Misconduct

This is in response to the September 22, 2009, conference call and the October 13, 2009, e-mail from the Office of Special Counsel (OSC) requesting additional information regarding this matter. Please also refer to our Report of Investigation (ROI) issued on this matter in conjunction with the responses below.

**Issue 1: Ms. Abigail Kimbell's Employment Status**

According to the report, Ms. Abigail Kimbell left her position as Chief, Forest Service (FS) effective July 5, 2009, at which time she was reassigned to the position of Director, Research Development, Forest Service (FS).

Question: What was the reason for this reassignment?

Response: Ms. Kimbell stated she was not informed of any specific reason for her reassignment. Ms. Kimbell stated that she was informed of her reassignment on or around June 17, 2009, during a meeting with Mr. Tom Vilsack, Secretary of Agriculture, Mr. John Norris, Chief of Staff, and Ms. Jill Crumpacker, former Director, Office of Human Capital Management (OHCM). During that meeting Ms. Kimbell was provided a reassignment letter which she signed on June 22, 2009, (Attachment 1).

Question: Did the reassignment involve a change in grade, pay, or geographic location?

Response: No

Question: Has Ms. Kimbell actually left Government service and, if so, how and when? Please produce any and all paperwork proposing, effecting and/or executing Ms. Kimbell's departure from Government service.

Response: Based on a review of the Standard Form (SF) 50, Notification of Personnel Action Ms. Kimbell voluntarily retired from government service effective July 31, 2009, (Attachment 2).

**Issue 2: Mr. Jesse King's Performance Rating and Award**

Documentation received by OSC indicates that Ms. Kimbell signed Mr. Jesse King's SES appraisal awarding him a "superior" rating on September 26, 2008. Mr. King was interviewed by Ms. Debra Gilmore, U.S. Department of Agriculture (USDA) Capital Management, the same day. Ms. Kimbell stated when interviewed pursuant to this investigation that she "had received preliminary information regarding the investigation by OHCM" at this time. This appears to suggest that because there had been no final determination on Mr. King's alleged wrongdoing, Ms. Kimbell was justified in not taking the alleged wrongdoing into consideration in recommending the award. Mr. Hank Kashdan, Associate Chief, FS, explained that Ms. Kimbell recommended the award before a final determination was made regarding disposition of the misconduct charge against Mr. King. He acknowledged, however, that an SES award can be withheld based on conduct.

Question: Are these Forest Service officials suggesting and does USDA agree that a distinction should be made between performance and conduct in this matter?

Response: Ms. Leslie Violette, Director Departmental Human Resources Division (OHCM), stated in the OIG ROI page 9, that the misconduct issues against Mr. King should have been considered in the Performance Review Board (PRB) process.

As referenced in the OIG ROI, page 10, Mr. Hank Kashdan stated he believes that an award for SES employees can be withheld based on conduct (the aspect for which Mr. King was being investigated) even though the award itself is based on performance. However, it should be noted that the award was determined and recommended by Ms. Kimbell before she received the OHCM ROI.

Also, see Issue 3 below regarding Mark Rey's view of the issues involving Mr. King and his performance rating.

Question: Did either the Forest Service or USDA consider the OHCM investigation in issuing Mr. King a superior performance rating and recommending a \$13,000 performance award?

Response: No

Question: Did either the Forest Service or USDA consider Mr. King's conduct to be related to his performance elements of leadership/management?

Response: Ms. Kimbell stated conduct is a part of performance and she believes it would be included under "Leadership and Management" which is a critical element under the performance elements for the Chief Financial Officer (CFO), FS. Ms. Kimbell stated the CFO position is responsible for developing and enforcing policies on financial matters in FS and therefore should be held to the highest standards in the position. However, Ms. Kimbell again reiterated that the performance appraisal was issued to Mr. King on September 26, 2008, and the OHCM ROI had not yet been provided to FS.

