

**Integrity Committee**  
**Council of the Inspectors General on Integrity and Efficiency**  
935 Pennsylvania Avenue, N.W., Room 3973  
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**Personal and Confidential**

November 19, 2014

The Honorable Carolyn N. Lerner  
Special Counsel  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: Integrity Committee Investigation of Charles Edwards

Dear Special Counsel Lerner:

This responds to your March 8, 2013 referral to the Integrity Committee concerning Charles Edwards, the former Acting Inspector General at the U.S. Department of Homeland Security (DHS).

The Office of Special Counsel (OSC) referred the following allegations concerning Mr. Edwards: (1) he violated the Inspector General Act by failing to exercise independence and permitting DHS officials to direct the content and timing of release of DHS OIG audit reports; (2) failed to disclose his spouse's employment in the DHS Program Accountability and Risk Management Office, which impaired the independence of several DHS-OIG audit reports and resulted in a gross waste of funds; (3) charged personal travel and telephone expenses to DHS and misused agency resources and subordinates' time in violation of travel and ethics violations; (4) destroyed federal records, including e-mail correspondence subject to a grand jury subpoena; (5) improperly provided advance notice to two employees concerning their impending administrative leave, which resulted in their removal and/or destruction of records; (6) accepted outside paid employment without permission in violation of ethics regulations; and (7) directed and/or condoned the closure of complaints filed against him in violation of the IG Act and OIG procedures.

The IC received a steady stream of complaints<sup>1</sup> against Acting IG Edwards, containing a wide range of allegations. In June 2013, the IC reviewed ten such complaints, including the

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<sup>1</sup> The IC received 20 complaints about Mr. Edwards. The substance of 16 of these complaints is addressed in the DOT OIG Report of Investigation. The IC administratively closed two of the complaints since they failed to meet the IC's threshold standard for consideration. In January 2013, five complaints against Mr. Edwards were ripe for

referral from OSC, and determined that the allegations were serious enough to warrant an administrative investigation without first receiving a response to each allegation from Mr. Edwards.<sup>2</sup> The IC sought the assistance of the Department of Transportation OIG to investigate the allegations on behalf of the IC and to report the results to the IC Chairperson.

While the DOT OIG was conducting its investigation, the IC referred the investigators six additional complaints that were related to the ten matters DOT OIG was already investigating. DOT OIG conducted an extensive investigation, and provided a draft Report of Investigation (ROI) to the IC Chair in June 2014. Pursuant to the IC's policies and procedures, the draft report was sent to Mr. Edwards who had an opportunity to provide comments and submit additional evidence. Mr. Edwards submitted his response on August 26, 2014. After reviewing his comments, the DOT OIG submitted its final ROI on October 17, 2014, and the IC met on October 30, 2104 to consider the matter.

The DOT OIG substantiated four allegations: (1) Mr. Edwards failed to disclose his wife's employment in DHS's Program Accountability and Risk Management Office, which appeared to impair the independence of a DHS-OIG audit that cost the government \$659,943.32 and resulted in the rescission of the audit report; (2) Mr. Edwards could not account for all of his time during his June 2011 trip to the DHS OIG Miami field office, and there is evidence that his October 2011 trip to Miami was a pretext to have his personal travel expenses paid for by the government; (3) Mr. Edwards allowed his Acting Chief of Staff to use official time to work on his doctoral dissertation and encouraged her to set aside her official DHS OIG work to work on Mr. Edwards's dissertation; and (4) Mr. Edwards allowed the OIG IT Branch Chief to use official time to perform work related to Mr. Edwards's teaching responsibilities at Capitol College.

The IC determined that each substantiated allegation, both alone and taken as a whole, constituted administrative misconduct, with the exception of the portion of the allegation that Mr. Edwards could not account for all of his time during his June 2011 trip to Miami. While the IC also substantiated that finding, it concluded that Mr. Edwards's inability to account for all of his time that day did not constitute administrative misconduct and is not a basis for the IC's findings.

All of the remaining allegations against Mr. Edwards were not substantiated by either the DOT OIG or the IC.

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IC consideration. The IC decided to review all pending complaints against Mr. Edwards at its April 2013 meeting. The IC continued to receive additional complaints against Mr. Edwards, and aggregated all the complaints for the IC's June 2013 meeting. At the June 2013 meeting, the IC decided to initiate an administrative investigation.

<sup>2</sup> The IC's Policies and Procedures provide that "normally" the IC will summarize allegations in a letter to the IG who is the subject of the complaint and request a timely response to the allegations that meet the IC's threshold for action. However, "[t]he IC may dispense with the request for response if the allegations clearly warrant an investigation and the request for response would not serve a useful purpose or unnecessarily delay the initiation of that investigation." Policies and Procedures, ¶8F. The IC determined at its June 2013 meeting that the allegations clearly warranted investigation and a request for response would unnecessarily delay the initiation of an investigation.

We are enclosing the DOT OIG Report of Investigation. The ROI includes a listing of all the exhibits relied on by the DOT OIG. Since the amount of the material in the exhibits is voluminous, totaling 1,800 pages, we would ask you to identify any exhibits that may be necessary for OSC to review to fulfill its statutory responsibilities.

Please have your staff contact IC Program Manager Greg Lipari or Assistant General Counsel Jonathan Frenkel for the information that OSC may need.

Sincerely,

A handwritten signature in cursive script, reading "Timothy Delaney".

Timothy Delaney  
Chair  
Integrity Committee

Enclosure



U.S. Department of Transportation  
Office of Inspector General

<b>REPORT OF INVESTIGATION</b>	<b>INVESTIGATION NUMBER</b> I13Z001SINV	<b>DATE</b> Oct. 17, 2014
<b>TITLE</b> Conduct of Charles K. Edwards Department of Homeland Security Office of Inspector General	<b>PREPARED BY:</b> DOT OIG	<b>STATUS</b> AMENDED FINAL
	<b>DISTRIBUTION</b> CIGIE Integrity Committee File	<b>APPROVED BY:</b> rce <i>RCE</i>

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## EXECUTIVE SUMMARY

The Inspector General Act of 1978, as amended, established the Council of Inspectors General on Integrity and Efficiency (CIGIE) as an independent entity within the executive branch of the federal government. The Act also established a CIGIE Integrity Committee to receive, review, and refer allegations of wrongdoing by Inspectors General and designated staff. The Department of Homeland Security (DHS) Office of Inspector General is subject to oversight by the Integrity Committee.

From several sources, the Integrity Committee received allegations of wrongdoing, including abuses of authority, gross waste of funds, and prohibited personnel practices, by DHS Acting Inspector General Charles Edwards. (**Attachment 1**) In July 2013, the Integrity Committee asked the Department of Transportation (DOT) Office of Inspector General (OIG) to conduct an investigation into the allegations against Mr. Edwards.

DOT-OIG agreed to investigate the following allegations. Mr. Edwards is alleged to have:

1. failed to disclose his wife's employment in the DHS Program Accountability and Risk Management (PARM) office;
2. had OIG staff use official time to re-write his Ph.D dissertation and conduct other work for his wife, who was also a doctoral candidate;
3. used OIG staff to write lesson plans and review work associated with his outside employment;
4. offered the Assistant Inspector General (AIG) for Management position to the current occupant of the position before the vacancy was announced and withdrew the vacancy announcement until he qualified for the position;
5. approved allowing his wife to telework from India, where she did no work;
6. awarded Information Technology (IT) contracts to a company not qualified to do IT work;
7. hired four relatives into the DHS-OIG IT Division;
8. failed to register with the Selective Service and gained a registration waiver from the Office of Personnel Management (OPM) by submitting false documents and having high-level DHS officials lobby on his behalf;
9. held a "conference," which the complainant claims is a waste of federal funds, and concealed it by mischaracterizing it as "training;"
10. had telephone records responsive to a Freedom of Information Act (FOIA) request destroyed;
11. failed to notify agency ethics officials of his outside employment;
12. hired a student intern and converted the intern's position to career-conditional status before she graduated;
13. "skirted Federal Travel Regulations when booking overseas travel to visit his family;"

14. "rewarded" staff for work on his personal matters by giving them awards, promotions, and quality step increases;
15. charged personal travel – trips he made to Fort Lauderdale for a Ph.D he was pursuing at Nova Southeastern University – to DHS;
16. "directed or condoned" closure of complaints against him; and
17. allowed DHS officials to "direct the content and timing" of audit reports.

Mr. Edwards began his career at DHS-OIG on February 17, 2008, as the Deputy Assistant Inspector General for Administration. In April 2009, he became the Assistant Inspector General for Administrative Services and, in July 2010, the Deputy Inspector General.

In February 2011, Mr. Edwards became the Acting DHS Inspector General. He returned to the Deputy Inspector General position in January 2013. Because the Inspector General position remained vacant, he remained the senior DHS-OIG official. He served as Deputy Inspector General until December 17, 2013, when, in the midst of this and another investigation into his alleged wrongdoing at DHS-OIG, he was reassigned to a position in DHS's Science and Technology Directorate. Mr. Edwards is married to Madhuri Edwards.

