



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 300
Washington, D.C. 20036-4505

The Special Counsel

July 9, 2013

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

Re: OSC File No. DI-11-0119

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency report based on disclosures made by a whistleblower at the Department of the Army (Army), Communications-Electronics Command (CECOM), Life Cycle Management Command (LCMC), Rapid Response (R2) Project Office, Fort Monmouth, New Jersey. The whistleblower, who requested to remain anonymous, disclosed that CECOM LCMC employees were mishandling money earned as fees charged by the R2 Project Office in violation of the Economy Act of 1933 (Economy Act).

The agency report did not substantiate the whistleblower's allegations. According to the report, the R2 Project Office managed operations and funds properly. The operating and financial procedures employed did not violate the Economy Act or any other federal law. Based upon my review of the original disclosure and the agency report, I have determined that the report contains all of the information required by statute and that the findings appear to be reasonable.

The whistleblower's allegations were referred on November 30, 2010 to the Honorable John McHugh, Secretary of the Army, to conduct an investigation.¹ On March 13, 2013, the Honorable Thomas R. Lamont, Assistant Secretary of the Army for Manpower and Reserve Affairs, submitted the agency's report to my office. The whistleblower declined to submit comments in response to the agency report. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the agency report to you.

The R2 Project Office provides a rapid and efficient means of supplying customers with parts, repairs, and services through the use of pre-competed indefinite delivery indefinite quantity (IDIQ) contracts with chosen contractors. While all of the office's customers are federal agencies, the majority of its clients are Army entities. In order to finance its operations, the R2 Project Office charges customers

¹ The Office of Special Counsel (OSC) is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety. 5 U.S.C. § 1213(a) and (b). OSC does not have the authority to investigate a whistleblower's disclosure; rather, if the Special Counsel determines that there is a substantial likelihood that one of the aforementioned conditions exists, she is required to advise the appropriate agency head of her determination, and the agency head is required to conduct an investigation of the allegations and submit a written report. 5 U.S.C. § 1213(e).

Upon receipt, the Special Counsel reviews the agency's report to determine whether it contains all of the information required by statute and that the findings of the head of the agency appear to be reasonable. 5 U.S.C. § 1213(e)(2). The Special Counsel will determine that the agency's investigative findings and conclusions appear reasonable if they are credible, consistent, and complete based upon the facts in the disclosure, the agency's report, and the comments offered by the whistleblower under 5 U.S.C. § 1213(e)(1).

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the cost of the parts, repairs, and services in addition to a fee of between 0.5% and 3.0% of the total order cost. This fee funds the direct costs of the office, such as salaries and operational costs.

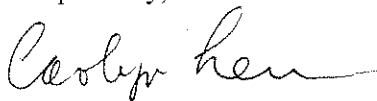
The whistleblower disclosed that the R2 Project Office did not return unused portions of its fee to the customer, as required by the Economy Act. *See* 15 U.S.C. § 1535. Although the Economy Act permits a federal agency to pay another agency in advance for goods and services, the Economy Act requires that “proper adjustment of amounts paid in advance shall be made. . . on the basis of the actual cost of goods or services provided.” 15 U.S.C. § 1535. Because the R2 Project Office did not track individual customer expenses, however, it was unable to determine the actual cost of the goods or services provided to each client and, as a result, was unable to return unused customer funds. The whistleblower asserted that employees failed to implement a tracking system to ensure the agency’s compliance with the Economy Act.

The agency report did not substantiate the whistleblower’s allegations, finding that the R2 Project Office managed operations and funds efficiently. The evidence reflected that the R2 Project Office returned unused client fees. The report found that a critical aspect of the R2 Project Office is the Electronic Contract Business System (ECBS), which is able to track contract numbers, dates, amounts, and status. This information may be accessed by R2 staff and customers. The investigation also revealed that there have been a number of special projects in recent years to improve the efficiencies of the R2 Office’s processes, including tracking and reporting financial transactions, contract actions, and producing quarterly reports. Contractors may also use R2 Project Office data to improve payment processes and expedite contract close-outs. The agency report concluded that “...a process to track incoming funds was in place and adhered to in terms of setting up individual accounts... The R2 Project Office was able to track workflow of the office and had an appropriate tool to assist with the management of the office.” Thus, the agency report concluded that CENCOM and the R2 Office were managing funds properly and that there were no violations of a law, rule, or regulation or gross mismanagement.

I have reviewed the original disclosure and the agency report. Based on that review, I have determined that the agency’s report contains all of the information required by statute, and that the findings appear to be reasonable.

I have sent a copy of this letter to the Chairs and Ranking Members of the Senate Committee on the Armed Services and the House Armed Services Committees. I have also filed copies of the agency’s redacted report in our public file, which is now available online at www.osc.gov. This matter is now closed.

Respectfully,



Carolyn N. Lerner

Enclosure