### **Issue 3: OHCM Review of Mr. King's Rating/Award**

According to the report, after the award was approved by the PRB on November 4, 2008, the list of candidates for performance awards was forwarded to OHCM. The PRB met 6 days after OSC contacted Jill Crumpacker, former Director of OHCM, in regard to the disclosures against Mr. King. On November 6, 2008, OSC was notified by Ms. Crumpacker that a proposed removal letter had been drafted for Mr. King. The SES performance award letter from the Secretary was dated December 15, 2008. Consequently, OHCM was drafting a proposed removal for Mr. King at essentially the same time they were reviewing the performance award recommendation from the PRB and forwarding the recommendation to the Secretary.

Question: Please provide all documentation related to OHCM's review of the PRB recommendation that Mr. King receive a performance award.

Response: The documents related to the Natural Resources and Environment (NRE) PRB that was conducted on November 4, 2008, were obtained from OHCM and FS (Attachment 3). The PRB included the following panel members: Mr. Mark Rey, Chairman, PRB and Under Secretary for NRE; Dr. Gerald Bange, Office of the Chief Economist; Ms. Carolyn Cooksie, Farm Service Agency; Mr. Hubert Hamer, National Agricultural Statistics Service; and Mr. James Schaub, Office of the Chief Economist. The Performance Review Board convened to review SES ratings and bonus recommendations for FS executives. The PRB recommended that Mr. King receive a "Superior" rating, a 3% salary increase, and a \$13,000 cash award.

We contacted Dr. Bange, Ms. Cooksie, Mr. Hamer, and Mr. Schaub regarding their participation in the NRE PRB. All four panel members advised they recalled participating in the PRB but did not recall any issue of misconduct by or in reference to any of the candidates for performance awards being mentioned during the process.

Mr. Mark Rey, former Under Secretary for NRE and Chairman of the PRB, advised he recalled participating in that PRB that was held on November 4, 2008. Mr. Rey served as the Under Secretary for NRE from October 2001 until January 20, 2009, and throughout his tenure served on numerous PRBs. Mr. Rey stated that he was the chairman of the NRE PRB and was responsible for reviewing the employees' appraisal packets, ensuring that the process was fair, consistent and equitably treated for all employees recommended for the performance award. Mr. Rey stated that he was familiar with the issues pertaining to Mr. King. He stated during the fall of 2008, he was briefed on at least two occasions by Ms. Kimbell on the allegations against Mr. King, the results of the investigation, and the proposed administrative action that she was recommending. Mr. Rey stated although he was aware of the allegations of misconduct against Mr. King he did not discuss them with the PRB members because he did not want to violate Mr. King's rights, confidentiality, and privacy since a final determination had not been proposed on this matter.

Mr. Rey stated that the measure of the quality of Mr. King's performance was unrelated to his conduct, and since the issue was serious enough to warrant an investigation the alleged misconduct issues would be reviewed and handled separately. Mr. Rey stated that Mr. King had been an asset to the agency and provided financial expertise to FS as well as the Department. Mr. Rey stated the administrative action taken against Mr. King was more severe based on the level and responsibility of his position.

Mr. Rey stated the PRB generally relies on recommendation made by the agency and in the past there were issues involving conduct which were handled separately and not addressed during the PRB process.

Question: Mr. King was recommended for a "superior" rating and performance award by Ms. Kimbell and Sally Collins, former Associate Chief, Forest Service, on September 26, 2008. The PRB did not meet until November 4, 2008. Why was no effort made to notify the PRB of the investigative findings regarding Mr. King prior to meeting? Did the agency consider withdrawal of the performance award at any time between Ms. Kimbell's proposal of the performance award and issuance of the award?

Response: Ms. Kimbell stated that she did not consider the allegations of misconduct when she prepared Mr. King's 2008 performance appraisal. Ms. Kimbell stated she did not have a copy of the OHCM ROI when she completed Mr. King's performance appraisal. She stated it took about a month or so to get a copy of the ROI from OHCM. Ms. Kimbell stated that she did not make an effort to contact the PRB regarding of the investigative findings, but she recalls notifying and briefing Mr. Rey, who was the Chairman of the NRE PRB, held on November 4, 2008.

Also, see Mr. Rey's response above in the previous question.

**Issue 4: Additional Review and Approval of Mr. King's Performance Award**

Question: What is the USDA Executive Resources Board (ERB)?