We found Mr. Edwards:

1. Failed to disclose his wife's employment in DHS's PARM office, which appeared to impair the independence of a DHS-OIG audit of that office. As a result, the PARM audit was terminated, and the final audit report to DHS was rescinded. The PARM office audit cost DHS-OIG \$659,943.32.
2. Was unable to account for all his time during his June 2011 trip to the DHS-OIG Miami field office, and there is evidence his October 2011 trip to the Miami field office was a pre-text to have his personal travel expenses paid for by the government.
3. Allowed his Acting Chief of Staff to use official time and government equipment to perform work related to his doctoral dissertation and encouraged her to set aside her OIG work to do his school work.
4. Allowed his IT Branch Chief to use official time and personal time to perform work related to his teaching at Capitol College.

We did not substantiate the remaining allegations against Mr. Edwards.

## SUBSTANTIATED ALLEGATIONS

### Findings

1. Mr. Edwards failed to disclose his wife's employment in DHS's Program Accountability and Risk Management office, which appeared to impair the independence of a DHS-OIG audit that cost \$659,943.32 and resulted in the rescission of the report of that audit.

On February 18, 2011, DHS-OIG's Office of Audits initiated an audit to evaluate the Department's internal controls and oversight of its acquisition programs. (**Attachment 2**) The PARM office, a part of the DHS Management Directorate, was the primary subject of the audit. (**Attachment 3**)

On November 8, 2011, after receiving an "excellent" performance rating at another federal agency, Madhuri Edwards sent Mr. Edwards, her husband and the DHS Acting Inspector General, an email expressing her unhappiness with her current employer and her desire to leave. (**Attachment 4**) Mr. Edwards replied in an email, "You need to move from there." (**Attachment 5**) Thereafter, Mr. Edwards contacted DHS officials regarding "job opportunities" for his wife.<sup>1</sup>

Sometime in December 2011, Mr. Edwards talked to his "friend," the Counsel to the DHS Secretary, "a few times" about his wife's unhappiness and asked him if he knew of any employment opportunities. (**Attachment 6**) According to Mr. Edwards, at the Counsel's request, he gave the Counsel a copy of his wife's résumé. (**Id.**) The Counsel to the Secretary recalled Mr. Edwards came to him and said his wife was unhappy at her current job and asked if he would be willing to forward her résumé. (**Attachment 7**)

By December 21, 2011, the Counsel to the Secretary sent Mrs. Edwards's résumé to a Deputy Under Secretary in the Management Directorate and told him Mr. Edwards wanted them to take a look at it. (**Attachment 7**) The Deputy Under Secretary said he did not receive any instruction from the Counsel to the Secretary about where to send Mrs. Edwards's résumé. (**Attachment 8**) Thereafter, according to the Counsel to the Secretary, Mr. Edwards called him "incessantly" and "busted his chops" about his wife's résumé. (**Attachment 7**) In order to get Mr. Edwards "off [his] back," he followed-up with the Deputy Under Secretary about Mrs. Edwards's résumé. (**Id.**)

On December 23, 2011, Mr. Edwards called the Deputy Under Secretary about his wife's résumé. (**Attachments 6, 8 and 9**) According to the Deputy Under Secretary, he told

<sup>1</sup> What Mr. Edwards said and did in making those contacts may implicate the prohibitions on nepotism. It is a violation of 5 U.S.C. § 2302(b)(7) and 5 U.S.C. § 3110 for a public official to, among other things, "advocate" for a spouse's appointment to a civilian position in his department.

Mr. Edwards he “sent it on to the appropriate line of business for consideration.” **(Attachment 8)**

On December 29, 2011, the PARM Executive Director notified the Deputy Under Secretary, via email, that he scheduled Mrs. Edwards for an interview on January 4, 2012. **(Attachment 10)** One witness told us that Mr. Edwards told her that Mrs. Edwards was interviewing with the Department “for a job to fight [the AIG for Audits] audits.” **(Attachment 11)**

On January 4, 2012, the PARM Executive Director notified the Deputy Under Secretary that he planned to make Mrs. Edwards a job offer. **(Attachment 12)** This information was passed to Mr. Edwards, who asked his wife in a January 5, 2012, email if she had been called by the PARM Executive Director. **(Attachment 13)**

According to the PARM Executive Director, he requested DHS’s Human Resources office prepare a vacancy announcement for a Management and Program Analyst, GS-15, position and “name selected” Mrs. Edwards. **(Attachment 14)** The position description sent by the PARM office to Human Resources to be used in drafting the vacancy announcement was accompanied by Mrs. Edwards’s résumé. **(Attachments 14 and 15)** DHS Human Resources officials told us their file on this vacancy indicates the Human Resources office informed the PARM office that the vacancy could not be filled through a name selection; the selection must be through competitive merit systems promotion procedures.<sup>2</sup> **(Attachment 16)** Ultimately, the PARM Executive Director selected Mrs. Edwards and she began her PARM employment on June 17, 2012. **(Attachment 17)**

Mr. Edwards did not notify DHS-OIG auditors or the DHS-OIG Office of Counsel that his wife was now an employee of the PARM office. **(Attachments 2, 18 and 19)** He initially told us he was not aware of the PARM office audit at the time he gave his wife’s résumé to Department officials and asked them about job opportunities for her. **(Attachment 6)** He qualified that statement by saying, the auditors “might have briefed me, but I just don’t recollect.” **(Id.)** The AIG for Audits said she briefed Mr. Edwards

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<sup>2</sup> The PARM Executive Director’s intention to offer a job to Mrs. Edwards before the position description was written and the vacancy was announced may implicate prohibited personnel practices. It is a prohibited personnel practice under 5 U.S.C. § 2302(b)(6) to “grant any preference or advantage not authorized by law, rule, or regulation to an applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.” Additionally, 5 U.S.C. § 2302(b)(12) prohibits, among other things, taking a personnel action that violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in 5 U.S.C. § 2301. The merit systems principle found at 5 U.S.C. § 2301(b)(1) states that “[r]ecruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.”

monthly on the audit activities of her office, including a line-by-line status report of all on-going audits, including the PARM office audit. **(Attachment 20)**

On Friday, July 27, 2012, DHS-OIG issued to the Department its final audit report entitled, "DHS Management Impact on Acquisition Processes (OIG-12-101)." Among other things, the audit found that a DHS component office acquired 13 radiation detection monitors originally expected to cost \$11 million; however, with minimal Departmental oversight, the component office spent \$259 million on the monitors and cancelled the program after seven years because it did not meet operational needs. The audit found that the Department did not fully implement internal controls and, therefore, could not be sure costs were effectively monitored and controlled throughout program acquisition life cycles. **(Attachment 21)**

Also on July 27, Mr. Edwards sent, via a transmittal memo dated July 25, the final PARM office audit report to the DHS Under Secretary for Management. In the memo, he expressed DHS-OIG's intention to provide a copy of the report to Congressional oversight committees and post it to the DHS-OIG website for public dissemination. **(Attachment 22)**

On Saturday, July 28, 2012, the DHS-OIG Acting Chief of Staff sent the AIG for Audits, and others, an email with a subject, "Urgent HOLD on Final Report OIG-12-101." **(Attachment 23)** The email read, "Per the Acting IG, until further notice, please put a HOLD on final report OIG-12-101, DHS Management Impact on Acquisition Process." **(Id.)** In a Monday, July 30 email, the Acting Chief of Staff wrote, "Clarification: This report is being put on hold for distribution to Congress and the web until further notice." **(Id.)** According to the AIG for Audits, the Acting Chief of Staff told her the Under Secretary for Management called Mr. Edwards and expressed his concern about "inaccuracies" in the report. **(Attachment 18)** An auditor manager reviewed the report and found no inaccuracies. **(Attachment 24)**

On Tuesday, July 31, having learned from the Assistant Inspector General for the Office of IT Audits that Mrs. Edwards worked in the PARM office, the DHS-OIG General Counsel asked the AIG for Audits if she was aware of Mrs. Edwards's PARM office employment. **(Attachments 2 and 18)** She said she was not, and asked her two deputies and her audit director if they were aware Mrs. Edwards worked in the PARM office. They said they were not. **(Id.)** The AIG for Audits told us, "We were all immediately aware that we had a huge potential for an independence issue[.]" **(Id.)** She described her concern as, "Mr. Edwards owing [the Under Secretary] a favor for hiring his wife." **(Id.)** She said, "It appeared as if a favor had been done, and that's enough to make it an impairment for audit standards."<sup>3</sup> **(Id.)**

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<sup>3</sup> Edwards's conduct may also implicate the standard of ethical conduct for executive branch employees intended to ensure an employee takes appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties. Under 5 C.F.R. § 2635.502(a)(2), a federal employee who is concerned that his circumstances would raise a question regarding his impartiality should consult with

On September 6, 2012, the Acting Deputy Inspector General informed the Under Secretary that because “the primary entity reviewed in this audit, employed a family member of a senior OIG official ... we are terminating this audit and the final report will not be published.” (**Attachment 3**)

According to the AIG for Audits, the PARM office audit cost \$659,943.32. (**Attachment 25**) Further, because the audit was terminated and not published, DHS-OIG auditors could not track whether the PARM office followed three audit recommendations (to which the office had already concurred) to improve processes used on an estimated \$17 billion in annual acquisitions by the Department. (**Attachment 17**)

2. Mr. Edwards was unable to account for all his time during his June 2011 trip to the DHS-OIG Miami field office, and there is evidence his October 2011 trip to that office was a pre-text to have his personal travel expenses paid for by the government.

