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November 17, 2009

The President
The White House
Washington, D.C. 20500

RE: OSC File No. DI-00-1499

Dear Mr. President:

The Office of Special Counsel (OSC) received a disclosure from a whistleblower, Clarence Daniels, a contract specialist with the Program Executive Office, Tactical Missiles, Multiple Launch Rocket System (MLRS) Division, Aviation and Missile Life Cycle Command Management, Redstone Arsenal, Huntsville, Alabama. Mr. Daniels alleged that government employees assigned to monitor and oversee the Army's MLRS M270 and M270A1 contracts with Lockheed Martin Missile and Fire Control allowed the contractor to engage in improper contracting practices.¹ He alleged that these contracting improprieties violated acquisition regulations, and the failure to assert the rights and remedies available to the government resulted in significant monetary loss to the government. Finally, Mr. Daniels alleged that the contract improprieties resulted in a substantial and specific danger to public safety because the Army accepted non-conforming military equipment for use by Army personnel in combat zones.

OSC required the Secretary of the Army to conduct an investigation into these disclosures pursuant to 5 U.S.C. § 1213(c) and (d). The Secretary delegated responsibility for the investigation of Mr. Daniels' allegations and authority to sign the report to Former Assistant Secretary of the Army (Manpower and Reserve Affairs), Ronald J. James.

The Army provided its report in two stages; the first half of the report addressing three of the six allegations was received on July 21, 2008; the second half addressing the remaining three allegations was received on January 21, 2009. The Army also provided a supplemental report on September 11, 2009, which addresses Mr. Daniels' concerns about the Army's investigation, but does not alter the Army's investigative findings or conclusions. Complete copies of the Army's reports and exhibits are enclosed. Mr. Daniels commented on the Army's reports pursuant to 5 U.S.C. § 1213(e)(1). His comments are also enclosed.

The Army's investigation partially substantiated Mr. Daniels' allegations finding that Lockheed Martin mischaracterized costs incurred in the development of the Value Engineering Change Proposals as reimbursable costs, the Army failed to assert property rights over the

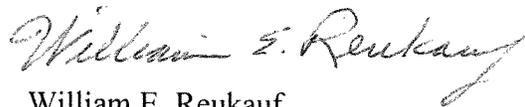
¹The contract describes the MLRS as a "non-nuclear, all-weather, indirect area fire weapon system" that "provides a high rate of fire, as well as a high volume of fire, and is adaptable to future munitions technology." The M270A1 is an upgraded version of the M270 Launcher.

Reduced Range Practice Rocket and the Low Cost Reduced Range Practice Rocket, Lockheed Martin failed to provide a Safety Assessment Report as required under the contract resulting in additional costs to the government, and that the Army bore the costs to bring the MLRS launchers into compliance when Lockheed Martin should have borne that cost. The report explains that the Army is in the process of seeking reimbursement for the costs that should have been borne by the contractor, and has asserted its property rights over the rocket systems.

OSC has reviewed the original disclosures and the Army's reports. Based on that review, we have determined that the Army's reports contain all of the information required by statute and that the findings appear to be reasonable.

As required by law, 5 U.S.C. § 1213(e)(3), OSC has sent a copy of the Army's reports and the whistleblower's comments to the Chairman and Ranking Member of the Senate Armed Services Committee, and the Chairman and Ranking Member of the House Armed Services Committee. OSC's case on this matter is now closed. A redacted copy of the Army's reports, and a copy of the whistleblower's comments has been placed in OSC's public file available online at www.osc.gov. Given the volume of the exhibits the Army submitted with its reports, the public file posting of those documents will be briefly delayed.

Respectfully,



William E. Reukauf
Associate Special Counsel

Enclosures