Response: The ERB and the PRB are two distinctly different committees with different missions, responsibilities and duties. The ERB is comprised of a panel of SES officials and is responsible for reviewing candidates' application packets for SES positions. The ERB also made recommendations on the SES compensation guidelines for the 2008 performance cycle. Those guidelines included the percentage for the Department's pool, percentages for pay adjustments, and the bonus range for individual bonuses based on the summary ratings. The ERB does not determine the amount for an individual employee's award. The PRB is comprised of a panel of SES officials and the chairperson is normally the Under Secretary for that mission area which in this case would have been Mr. Mark Rey. The Chairman can delegate that authority to another SES official who is presiding on the PRB.

Question: Who were the members of this ERB at the time Mr. King's SES performance award was reviewed?

Response: As mentioned in the previous response, the ERB is not involved in the process of determining an individual award amount.

Question: Did this ERB recommend that Mr. King receive the award and, if so, when? Please provide any documentation related to the ERB's review/approval/recommendation of Mr. King's award?

Response: The ERB did not recommend Mr. King for a performance award. The PRB recommended Mr. King for the performance award which was 3% of Mr. King's salary based on the superior rating. The 2008 SES PRB Recommendations was signed by Mr. Mark Rey, PRB Chair and former Under Secretary NRE, on November 12, 2008.

Question: What specific role did Mr. Boyd Rutherford, former Assistant Secretary for Administration (ASA), play in this review/approval/recommendation process for Mr. King's award? Please provide OSC with any documentation and/or testimony verifying Mr. Rutherford's role in the execution of Mr. King's performance award. Is Mr. Rutherford still employed by USDA? If so, in what capacity? If not, when did he leave USDA and why? Has he been made aware of the allegations leveled against him and given an opportunity to respond? Has he been made aware of the results of this investigation?

Response: Mr. Rutherford was the Assistant Secretary for Administration (ASA) and Presidentially Appointed and Senate confirmed. He resigned from USDA on January 21, 2009, when the administration changed. Mr. Rutherford was interviewed and stated that he had oversight of OHCM during his tenure as ASA. He stated that OHCM was responsible for providing instructions and guidance from the Department level to the PRB members on the PRB process and for ensuring the PRBs met the established timeframes. Mr. Rutherford stated that he would not have reviewed, and does not recall reviewing the agency's PRB recommendations but he did review recommendations, but he did review recommendations for his staff offices. Mr. Rutherford stated that at some point during his tenure as ASA he was advised of the allegations against Mr. King by Mr. Hank Kashdan, Ms. Roberta Purcell, former Director OHCM, or someone else in OHCM. He stated that he never reviewed the OHCM ROI nor did he brief anyone on the matter including Mr. Rey or staff of the immediate Office of the Secretary.

Question: What specific role did Mr. Gilbert Smith, Deputy ASA, play in this review/approval/recommendation process for Mr. King's award? Please provide OSC with any documentation and/or testimony verifying Mr. Smith's role in the execution of Mr. King's performance award. Is Mr. Smith still employed by USDA? If so, in what capacity? If not, when did he leave USDA and why? Has he been made aware of the allegations leveled against him and given an opportunity to respond? Has he been made aware of the results of this investigation?

Response: Mr. Smith was the Deputy ASA and he resigned from USDA on January 21, 2009, when the administration changed. Mr. Smith stated he did not have a role in the NRE PRB that was conducted on November 4, 2008. He stated that he recalled participating in one PRB while he was acting for the ASA. Mr. Smith stated he was briefed by OHCM staff and provided background on the alleged misconduct of Mr. King and how to proceed in the administrative process. Mr. Smith stated he was not briefed on any specifics or the results of the investigation conducted by OHCM. He did not review the OHCM ROI nor did he give any recommendations on the proposed administrative action or performance award for Mr. King.

Question: What specific role did Mr. Jon Holladay, Deputy Chief Financial Officer, play in this review/approval/recommendation process for Mr. King's award? Please provide OSC with any documentation and/or testimony verifying Mr. Holladay's role in the execution of Mr. King's performance award. Is Mr. Holladay still employed by USDA? If so, in what capacity? If not, when did he leave USDA and why? Has he been made aware of the allegations leveled against him and given an opportunity to respond? Has he been made aware of the results of this investigation?