Mr. Edwards is alleged to have charged personal travel expenses to DHS for five trips associated with his Ph.D studies at Nova Southeastern University in Fort Lauderdale, Florida. Although we found that, on each of the five trips, Mr. Edwards visited his Ph.D advisor, we did not find sufficient evidence to conclude that all of the trips were pre-texts for Nova Southeastern Ph.D activities. However, for a June 5-7, 2011, trip, there is evidence that he travelled to and met with his Ph.D advisor between 9:00 a.m. and 10:30 a.m. – official duty hours. And, for his October 20-22, 2011, trip, there is evidence that it was a pre-text to have his personal travel expenses paid for by the government.

#### *June 5-7 trip*

On Sunday June 5, Mr. Edwards flew to Fort Lauderdale to visit the DHS-OIG Miami field office on June 6. The purpose of the visit, according to Mr. Edwards, was to have audit and investigations staff brief him on case statistics and on-going, significant open cases. (**Attachment 6**) The night before the trip, Saturday evening June 4, Mr. Edwards’s special assistant emailed him directions for travel from his Fort Lauderdale hotel to Nova Southeastern University. (**Attachment 26**) About an hour later, she sent an email to the AIG for Audits notifying her that Mr. Edwards had a 9:00 a.m. meeting on June 6 and he would like to meet with audit staff at about 10:30 a.m. (**Attachment 27**) The email does not say with whom Mr. Edwards would meet at 9:00 a.m. or the location of the meeting. Mr. Edwards’s time and attendance records do not show he took leave between 9:00 a.m. and 10:30 a.m. on June 6. (**Attachment 28**)

Mr. Edwards could not recall with whom he met and where he was at 9:00 a.m. on June 6. (**Attachment 6**) Although he said it was “unlikely” that he met with Nova

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the agency designee to determine whether he should participate in a particular matter. In determining whether a reasonable person would question his impartiality, the employee may seek assistance from his supervisor, an agency ethics official, or the agency designee. 5 C.F.R. § 2635.502(a)(1).

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Southeastern University officials during this time, there is circumstantial evidence that he met with his Ph.D advisor. First, his assistant sent him directions to the university where his advisor was located. **(Attachment 26)** Second, his advisor sent him an email on June 6 at 1:32 p.m. saying, "It was great meeting with you" and describing a presentation Mr. Edwards was to make to his students "[f]or the evening." **(Attachment 29)** The advisor's email was in response to an email from Mr. Edwards to him entitled, "Dissertation." Mr. Edwards made a presentation to Nova Southeastern students at 6:00 p.m. on June 6. **(Attachment 30)**

#### *October 20-22 trip*

A DHS-OIG time and attendance record shows that, on October 12, 2011, Mr. Edwards planned to use eight hours of annual leave for October 21. **(Attachment 31)** Before October 12, Mr. Edwards scheduled a visit to the Miami field office for October 20. **(Attachment 32)** The agenda for the trip indicated Mr. Edwards and the DHS-OIG Deputy Assistant Inspector General (AIG) for Investigations would arrive at the Ft. Lauderdale airport at 11:00 a.m. **(Attachment 33)** At 12:00 noon, they were scheduled to meet with investigations staff at the Miami field office. The agenda does not describe the purpose for the trip. Mr. Edwards and the Deputy AIG were scheduled to depart the Miami field office at 2:00 p.m. At that time, the Deputy AIG would return to Washington, DC, and Mr. Edwards would obtain a rental car at the Ft. Lauderdale airport. **(Id.)** Mr. Edwards also reserved a room at a nearby Plantation, Florida, hotel room for two nights – October 20 and 21. **(Attachment 34)**

On October 19, 2011, the Miami Special Agent-in-Charge (SAC) sent an email to his staff notifying them that Mr. Edwards would still travel to Miami, but would not appear at the office on October 20. **(Attachment 35)** On October 20, Mr. Edwards and the Deputy AIG arrived at the Ft. Lauderdale airport at approximately 11:30 a.m., where they were met by the Miami SAC. **(Attachment 36)** According to the SAC, he drove them to a Ft. Lauderdale waterfront restaurant, where, for approximately an hour and a half, they had lunch. **(Id.)** According to the Deputy AIG, the three of them discussed staffing assignments for the Orlando sub-office for approximately 15 minutes. **(Attachment 37)** When the lunch meeting ended, the Deputy flew back to Washington, while Mr. Edwards retrieved his rental car at 2:11 p.m. **(Attachments 36, 37 and 38)** Around 4:15 p.m., Mr. Edwards checked into his hotel. **(Attachment 38)** The total cost to the government for Mr. Edwards's trip (airfare, hotel for one night, rental car, gas, meals, mileage and airport parking) was \$742.39. **(Id.)** The cost for the Deputy AIG for Investigations to make the trip was \$678.65. **(Attachment 38)**

Mr. Edwards said one reason for the trip was to discuss staffing assignments for the Orlando sub-office. **(Attachment 6)** A second reason, Mr. Edwards initially claimed, was to make a presentation on the mission of the DHS-OIG to his Ph.D advisor's master's class at Nova Southeastern University. **(Id.)** Although this presentation was not on his agenda, a timeline Mr. Edwards gave us prior to his interview claimed he made the

presentation on October 20 at 4:00 p.m. (**Attachment 40**) After his interview, he was asked to confirm he made the presentation on October 20. He responded that, upon his review of his personal files, his timeline was incorrect and there was no presentation scheduled for October 2011. (**Attachment 30**) He confirmed he gave the presentation on June 6, 2011. (**Id.**)

A third reason for the trip, Mr. Edwards said, was to meet with auditors on October 21, the day of his scheduled annual leave, about the treatment of minority employees by the AIG for Audits. (**Attachment 6**) These meetings were not on his agenda, he did not schedule the meetings beforehand, nor did he tell any of the auditors he intended to meet with them. (**Id.**) Instead, he told us, he intended to “take a chance” on meeting with them. (**Id.**) He said that he did not meet with them because he learned that day that they, for various reasons, were not in the office on October 21. (**Id.**) After learning this, he said, he submitted his request for annual leave for October 21. (**Id.**)

There is evidence that Mr. Edwards used this trip as a pre-text to have his expenses related to his annual leave paid for by the government. First, none of the three reasons given by Mr. Edwards for the trip occurred. His October 20 meeting with staffers was cancelled. Instead, he met with the SAC at a waterfront restaurant for lunch. He did not make a presentation on the mission of the DHS-OIG on October 20 (after initially indicating to us he did). And, he did not meet with auditors on October 21 about the treatment of minority employees, despite the fact that time and attendance records show that three of the four employees Mr. Edwards said he wanted to meet with were in the office on that day. (**Attachments 30 and 41**) Second, the subject matter of the meeting that did occur, i.e., staff assignments, did not require a trip to Miami for a face-to-face meeting. And, the discussion regarding staff assignments took only 15 minutes. Third, his time and attendance record shows, contradicting what he told us, that he knew in advance he would be on annual leave on the second day of his trip – Friday, October 21.

3. Mr. Edwards allowed his Acting Chief of Staff to use official time to work on his doctoral dissertation and encouraged her to set aside her DHS-OIG work to do his school work.

Mr. Edwards allegedly used his Acting Chief of Staff to perform work related to his doctoral dissertation, and his IT Branch Chief to perform work associated with Mrs. Edwards’s graduate studies.<sup>4</sup>

We found the amount of official time the IT Branch Chief spent assisting Mrs. Edwards was *de minimis*. The IT Branch Chief said she reviewed, on one occasion, an assignment Mrs. Edwards received as part of her graduate studies. (**Attachment 42**) She said Mr. Edwards forwarded the assignment to her. (**Id.**) As shown below, however, the Acting

<sup>4</sup> Under 5 C.F.R. § 2635.705, a federal employee may not use official time to perform activities not necessary for the performance of official duties or not authorized by law or regulation.

Chief of Staff used 20-25 hours of official time to assist Mr. Edwards with his dissertation.

The Acting Chief of Staff said she offered to assist Mr. Edwards with his dissertation, and he accepted her offer. (**Attachment 43**) Her assistance included “proofreading, editing [and] a little bit of research[.]” (**Id.**) She estimated she spent 20-25 hours of official time working on Mr. Edwards’s dissertation. (**Id.**)

Mr. Edwards did not merely accept his Acting Chief of Staff’s assistance, he encouraged her to set aside her OIG work so she could work on his dissertation. For example, in September 2011, he sent her an email asking her to review written comments on a dissertation-related paper he received from his Ph.D advisor and asked her to “start fixing it.” (**Attachment 44**) When she replied that she would “work on it this morning,” he responded, “[P]lease let me [know] what is on [your] plate today so that I can delegate the work to other folks.” (**Id.**) Also, in a February 2012, email, he asked her to telework from home to finish her edits to a dissertation-related document he drafted. (**Attachment 45**) And, she did so. (**Attachment 46**)

Mr. Edwards told us that, in hindsight, it was “probably poor judgment” for him to have the Acting Chief of Staff to work on doctoral dissertation. (**Attachment 6**)

4. Mr. Edwards allowed his IT Branch Chief to use official time and her personal time to perform work related to his teaching at Capitol College.

Mr. Edwards allegedly used his IT Branch Chief, his Executive Assistant and his Acting Chief of Staff to write lesson plans, review paperwork, and conduct other work associated with his employment at Capitol College and at System and Information Services Corporation (SISC).