Response: Mr. Holladay is still employed with USDA as the Deputy Chief Financial Officer. Mr. Holladay stated that he was not involved in the review/approval/recommendation process for Mr. King's award. He stated that Mr. Rutherford advised him that Mr. King was under investigation and requested that he determine if Mr. King had access to any USDA financial databases. He stated that Mr. Rutherford did not provide him any specific information on the allegations against Mr. King. However, he was informed by Mr. Rutherford there was a strong possibility if the allegations were substantiated that Mr. King would be removed from his position because of his level and the sensitivity of his position as CFO, FS.

Question: Why did Mr. Hank Kashdan contact Mr. J. Michael Kelley [sic], Acting General Counsel, Office of the General Counsel regarding the Mr. King matter?

Response: Mr. Kashdan stated that he contacted Mr. Kelly on his own initiative after conferring with Ms. Kimbell. She concurred with Mr. Kashdan's belief that discussing the issue with Mr. Kelly was appropriate. Mr. Kashdan contacted Mr. Kelly because USDA Human Resources (USDAHR) had requested that Ms. Kimbell issue a letter to Mr. King that concerned his potential removal from career service.

Question: Why would Mr. Kashdan have contacted Mr. Kelley [sic] in February 2009, after Mr. King supposedly submitted his resignation which was effective February 3, 2009?

Response: He contacted Mr. Kelly because USDAHR requested that FS issue a letter to Mr. King after he had already retired. Mr. Kashdan stated that he believed the letter essentially said, "Even though you have already retired, let me state that you would have been terminated, had you chosen not to retire." Issuing this letter just didn't make sense to him.

Question: Why would Mr. Kashdan have contacted Mr. Kelley [sic] in February 2009, to tell him that Ms. Crumpacker wanted Ms. Kimbell to prepare a letter terminating Mr. King when the letter had already allegedly been prepared by OHCM, forwarded to Ms. Kimbell, modified by Ms. Kimbell and submitted back to OHCM?

Response: Mr. Kashdan stated that the letter contained some information he does not recall but he does recall that Ms. Kimbell was provided a letter by USDAHR to deliver to Mr. King after he had already retired; the content of the letter did not make sense to him, so he contacted Mr. Kelly. Mr. Kashdan stated he does not have any knowledge of proposing that the content of the letter be revised, although Ms. Kimbell may have personally proposed a revised letter back to USDAHR.

#### **Issue 5: Forest Service Policies Regarding Reporting Wrongdoing**

Question: Mr. Kashdan stated that he and Ms. Kimbell "implemented a new process" and has now instructed that the Data Mining Reports which track Federal credit card usage be sent directly to the Chief's office for review. Has this new policy been placed in writing? If so, please indicate when the revised policy was adopted and provide our office with a copy of the policy. If not, has this new policy been communicated to Forest Service and/or USDA employees? If so, how, when, and to whom?

Response: Mr. Kashdan stated that the National Finance Center prepares reports covering possible travel card irregularities, overdue credit card payments, etc. (Attachment 4). The reports are reviewed by the Financial Management Staff at the Albuquerque Service Center, FS, Albuquerque, New Mexico. Mr. Kashdan stated that he requested that the Acting Chief Financial Officer, Ms. Donna Carmical (now the permanent CFO for the Forest Service), personally provide him with information from these reports if they concern Forest Service Senior Executives and she has done this on at least two occasions. Mr. Kashdan stated he does not recall making this request via e-mail. It is not codified in policy as a letter or manual supplement. (USDA notifies the agency about all employees, as a standard operating procedure. Mr. Kashdan only asked for information on agency Senior Executives.)