The IT Branch Chief said she offered to assist Mr. Edwards with work associated with his teaching at Capitol College, but not SISC. (**Attachment 42**) As with the Acting Chief of Staff, he did not approach her for assistance, but accepted her offer. (**Id.**) She said she did not prepare lesson plans for him, but, among other things, answered his technical questions, reviewed a presentation and prepared notes. (**Id.**) She said she did “as much as possible” of this work in the “evening or at home,” but “sometimes” used her OIG computer.<sup>5</sup> (**Id.**) While at work, she said she limited her assistance to five to 10 minutes during lunch breaks. (**Id.**)

We found the Executive Assistant and Chief of Staff also spent time assisting Mr. Edwards with work related to his teaching. The amount of time, however, was *de*

<sup>5</sup> Under 5 C.F.R. § 2635.704(a), a federal employee may not use government property for other than authorized purposes.

*minimis*. According to the Executive Assistant, she spent approximately 10-15 minutes over one year. (Attachment 47) According to the Chief of Staff, she spent approximately five hours over 1-2 years. (Attachment 48)

Mr. Edwards acknowledged it was “probably poor judgment” for him to allow his IT Branch Chief to use official time and her personal time to perform work related to his teaching at Capitol College. (Attachment 6)

### MR. EDWARDS’ RESPONSE TO DOT-OIG ROI

By letter dated August 25, 2014, Mr. Edwards responded to our report. (Addendum A)

### DOT-OIG REPLY TO MR. EDWARDS’ RESPONSE

This memorandum corrects our finding in our June 6, 2014, ROI regarding the first substantiated allegation and sets forth our factual reply to Mr. Edwards’ response. (Addendum B)

### UNSUBSTANTIATED ALLEGATIONS

#### Findings

1. We found no evidence Mr. Edwards “rewarded” his Acting Chief of Staff, Executive Assistant and IT Branch Chief for working on his personal matters.

An anonymous complainant alleged Mr. Edwards gave his Acting Chief of Staff a \$5,000 FY11 performance award, his Executive Assistant a \$3,000 FY11 performance award and promotion, and his IT Branch Chief a quality step increase, for working on his dissertation and teaching matters. Although we found Mr. Edwards approved each of the personnel actions in question (attachment 49), we found no direct evidence, i.e., subject admissions or witness statements that the actions were in exchange for working on his personal matters. Similarly, we found no circumstantial evidence, e.g., the personnel actions were not justified by performance ratings and narratives, of a *quid pro quo*.

2. The evidence does not indicate that Mr. Edwards offered the Assistant Inspector General for Management position to the current occupant of the position before the vacancy was announced or the vacancy announcement was withdrawn until he qualified for the position.

An anonymous complainant alleged Mr. Edwards offered the AIG for Management position to the current AIG for Management in October 2010 before the vacancy was

announced, and when the AIG for Management failed to qualify, Mr. Edwards withdrew the position until he qualified.<sup>6</sup>

Our investigation found the AIG for Management vacancy was announced twice – first on September 20, 2010, and again on December 22, 2011. The 2010 vacancy announcement was open to status candidates from September 20, 2010, to November 19, 2010. **(Attachment 50)** A rating sheet listed the names and consensus rating scores of 25 applicants for the position. The current AIG for Management was on the list of applicants; however, his name did not appear on the final list of best qualified candidates. **(Attachment 51)**

The current Deputy AIG for Management was selected by Mr. Edwards for the AIG for Management position after it was announced in 2010. **(Attachment 51)** Her Executive Core Qualifications (ECQs) were not approved by OPM's Qualification Review Board. Therefore, she was not appointed to the position. **(Attachment 52)**

The AIG for Management position was re-announced in 2011. The vacancy announcement was open to status candidates from December 22, 2011, to January 23, 2012. **(Attachment 53)** Both the current AIG for Management and the current Deputy AIG for Management applied and their names were on the certificate of qualified candidates. **(Attachment 54)** The current AIG for Management was selected for the position by Mr. Edwards. **(Id.)** However, he initially submitted ECQs that did not pass OPM's Qualification Review Board. **(Attachment 55)** After he revised his ECQs, the Qualification Review Board approved them, and he was appointed to the position. **(Attachment 56)**

3. The evidence does not indicate Mr. Edwards was involved in the decisions to approve his wife's telework from India, and indicates she performed DHS-OIG work while in India.

An anonymous complainant alleged Mr. Edwards abused his authority by allowing his wife to twice telework from India, and it is alleged Mrs. Edwards did no DHS-OIG work while in India.

Mrs. Edwards worked at DHS-OIG between 2007 and 2011. Twice while employed by DHS-OIG, she teleworked from India. From approximately June to October 2009, Mrs. Edwards was assigned to OIG's Office of Audits. Her supervisor was the current Deputy AIG for Audits. According to the Deputy, he approved her telework without Mr. Edwards's input. **(Attachment 57)** He said he approved her telework, in part, so she

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<sup>6</sup> This allegation implicates the prohibited personnel practice at 5 U.S.C § 2302(b)(6), regarding giving "an unauthorized preference or advantage to anyone so as to improve the employment prospects of any particular employee or applicant."

could care for her ill father. (**Id.**) During this time, Mr. Edwards was the Assistant Inspector General for Administrative Services.

The Deputy AIG for Audits said he was satisfied with Mrs. Edwards's work. (**Attachment 57**) He described her as a good employee who completed "99%" of her work on time. (**Id.**) He cited her work in database development, coordination of the Semiannual Report to Congress, tracking audit recommendations, and dealing with a problem employee. (**Id.**)

From approximately July to September 2010, while Mr. Edwards was the Deputy Inspector General, Mrs. Edwards also teleworked from India. At that time, she was assigned to OIG's Emergency Management Office (EMO). The then EMO Deputy AIG and AIG said Mr. Edwards did not play a role in approving Mrs. Edwards's request to telework from India. (**Attachments 58 and 59**) They approved her request, they said, because Mrs. Edwards's father was ill and she had previously been allowed to telework there. (**Attachment 58**) Her direct supervisor told us Mrs. Edwards was a "good worker" and she had "no doubt" she worked while in India. (**Attachment 60**)

4. The evidence does not indicate Mr. Edwards awarded two IT contracts to an unqualified company.

An anonymous complainant alleged Mr. Edwards awarded IT contracts to a company not qualified to do IT work. DHS-OIG awarded two contracts to the company in question. (**Attachment 61**) DHS-OIG awarded one contract in 2009 to provide enterprise application and related support services. It awarded the other contract in 2010 to provide network and infrastructure support services. The company was the incumbent IT contractor. The contracts were awarded as "small business set asides" under Section 8(a) of the Small Business Act and did not require competition.

The Deputy AIG for Management, the then IT Branch Chief, and the Director of Acquisitions said Mr. Edwards was not involved in the decisions to award these contracts. (**Attachments 52, 62 and 63**) The IT Branch chief and an IT manager were the OIG officials that recommended the contracts be awarded to the IT company. (**Attachment 64**) Further, documents in the contract files do not indicate Mr. Edwards was involved in the contract award process.

5. The evidence does not indicate Mr. Edwards hired four relatives in the DHS-OIG IT Division.

An anonymous complainant alleged Mr. Edwards "rewarded his friends when he hired four individuals" in the DHS-OIG IT Division "that appeared to be relatives and connected" to him. We learned three of the individuals in question were IT Division employees; the other was a contractor. (**Attachment 65**) We found no evidence that any

of the four persons is a relative of Edwards. Moreover, we found no evidence Edwards selected any of them for employment.

6. The evidence does not indicate Mr. Edwards received a Selective Service registration waiver from OPM by submitting false documents and having high-level officials lobby on his behalf.

An anonymous complainant alleged Mr. Edwards failed to register with the Selective Service, but received a waiver from OPM by submitting false documents and having high-level officials lobby on his behalf.

We found that, on two security background questionnaires and his declaration for employment with DHS-OIG, Mr. Edwards disclosed he did not register with the Selective Service. (**Attachment 66**) DHS-OIG nonetheless hired Mr. Edwards in February 2008. In October 2011, DHS-OIG's then Human Resources Director informed Mr. Edwards that in order to continue his employment, he would either have to obtain a statement from the Selective Service that he was not required to register or that his failure to register was not knowing and willful. (**Attachment 67**)

We found OPM reviewed Mr. Edwards' case and made an initial determination that his failure to register was knowing and willful. (**Attachment 68**) OPM gave him instructions for appealing the initial determination through OPM's Director and Office of Counsel. (**Id.**) Mr. Edwards, through counsel, submitted a request for review of the initial OPM determination. (**Attachment 69**) The OPM Director concluded additional evidence submitted by Mr. Edwards was sufficient to overcome OPM's initial determination, and Mr. Edwards was eligible for continued federal employment. (**Id.**) OPM officials told us that the OPM Director was not lobbied by Mr. Edwards, his representatives or DHS officials for a waiver. (**Attachment 70**)

7. The evidence does not indicate that Mr. Edwards wasted federal funds on a conference in Denver in 2012.

Mr. Edwards held a "conference" in Denver in 2012 for over 50 DHS-OIG special agents, which, an anonymous complainant alleged, was a waste of federal funds, and concealed it by mischaracterizing it as "training." Further, Mr. Edwards allegedly instructed the contracting officer to mint 2000 DHS-OIG coins to distribute at the event.

We found DHS-OIG Office of Investigations held an "all-hands" meeting in Denver in 2012. A planning document shows that the investigative staff compared the estimated costs of offering the training in Denver, Houston, or Dallas, and concluded that Denver offered the lowest cost. (**Attachment 71**) The program for the event consisted of two "in-service" agent and support staff training sessions. (**Attachment 72**) The meetings were planned to address training requirements mandated by, among others, the U.S. Department of Justice Attorney General Guidelines for OIGs with Statutory Authority.

CIGIE, and federal regulation. (Id.) The training included sessions for legal updates, best practices for seizing electronic evidence, legal updates relating to technical equipment, updates to the special agent handbook, field trauma for police officers, operational plans, undercover operations, critical incident policies, technical equipment, and flying while armed. (Id.)

Finally, the 2,000 coins were purchased by the Office of Investigations for internal and external awards recognition, but were not made specifically for the 2012 training sessions. (Attachment 73) The estimated cost for each coin was \$3.50 and approval for the purchase was granted in January 2011. (Id.) We found that Mr. Edwards was not involved in the request or approval to purchase the coins. (Id.)

8. The evidence does not indicate Mr. Edwards had telephone records responsive to a FOIA request destroyed.

In May 2012, DHS-OIG received a FOIA request seeking records related to the OIG's telework policy and administration, and travel and telework records for Mrs. Edwards. DHS-OIG responded to the request in November 2012. The response included telephone records for Mrs. Edwards's OIG-issued telephone. An anonymous complainant alleged Mr. Edwards had those telephone records related to Mrs. Edwards' telework in India in 2009 and 2010 destroyed. The records allegedly showed many expensive international calls between Mr. and Mrs. Edwards at taxpayer expense.

We found no evidence indicating Edwards had telephone records destroyed. Instead, we found telephone records reported missing – the wireless service invoices for Mrs. Edwards' 2009 and 2010 telephone calls from India – were included in the DHS-OIG response to FOIA Request 2012-119. (Attachment 74)

9. The evidence does not indicate Mr. Edwards failed to notify agency ethical officials of his outside employment.

Mr. Edwards allegedly did not seek, in violation of ethics regulations, clearance from DHS-OIG ethics officials prior to accepting and signing an employment contract with Capitol College. We found, however, Mr. Edwards disclosed his Capitol College employment on annual financial disclosure forms from 2010 to 2012, and his employment at SISC from 2010 to 2011. (Attachment 75) (Edwards did not work at SISC in 2012.) The forms note a review by an agency ethics official and the official's statement that Mr. Edwards was in compliance with applicable laws and regulations. (Id.)

10. The evidence does not indicate Mr. Edwards hired a student intern and converted the intern's position to career-conditional status before she graduated.

An anonymous complainant alleged Mr. Edwards hired, in violation of a prohibited personnel practices, including the prohibition on nepotism,<sup>7</sup> a student intern at DHS-OIG and converted her position to career-conditional status before she graduated.

We found evidence Mr. Edwards passed the student's résumé to OIG officials for hiring consideration, but found no evidence Mr. Edwards was responsible for hiring the intern or converted her position. Nor did we find evidence that the student intern was, for nepotism purposes, a relative of Mr. Edwards. Further, we found the position was converted after the student's graduation with a degree in criminal justice. The student's transcript shows she was awarded a Bachelor of Arts degree on May 20, 2012. Three other documents established the effective date of the student's conversion to a career-conditional appointment as October 17, 2012. (**Attachment 76**)

11. The evidence does not indicate Mr. Edwards "skirted Federal Travel Regulations when booking overseas travel to visit his family."

An anonymous complainant alleged Mr. Edwards "skirted" travel records when booking travel to India to visit family. Mr. Edwards began his DHS-OIG employment in February 2008. We reviewed his government travel records, which dated back to May 2008. Those records do not show any official travel overseas from May 2008 to November 2012. (**Attachment 77**)

12. The evidence does not indicate Mr. Edwards allowed DHS officials to "direct the content and timing" of audit reports.

Mr. Edwards is alleged to have failed, in violation of the IG Act, to exercise independence with respect to four OIG reports. For those reports, Mr. Edwards allegedly allowed DHS officials to dictate their language and content, and the timing of their release. As shown below, although we found Mr. Edwards agreed, in some instances, to a request by a DHS official to modify language and content of reports, we did not find evidence that DHS officials "directed" these changes. Instead the evidence indicates Mr. Edwards considered the reasons for the requests and determined they were justified. We found no evidence these changes were for any improper reason. We also found no evidence Mr. Edwards agreed to delay release of a report.

#### *Detainee Report*

The DHS-OIG Counsel alleged Mr. Edwards "softened" language in a Detainee Report so there would appear to be no "irregularities" in the way DHS handled detainees. The

<sup>7</sup> 5 U.S.C. § 2302(b)(7).

Counsel told us, however, the Detainee Report did not identify any irregularities or wrongdoing. (**Attachments 78 and 79**) The Counsel's chief concern was that Mr. Edwards gave Department officials multiple opportunities to comment on the report, when normally they are given only one. (**Attachment 79**) Although we found the Department was given more than one opportunity to comment, the comments primarily address legal concerns, the question of publicly issuing the report, and whether or not the audit remained within the scope of the underlying Executive Order. (**Attachment 80**) We found nothing in the comments to suggest the Department requested changes that were improper.

#### *Land Ports of Entry Report*

Because of objections from the Counsel to the Secretary, Mr. Edwards allegedly changed, without input from the AIG for Audits and the Office of Counsel, the Land Ports of Entry report. It is also alleged that, had they known of the changes, the AIG for Audits and the Office of Counsel would not have agreed to them.

We found that Customs and Border Protection (CBP) officials raised a concern that the report's inclusion of the number of CBP officers staffing each port and details about port storage facilities might increase the risk to the officers' safety. (**Attachment 81**) A note from the DHS-OIG audit file shows that representatives from the Office of Counsel and the Office of Audit informed CBP that this information was already available on CBP's and the Department's websites and, therefore, would not be removed. (**Id.**) The audit director agreed, however, to describe the port storage facilities in less specific terms. (**Id.**)

According to the AIG for Audits, CBP wanted a higher level DHS-OIG review of its request to remove the staffing information from the chart. (**Attachment 82**) The AIG for Audits informed Mr. Edwards about CBP's request. (**Id.**) He subsequently informed the AIG for Audits that he spoke with CBP and told her to remove the staffing information. (**Id.**) The AIG for Audits said Mr. Edwards was aware the information was publicly available, but ordered it removed anyway. (**Id.**)

According to Mr. Edwards, although the port staffing information was already publicly available on-line, he believed listing the specific number of CBP officers elsewhere was unnecessary and did not materially change the report. (**Attachment 6**) The AIG for Audits told us that she agreed that, although she preferred retaining the information in the report, removing it did not significantly change the report. (**Attachment 18**)

#### *Secret Service Report*

Mr. Edwards is alleged to have changed "significant" findings in the DHS-OIG's final report on U.S. Secret Service agents and prostitutes in Cartagena, Colombia.

We found the lead investigator included in a draft of the report information involving alleged misconduct by Secret Service agents outside the Cartagena incident. **(Attachment 83)** The investigator said he was directed by the AIG for Investigations and another Investigations supervisor to remove the information from the report and put it in a memo to the DHS-OIG Office of Inspections for review. **(Id.)** A senior inspector with the Office of Inspections confirmed receipt of the memo and told us it was used as a planning document for its review of the “culture” at the Secret Service. **(Attachment 84)** The investigator also told us his findings about misconduct outside the Cartagena incident were, in fact, attached to the final report as an exhibit. **(Attachment 83)** Moreover, the investigator said no information was omitted from the ROI and Mr. Edwards directed a “read room” be set up so that Congressional staff could review all investigative materials. **(Id.)**

### *Secure Communities Report*

In the Secure Communities report, Mr. Edwards allegedly agreed, over the objections of the AIG for Audits, to: (1) change a recommendation, (2) insert language requested by the Counsel to the Secretary and Chief of Staff, and (3) delay its release.

First, we found no changes to any audit recommendation. The AIG for Audits told us the report contained two recommendations and Immigration and Customs Enforcement (ICE) agreed to both. **(Attachment 18)**

Second, although we found that Mr. Edwards agreed to two wording changes, we found no evidence the changes were made for any improper reason.

The AIG for Audits objected to language added to the report that referred to “in one instance” (a September 7, 2010, letter signed by the Secretary), in which the Department provided information that conflicted with previous ICE statements about Secure Communities program requirements. **(Attachment 85)** She said, given the time allotted for the audit, her staff was not able to review all statements made by Department officials about the program. **(Id.)** Consequently, she thought there was not sufficient information to say there was only “one instance” of Department miscommunication about the program. **(Id.)** We found Mr. Edwards authorized saying “in one instance” only after receiving an email from the DHS-OIG’s Office of Counsel saying the term was appropriate and more precise. **(Id.)**

Also, in referring to the September 7, 2010, letter signed by the Secretary to a Congresswoman regarding Secure Communities program requirements, the report, in some passages, claimed the letter came from the “Department.” Department officials had requested the report refer to the source of the letter, which contained “unclear” and “inconsistent” information, as the “Department” rather than the Secretary. **(Attachment 82)** The AIG for Audits objected to the change on the ground that it was imprecise, i.e., it did not identify the author of the letter. **(Id.)** Although we found the report did say in

some places the letter came from the "Department," in one place it said it came from the "Secretary." (**Attachment 86**)

Third, the evidence does not indicate any DHS official requested and Mr. Edwards agreed to delay the report. We found that Mr. Edwards notified the Counsel for the Secretary that he intended to release the report the week of March 12-16, 2012 (**attachment 87**), and the report was actually released on March 27. We found, however, the delay was attributable to the time it took for the report to be reviewed and approved by multiple DHS-OIG officials. (**Attachment 88**)

13. The evidence does not indicate Mr. Edwards "directed or condoned" closure of complaints against him.
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Mr. Edwards allegedly closed complaints against him and did not refer them to CIGIE. From documents provided by the Integrity Committee, Mr. Edwards, and DHS OIG's Integrity and Quality Oversight office, we identified 13 complaints associated with Mr. Edwards. (**Attachment 89**) We found seven of the complaints were referred to CIGIE either by Mr. Edwards or other OIG staff. (**Id.**) Of the six remaining complaints, we found no evidence Mr. Edwards directed any of them closed. (**Id.**)

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**ADDENDUM A**

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MARC J. SMITH (MD., D.C.)