#### **Ms. Jill Crumpacker's Employment Status**

Background: A review of the Standard Form (SF) 50 forms (Attachment 5) regarding Ms. Jill Crumpacker disclosed that she started as the Deputy Director, OHCM effective February 17, 2008. On December 21, 2008, she was reassigned to the Director, OHCM. In July 2009, Ms. Crumpacker stated that she met with Mr. John Norris, Chief of Staff to the Secretary, and Ms. Carol Jett, Deputy Chief of Staff to the Secretary, and requested a voluntary reassignment from OHCM to another USDA agency. The Request for Prior Clearance of Personnel Action (AD-67 – Attachment 6) for the reassignment was signed by Ms. Carol Jett on August 11, 2009. On September 18, 2009, Ms. Crumpacker reviewed and signed the letter for her voluntary reassignment as the Senior Advisor to the General Counsel. According to OHCM the SF 50 for the reassignment to OGC has not be completed.

Special Agent-in-Charge

9

Question: What was the reason for this reassignment?

Response: The Assistant Secretary for Administration is currently going through a reorganization which includes OHCM (Attachment 7).

Question: Did the reassignment involve a change in grade, pay or geographic location?

Response: No

If you have any questions regarding this investigation, please contact Senior Special Agent Harold Stanford or me at (301) 504-2000.

7 Attachments



THE DEPUTY SECRETARY OF AGRICULTURE  
WASHINGTON, D. C.  
20250-0100

AUG 18 2009

MEMORANDUM FOR TOM TIDWELL  
CHIEF, FOREST SERVICE

FROM: Kathleen A. Merrigan  
Deputy Secretary

SUBJECT: Travel and Other Irregularities

As you may be aware, two investigations have been conducted recently into allegations that former Forest Service Chief Financial Officer Jesse L. King abused his position by falsifying his official duty station, misusing his government issued travel credit card, and failing to pay his travel credit card account in a timely fashion. The first investigation was conducted during 2008 by a senior employee relations specialist in the Office of Human Capital Management (OHCM) of the Department of Agriculture (USDA), after a data mining report prepared by the Office of the Chief Financial Officer showed Mr. King's travel card account was seriously delinquent. The second investigation was conducted by USDA's Office of Inspector General (OIG), at the request of the Secretary, after whistleblower complaints had been lodged by two identified Forest Service employees – both then stationed in Albuquerque, New Mexico – with the United States Office of Special Counsel (OSC). On August 17, 2009, I signed USDA's response to OSC, a copy of which is attached.

Several aspects of these matters, and several problems identified by the described investigations, are disturbing. First, it appears that Mr. King's official duty station was changed from Washington, D.C., to Albuquerque, New Mexico. While the investigations did not focus on this transfer of station, and while no reasons for such transfer were ascribed in the reports of investigation, it seems questionable that the duty station of a senior Forest Service official, a Senior Executive Service (SES) appointee serving as the agency's Chief Financial Officer with nationwide responsibilities for the financial management of the agency, was relocated away from the agency's national headquarters.

Second, after Mr. King's duty station had been changed to Albuquerque, New Mexico, he never established a residence there but continued to maintain his permanent residence in Houston, Texas. He also repeatedly, while en route between Washington, D.C., and Albuquerque, revised his travel itineraries – without supervisory approval – to provide for stops in Houston for several days at a time. While the investigation reports are less than conclusive, I question whether it was appropriate for a senior Forest Service official to travel between

Washington and Albuquerque repeatedly over a period of many months without close review and oversight of his travel vouchers.

Third, while the OHCM investigation was completed on October 7, 2008, after SES performance appraisals had been prepared for the 2008 rating year but two months prior to the Secretary's approval of performance bonuses, it appears no effort was made – by anyone in the Forest Service including the former Chief or by OHCM – to alert the Office of the Secretary that no such award was warranted for Mr. King because of the serious allegations which had been made and, by that time, investigated. If it is true that no efforts were made by the Chief or other senior Forest Service managers to reconsider the agency's recommendation of a performance bonus in these circumstances, I consider that unacceptable.

I would like your assurance that these management failures regarding the conduct of a senior Forest Service official – including questionable approval of a change of duty station, inadequate oversight of travel vouchers, and a failure to alert the Office of the Secretary regarding a highly questionable performance award – will not be repeated in the future.

Thank you for your attention to these matters.