August 25, 2014

Angela Byers  
Acting Chair, Council of the Inspectors General on Integrity and Efficiency  
935 Pennsylvania Avenue, N.W.  
Room 3973  
Washington, D.C. 20535

Re: Charles Edwards/Integrity Committee Administrative Investigation

Dear Ms. Byers:

Please allow this letter to serve as Mr. Edwards' comments to the draft report of investigation ("ROI") prepared by the U.S. Department of Transportation Office of Inspector General ("DOT OIG"). We appreciate your courtesy in allowing additional time to review relevant documents and prepare our comments to the ROI.

As a threshold matter, we note that the Integrity Committee has withheld not only the identity of witnesses, but a majority of the documents upon which it has relied in making the findings set forth in the draft ROI. As you know, Mr. Edwards requested copies of attachments 1 through 48 to the ROI, which were cited and relied upon in the draft ROI. In response to our request for all of the attachments cited in the draft ROI with regard to the four (4) substantiated allegations, your office produced a total of seventy-one (71) pages of documents consisting of the following: (i) the audit (DHS Management Impact on Acquisition Process) conducted by DHS-OIG (Department of Homeland Security Office of Inspector General); (ii) email regarding Mr. Edwards' travels to Florida; (iii) Mr. Edwards' travel itinerary and reimbursed expenses; (iv) email regarding the hiring of his spouse, Madhuri Edwards; and (v) email regarding Mr. Edwards' doctoral dissertation. Witness statements and many other documents cited in the draft ROI were withheld despite the fact that they are clearly not protected from disclosure by any legal privilege.

We understand that your office withheld many of the attachments to protect the identity of witnesses who allegedly came forward with relevant information regarding the substantiated

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allegations. While we appreciate this concern, Mr. Edwards is entitled to know the identity of witnesses with relevant knowledge -- without this information, Mr. Edwards cannot effectively respond to the allegations at issue. Further, withholding documents specifically relied upon by the DOT OIG with regard to the four (4) substantiated allegations raises serious due process concerns and violates Mr. Edwards' right to review all evidence considered by the DOT OIG. Shielding this evidence has prejudiced and severely hampered Mr. Edwards' ability to address the relevant allegations and adequately prepare his defense. On these grounds alone, the four (4) allegations substantiated by the DOT OIG should not be sustained.

While fully reserving the foregoing objections to the findings of the DOT OIG, Mr. Edwards' comments to the draft ROI are set forth below. Mr. Edwards' sworn declaration substantiating these comments is attached hereto. Mr. Edwards has restricted his response to the following allegations substantiated in the ROI:

1. That he failed to disclose his wife's employment in DHS's PARM office, which impaired the independence of a DHS-OIG audit of that office. As a result, the PARM audit was terminated, and the final audit report to DHS was rescinded. The PARM office audit cost DHS-OIG \$659,943.32.
2. That he was unable to account for all his time during his June 2011 trip to the DHS-OIG Miami field office, and that there is evidence his October 2011 trip to the Miami field office was a pre-text to have his personal travel expenses paid for by the government.
3. That he allowed his Acting Chief of Staff to use official time and government equipment to perform work related to his doctoral dissertation and encouraged her to set aside her OIG work to do his school work.
4. That he allowed his IT Branch Chief to use official time and personal time to perform work related to his teaching at Capitol College.

**First Substantiated Allegation**

*Mr. Edwards failed to disclose his wife's employment in DHS's Program Accountability and Risk Management office, which impaired the independence of a DHS-OIG audit that cost \$659,943.32 and resulted in the rescission of the report of that audit.*

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### **DOT OIG Findings**

On February 18, 2011, DHS-OIG's Office of Audits initiated an audit to evaluate the Department's internal controls and oversight of its acquisition program. (Attachment 2). The PARM office, a part of the DHS Management Directorate, was the primary subject of the audit. (Attachment 3).

On November 8, 2011, after receiving an "excellent" performance rating at another federal agency, Madhuri Edwards sent Mr. Edwards, her husband and the DHS Acting Inspector General, an email expressing her unhappiness with her current employer and her desire to leave. (Attachment 4). Mr. Edwards replied in an email, "You need to move from there." (Attachment 5) Thereafter, Mr. Edwards contacted DHS officials regarding "job opportunities" for his wife. (Footnote omitted).

Sometime in December 2011, Mr. Edwards talked to his "friend," the Counsel to the DHS Secretary, "a few times" about his wife's unhappiness and asked him if he knew of any employment opportunities. (Attachment 6). According to Mr. Edwards, at the Counsel's request, he gave the Counsel a copy of his wife's resume. (Id.). The Counsel to the Secretary recalled Mr. Edwards came to him and said his wife was unhappy at her current job and asked if he would be willing to forward her resume. (Attachment 7).

By December 21, 2011, the Counsel to the Secretary sent Mrs. Edwards's resume to a Deputy Under Secretary in the Management Directorate and told him Mr. Edwards wanted them to take a look at it. (Attachment 7). The Deputy Under Secretary said he did not receive any instruction from the Counsel to the Secretary about where to send Mrs. Edwards's resume. (Attachment 8). Thereafter, according to the Counsel to the Secretary, Mr. Edwards called him "incessantly" and "busted his chops" about his wife's resume. (Attachment 7). In order to get Mr. Edwards "off [his] back," he followed-up with the Deputy Under Secretary about Mrs. Edwards's resume. (Id.).

On December 23, 2011, Mr. Edwards called the Deputy Under Secretary about his wife's resume. (Attachments 6, 8 and 9). According to the Deputy Under Secretary, he told Mr. Edwards he "sent it on to the appropriate line of business for consideration." (Attachment 8).

On December 29, 2011, the PARM Executive Director notified the Deputy Under Secretary, via email, that he scheduled Mrs. Edwards for an interview on January 4, 2012. (Attachment 10). One witness told us that Mr. Edwards told her that Mrs. Edwards was interviewing with the Department "for a job to fight [the AIG for Audits] audits." (Attachment 11).

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On January 4, 2012, the PARM Executive Director notified the Deputy Under Secretary that he planned to make Mrs. Edwards a job offer. (Attachment 12). This information was passed to Mr. Edwards, who asked his wife in a January 5, 2012, email if she had been called by the PARM Executive Director. (Attachment 13).

According to the PARM Executive Director, he requested DHS's Human Resources office prepare a vacancy announcement for a Management and Program Analyst, GS-15, position and "name selected" Mrs. Edwards. (Attachment 14). The position description sent by the PARM office to Human Resources to be used in drafting the vacancy announcement was accompanied by Mrs. Edwards's resume. (Attachments 14 and 15). DHS Human Resources officials told us their file on this vacancy indicates the Human Resources office informed the PARM office that the vacancy could not be filled through a name selection; the selection must be through competitive merit systems promotion procedures. (Attachment 16) (Footnote omitted). Ultimately, the PARM Executive Director selected Mrs. Edwards and she began her PARM employment on June 17, 2012. (Attachment 17).

Mr. Edwards did not notify DHS-OIG auditors or the DHS-OIG Office of Counsel that his wife was now an employee of the PARM office. (Attachments 2, 18 and 19). He initially told us he was not aware of the PARM office audit at the time he gave his wife's resume to Department officials and asked them about job opportunities for her. (Attachment 6). He qualified that statement by saying, the auditors "might have briefed me, but I just don't recollect." (Id.) The AIG for Audits said she briefed Mr. Edwards monthly on the audit activities of her office, including a line-by-line status report of all on-going audits, including the PARM office audit. (Attachment 20).

On Friday, July 27, 2012, DHS-OIG issued to the Department its final audit report entitled, "DHS Management Impact on Acquisition Processes (OIG-12-101)." Among other things, the audit found that a DHS component office acquired 13 radiation detection monitors originally expected to cost \$11 million; however, with minimal Departmental oversight, the component office spent \$259 million on the monitors and cancelled the program after seven years because it did not meet operational needs. The audit found that the Department did not fully implement internal controls and, therefore, could not be sure costs were effectively monitored and controlled throughout program acquisition life cycles. (Attachment 21).

Also on July 27, Mr. Edwards sent, via a transmittal memo dated July 25, the final PARM office audit report to the DHS Under Secretary for Management. In the memo, he expressed DHS-OIG's intention to provide a copy of the report to Congressional oversight committees and post it to the DHS-OIG website for public dissemination. (Attachment 22).

On Saturday, July 28, 2012, the DHS-OIG Acting Chief of Staff sent the AIG for Audits, and others, an email with a subject, "Urgent HOLD on Final Report OIG-12-101." (Attachment

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23). The email read, "Per the Acting IG, until further notice, please put a HOLD on final report OIG-12-101, DHS Management Impact on Acquisition Process." (Id.). In a Monday, July 30 email, the Acting Chief of Staff wrote, "Clarification: This report is being put on hold for distribution to Congress and the web until further notice." (Id.). According to the AIG for Audits, the Acting Chief of Staff told her the Under Secretary for Management called Mr. Edwards and expressed his concern about "inaccuracies" in the report. (Attachment 18). An auditor manager reviewed the report and found no inaccuracies. (Attachment 24).

On Tuesday, July 31, having learned from the Assistant Inspector General for the Office of IT Audits that Mrs. Edwards worked in the PARM office, the DHS-OIG General Counsel asked the AIG for Audits if she was aware of Mrs. Edwards's PARM office employment. (Attachments 2 and 18). She said she was not, and asked her two deputies and her audit director if they were aware Mrs. Edwards worked in the PARM office. They said they were not. (Id.). The AIG for Audits told us, "We were all immediately aware that we had a huge potential for an independence issue[.]" (Id.). She described her concern as, "Mr. Edwards owing [the Under Secretary] a favor for hiring his wife." (Id.). She said, "It appeared as if a favor had been done, and that's enough to make it an impairment for audit standards." (Id.). (Footnote omitted).

On September 6, 2013, the Acting Deputy Inspector General informed the Under Secretary that because "the primary entity reviewed in this audit, employed a family member of a senior OIG official ... we are terminating this audit and the final report will not be published." (Attachment 3).

According to the AIG for Audits, the PARM office audit cost \$659,943.32. (Attachment 25). Further, because the audit was terminated and not published, DHS-OIG auditors could not track whether the PARM office followed three audit recommendations (to which the office had already concurred) to improve processes used on an estimated \$17 billion in annual acquisitions by the Department. (Attachment 17).

#### **Mr. Edwards' Response to Findings**

There is no factual basis to substantiate this allegation. As set forth below, Mrs. Edwards' potential employment at DHS was disclosed to and vetted by the Agency's General Counsel's office who specifically determined that her employment did not implicate any ethical or other concerns. Subsequently, DHS's Associate General Counsel for Ethics and Associate General Counsel for General Law, issued a written opinion concluding that the ethics laws did not prohibit PARM from employing Mrs. Edwards while her husband served as the Acting Inspector General. Further, there is no evidence whatsoever that Mrs. Edwards' employment in any way impaired the independence of the PARM audit. Mrs. Edwards occupied a non-supervisory position and was not involved with the work being audited. Similarly, Mr. Edwards was not involved with the audit and later recused himself altogether from audit responsibilities.

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This very issue was carefully considered by Agency attorneys who concluded that Mrs. Edwards' employment by PARM did not and does not create a threat or impairment to the independence of OIG audits.

#### Relevant Background

Prior to the events at issue, Mr. Edwards' spouse, Madhuri Edwards, was employed by DHS-OIG as an Audit Manager. Mrs. Edwards voluntarily left her position with DHS-OIG in January 2011 after Mr. Edwards was appointed DHS Deputy IG. Given their employment in the same office within DHS and Mr. Edwards' sudden elevation to DHS Deputy IG, Mrs. Edwards voluntarily left the Agency to avoid any appearance of a conflict of interest.

Following her departure from DHS, Mrs. Edwards began employment with the Federal Housing Finance Agency Office of Inspector General ("FHFA OIG") on January 30, 2011. Mrs. Edwards was hired by FHFA OIG under direct hiring authority as a Senior Audit Manager in the FHFA OIG Office of Audits. Unfortunately, Mrs. Edwards grew disenchanted with her role within the FHFA OIG and, in late 2011, began exploring other career options, including returning to a position with DHS outside of the OIG. Ultimately, Mrs. Edwards submitted applications for positions with several Federal agencies, including the Library of Congress. See Exhibit 1 attached hereto. Mr. and Mrs. Edwards also discussed the potential for her return to DHS outside the OIG. Mr. Edwards was aware of the fact that the previous DHS Deputy IG, Mr. James Taylor, was permitted to work at DHS-OIG while his wife was employed by the DHS FEMA and DHS Office of Health Affairs. Mr. Edwards was also aware that at the Social Security Administration Office of Inspector General, the wife of the Deputy IG was also employed at the Agency. Accordingly, Mr. Edwards considered his wife's employment at DHS, in a position for which she was qualified outside the OIG, a viable option, particularly if safeguards were put into place to prevent any actual conflict or the appearance of a conflict of interest.<sup>1</sup>

#### DHS's General Counsel was aware of and approved Mrs. Edwards' employment

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<sup>1</sup> Subsequently, when the DHS Office of Audits questioned Mrs. Edwards' employment with DHS's Program Accountability and Risk Management Office, Mr. Edwards consulted with an attorney employed within the DHS-OIG, Michele Homsey, who evaluated the situation and advised Mr. Edwards that his wife's employment with DHS did not trigger a threat to the independence of the DHS-OIG audit at issue in this case. See Exhibit 2 attached hereto. Mrs. Homsey also noted the fact that at the Social Security Administration, the Deputy IG's wife worked for the Agency without issue despite the fact that her office was heavily audited by the OIG.

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On Nov 29, 2011, Mr. Edwards attended a meeting at the DHS Secretary's office concerning unrelated Agency matters. After the meeting adjourned, Mr. Edwards met privately with the Senior Counsel to the Secretary Janet Napolitano, Mr. John Sandweg, to inquire about potential employment opportunities for his wife within the Agency. During the course of this discussion, Mr. Edwards provided information concerning his wife's education and work experience and disclosed the circumstances regarding her departure from DHS OIG in 2011. Mr. Edwards did not in any way attempt to improperly influence Mr. Sandweg or use his position to leverage employment for his wife. To the contrary, Mr. Edwards was merely seeking information concerning job opportunities for which his wife might be qualified. Mr. Edwards did not attempt to extract, nor did he receive, promises of employment for his wife.

On Sunday December 4, 2011, Mr. Sandweg emailed Mr. Edwards requesting a return call on his cell phone. See Exhibit 3 attached hereto. As requested, Mr. Edwards called Mr. Sandweg who asked for further information concerning Mrs. Edwards' education and work experience. Mr. Sandweg also asked Mr. Edwards to provide him with a copy of his wife's resume next time he was in the Secretary's office. That week, Mr. Edwards attended a meeting at the Secretary's office concerning an unrelated Agency matter. Following this meeting, Mr. Edwards provided Mr. Sandweg with a copy of his wife's resume. There was no discussion whatsoever regarding any specific opportunities within DHS and Mr. Edwards understood that Mr. Sandweg would distribute his wife's resume as he deemed appropriate.

During this general time frame, Mr. Sandweg contacted Joseph B. Maher, DHS Principal Deputy General Counsel, regarding potential ethical concerns that might be implicated by Mrs. Edwards' employment at DHS. As noted in Mr. Maher's subsequent email to Richard Reback, Counsel and Designated Ethics Officer for OIG, this issue was considered by the General Counsel's office, and it was determined that Mrs. Edwards' employment at DHS did not "present[ ] a violation of any ethics (or other) rules. See Exhibit 4 attached hereto. Thus, contrary to the findings in the ROI, Mrs. Edwards' potential employment at DHS was indeed disclosed and carefully vetted by the General Counsel's office. Although somehow overlooked in the ROI, the General Counsel's office specifically determined that Mrs. Edwards' employment at DHS did not implicate any issues with regard to applicable ethical rules or government auditing standards (GAGAS). This issue was subsequently revisited in September 2012 by DHS's Associate General Counsel for Ethics and Associate General Counsel for General Law who issued a written opinion reflecting their conclusion that Mrs. Edwards' employment within PARM did not violate any ethics laws or constitute a potential threat to independence under Government Accountability Office Government Auditing Standards ("GAGAS"). See Exhibit 5 attached hereto.

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Mrs. Edwards was hired because of her qualifications and not as a result of undue or improper influence by Mr. Edwards or any other official

While the circumstances underlying Mrs. Edwards' hiring are not directly at issue, the ROI incorrectly implies that Mrs. Edwards was hired by DHS as a result of undue or improper influence by Mr. Edwards individually or collectively with other Agency officials. The facts, however, clearly demonstrate that Mrs. Edwards was hired under competitive merit systems promotion procedures based upon her extensive qualifications and not because of influence exerted by Mr. Edwards or any other Agency official.

DHS was not the only Agency at which Mrs. Edwards sought employment. As set forth above, after becoming dissatisfied with her position at FHFA OIG, Mrs. Edwards began seeking outside job opportunities at several Federal agencies, including Library of Congress. See Exhibit 1 attached hereto. At her husband's suggestion, Mrs. Edwards also contacted the Central Intelligence Agency IG about potential employment opportunities. See Exhibit 6 attached hereto. Mrs. Edwards interviewed with the CIA IG on December 28, 2011 and was again interviewed by the IG and his senior executives on January 6, 2012. See Exhibit 7 attached hereto.