Attachment

cc: Jay Jensen  
Deputy Under Secretary for Natural Resources and Environment



THE DEPUTY SECRETARY OF AGRICULTURE  
WASHINGTON, D.C.  
20250-0100

AUG 18 2009

MEMORANDUM FOR TOM TIDWELL  
CHIEF, FOREST SERVICE

FROM: Kathleen A. Merrigan  
Deputy Secretary

SUBJECT: Travel and Other Irregularities

As you may be aware, two investigations have been conducted recently into allegations that former Forest Service Chief Financial Officer Jesse L. King abused his position by falsifying his official duty station, misusing his government issued travel credit card, and failing to pay his travel credit card account in a timely fashion. The first investigation was conducted during 2008 by a senior employee relations specialist in the Office of Human Capital Management (OHCM) of the Department of Agriculture (USDA), after a data mining report prepared by the Office of the Chief Financial Officer showed Mr. King's travel card account was seriously delinquent. The second investigation was conducted by USDA's Office of Inspector General (OIG), at the request of the Secretary, after whistleblower complaints had been lodged by two identified Forest Service employees – both then stationed in Albuquerque, New Mexico – with the United States Office of Special Counsel (OSC). On August 17, 2009, I signed USDA's response to OSC, a copy of which is attached.

Several aspects of these matters, and several problems identified by the described investigations, are disturbing. First, it appears that Mr. King's official duty station was changed from Washington, D.C., to Albuquerque, New Mexico. While the investigations did not focus on this transfer of station, and while no reasons for such transfer were ascribed in the reports of investigation, it seems questionable that the duty station of a senior Forest Service official, a Senior Executive Service (SES) appointee serving as the agency's Chief Financial Officer with nationwide responsibilities for the financial management of the agency, was relocated away from the agency's national headquarters.

Second, after Mr. King's duty station had been changed to Albuquerque, New Mexico, he never established a residence there but continued to maintain his permanent residence in Houston, Texas. He also repeatedly, while en route between Washington, D.C., and Albuquerque, revised his travel itineraries – without supervisory approval – to provide for stops in Houston for several days at a time. While the investigation reports are less than conclusive, I question whether it was appropriate for a senior Forest Service official to travel between



Forest  
Service

Washington  
Office

1400 Independence Avenue, SW  
Washington, DC 20250

MEMORANDUM FOR KATHLEEN MERRIGAN, THE DEPUTY SECRETARY OF  
AGRICULTURE

FROM: Thomas L. Tidwell  
Chief

*Thomas L. Tidwell 8/20/09*

SUBJECT: Travel and Other Irregularities

Concerning your memorandum on travel and other irregularities, you have my assurance that I will take action to prevent management failures regarding conduct of SES Forest Service officials.

Where we do have SES positions that are located outside of DC, you have my assurances that I will take the necessary steps to ensure that all of our employees comply with travel regulations, and I will require the necessary oversight to ensure that our employees fulfill their responsibilities and are held accountable for their actions.

Concerning the question of performance bonuses, even though the performance rating and bonuses was recommended prior to when the investigation was completed, that is no excuse for why the Office of the Secretary was not notified, and the request made that the performance bonus in question be held until after the investigation was completed.

I will ensure that performance awards will not be paid to employees of serious on-going investigations without careful review by the Office of the Secretary.

I will review the investigation reports to gain additional insight into how this happened and determine the actions that I need to implement.

I also want to express my disappointment that criminal charges were not pursued. The idea that the Chief Financial Officer for our Agency, the individual responsible for providing direction and policy for the agency on financial matters including travel, would abuse his position and responsibilities is beyond unacceptable. There is no one in the agency that would have a higher understanding of our policies and rules that must be followed when it comes to travel. Yes, I am responsible to ensure that employees do not abuse their positions, however our Chief Financial Officer also had responsibilities and the fact that there is no penalty for his actions is troubling. I will pursue actions to recover costs to the government.

Again, you have my assurance that I will take the necessary actions to prevent management failures regarding the conduct of SES Forest Service officials from happening again.

cc: Jay Jensen, Deputy Under Secretary for Natural Resources and Environment