Contrary to the findings within the ROI, Mr. Edwards did not contact Mr. Sandweg "incessantly" or "bust his chops" about employment opportunities for his wife. Rather, as reflected in Mr. Edwards' email records, the parties exchanged email on several occasions after December 4, 2011. In the last such email, dated December 23, 2011, Mr. Sandweg asked whether Mr. Edwards had spoken to Chris Cummiskey, Deputy Under Secretary for Management. See Exhibit 8 attached hereto. Unbeknownst to Mr. Edwards, Mr. Sandweg had forwarded Mrs. Edwards' resume to Mr. Cummiskey on December 21, 2011. According to Mr. Cummiskey, he did not receive any instructions from Mr. Sandweg about where to send Mrs. Edwards' resume. ROI at 6.

At Mr. Sandweg's direction, Mr. Edwards contacted Mr. Cummiskey who indicated that that he had forwarded Mrs. Edwards' resume to Dr. Cedric Sims, the Executive Director of the newly created Program Accountability and Risk Management office ("PARM"). According to Mr. Cummiskey, PARM was seeking to hire highly qualified candidates such as Mrs. Edwards and Dr. Sims had expressed he was impressed with her credentials.

A short time later, Mrs. Edwards received a call and follow up email from a Special Assistant to Dr. Sims with instructions to set up an interview. See Exhibit 9 attached hereto. Mrs. Edwards interviewed with Dr. Sims on January 4, 2012. Id. According to the ROI, after interviewing Mrs. Edwards, Dr. Sims immediately advised Mr. Cummiskey that he planned to make her a job offer. ROI at 7. This information was conveyed to Mr. Sandweg who called Mr. Edwards on January 5, 2012 and revealed that Dr. Sims had been extremely impressed with Mrs.

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Edwards and wanted to hire her right away. Mr. Edwards immediately emailed his wife to inquire whether Dr. Sims had been in touch yet. See Exhibit 10 attached hereto.

According to the ROI, Dr. Sims asked DHS's Human Resource office to prepare a vacancy announcement for a Management and Program Analyst position, GS-15, and "name select" Mrs. Edwards to fill the vacancy. ROI at 7. However, Human Resources informed PARM that the vacancy could not be filled through a name selection; rather, the selection had to be made through competitive merit systems promotion procedures. Id. On March 21, 2012, Mrs. Edwards was contacted by PARM and informed that a vacancy would be posted in USAjobs. See Exhibit 11 attached hereto. After receiving this notification, Mrs. Edwards submitted her application and also applied for a vacancy at the National Protection and Programs Directorate (NPPD) for a GS-15 Supervisory Program Analyst Position. See Exhibit 12 attached hereto.

On April 17, 2012, Mrs. Edwards received notice of her selection and a tentative job offer contingent upon her clearance for Entry on Duty by the Security Officer and obtaining the necessary security clearances. See Exhibit 13 attached hereto. On June 5, 2012, Mrs. Edwards received verification of her appointment and commenced employment at PARM on June 17, 2012 as Management and Program Analyst. See Exhibit 14 attached hereto. Significantly, the position occupied by Mrs. Edwards was non-supervisory with several layers of management above her and did not require direct involvement in any audit activity. Accordingly, proper safeguards were put in place at the very start to ensure that there would be no impairment or threat of impairment of future audits.

Mrs. Edwards' employment at PARM did not create an impairment under GAGAS

The general standards established by GAO under GAGAS provides a conceptual framework and guidance on the practical considerations and documentation necessary to identify, evaluate, determine independence, and apply safeguards as applicable based on facts and circumstances that are often unique to specific environments (see GAGAS page 28-29). As recognized by DHS's attorneys evaluating this very issue, GAGAS defines a threat to independence as:

[C]ircumstances that could impair independence. Whether independence is impaired depends on the nature of the threat, whether the threat is of such significance that it would compromise an auditor's professional judgment or create the appearance that the auditor's professional judgment may be compromised, and on the specific safeguards applied to eliminate the threat or reduce it to an acceptable level. Threats are conditions to be evaluated using

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the conceptual framework. *Threats do not necessarily impair independence.*

GAO-12-331G, Ch. 3:13, Threats at 31 (emphasis added).

According to GAGAS, proper safeguards (i.e. controls designed to eliminate or reduce threats to independence), and in some instances, multiple safeguards, can be applied to eliminate or reduce threats to independence to an acceptable level. *Id.* at 32. In this case, the potential threat to independence was evaluated and appropriate safeguards were put into place to eliminate any potential conflict of interest. In this regard, Mrs. Edwards' potential employment was evaluated and vetted by DHS's General Counsel's office and her position did not report directly to the Director of PARM and did not entail any involvement in the OIG's audit activities. Similarly, there is no evidence that Mrs. Edwards was involved in any aspect of the PARM audit or that she was even aware of its existence.<sup>2</sup>

In the draft ROI, Mr. Edwards is accused of impairing the independence of the PARM audit, yet, according to the standards set forth in GAGAS, no impairment existed. Neither Mr. Edwards nor his wife were involved in any aspect of the audit and DHS's general counsel's office was aware of and had cleared Mrs. Edwards' employment. To the extent any threat to independence existed, which is doubtful, appropriate safeguards were utilized to eliminate this threat. Similar safeguards have been used by DHS and the Social Security Administration to eliminate threats to independence in situations where the spouse of Executive Deputy IG personnel are employed within the same agency.

In addition to the absence of an impairment, it should be noted that the audit at issue began in October 2010, well before Mrs. Edwards was hired and commenced employment. More importantly, when Mrs. Edwards commenced employment on June 17, 2012, all audit work was completed, PARM had already concurred to all three audit recommendations and only the final issuance of the report was pending.<sup>3</sup> See Exhibit 15 attached hereto. In this regard, the initial

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<sup>2</sup> Inexplicably, Mrs. Edwards was not interviewed by the investigators who prepared the ROI. If the investigators had bothered to speak to Mrs. Edwards, they would have learned that she: (i) held a non-supervisory program analyst position; (ii) had several layers of management staff above her; (iii) was not involved with the PARM audit; and (iv) did not even know of its existence and consequently, never spoke to her husband about it until ethical concerns were raised by OIG in late July 2012.

<sup>3</sup> In the draft ROI, Mr. Edwards is alleged to have advised the investigators that he was not aware of the PARM audit at the time he provided his wife's resume to Mr. Sandweg. ROI at 7. The fact that Mr. Edwards could not recall this particular audit is not surprising, given the fact that at any given time, there are dozens of audits pending that are regularly briefed to Mr.

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report to the Director of PARM on the findings was issued on April 3, 2012. See Exhibit 16 attached hereto. The report was endorsed by the Audit AIG and not the Acting Deputy IG or Mr. Edwards. The response to this initial report on accepting the audit recommendations was dated May 25, 2012 and was sent by the Director of PARM to the Audit AIG. See Exhibit 17 attached hereto. After further delay, the final report was to be issued on July 25, 2012 to the Director of PARM from the Audit AIG.

On July 27, 2012, DHS-OIG issued its final audit report entitled "DHS Management Impact on Acquisition Processes (OIG-12-101)." On this date, Mr. Edwards sent the final PARM office audit report to the DHS Under Secretary for Management and expressed DHS-OIG's intention to provide a copy of the report to Congressional oversight committees and post it to the DHS-OIG website for public dissemination. Subsequently, Mr. Edwards ordered that the final report be held after the Under Secretary for Management, Rafael Borrás, voiced concerns about the content of the report. See Exhibit 18 attached hereto.

Shortly thereafter, the issue of Mrs. Edwards' employment with PARM arose. Mr. Edwards was completely forthcoming with DHS-OIG's General Counsel and explained that his wife had been previously vetted for employment by DHS's General Counsel's office. This disclosure prompted Mr. Reback's July 31, 2012 email to Mr. Maher, who confirmed that his office had previously examined this issue and determined that Mrs. Edwards' employment did not constitute any violation of ethical or other rules. See Exhibit 4 attached hereto. As a precaution, Mr. Edwards also immediately recused himself from any Management Directorate Audits and appointed Mr. Carlton Mann as the Acting Deputy IG and turned over the oversight and issuance of all reports, including the referenced PARM office audit report. See Exhibit 19 attached hereto.

On September 6, 2012, the Acting Deputy Inspector General announced his decision to terminate the PARM audit. This decision was made notwithstanding the absence of any impairment under GAGAS and the appropriate safeguards utilized in connection with Mrs. Edwards' hiring, which assured the audit would not be compromised. As a result of this decision, the PARM audit was not published nor was the PARM office required to follow the recommendations set forth in the audit.<sup>4</sup>

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Edwards. Given that proper safeguards had been utilized in connection with his wife's hiring, there were no ethical concerns that would have flagged the PARM audit as potentially problematic.

<sup>4</sup> In 2013, DHS planned a new audit to determine whether PARM had effective oversight and management of the Department's acquisitions. The audit was initiated on October 17, 2013 while Mr. Edwards was still the Deputy Inspector General. This audit was subsequently cancelled as

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### **Second Substantiated Allegation**

*Mr. Edwards was unable to account for all his time during his June 2011 trip to the DHS-OIG Miami field office, and there is evidence his October 2011 trip to that office was a pre-text to have his personal travel expenses paid for by the government*

### **DOT OIG Findings**

Mr. Edwards is alleged to have charged personal travel expenses to DHS for five trips associated with his Ph.D studies at Nova Southeastern University in Fort Lauderdale, Florida. Although we found that, on each of the five trips, Mr. Edwards visited his Ph.D advisor, we did not find sufficient evidence to conclude that all of the trips were pre-texts for Nova Southeastern Ph.D activities. However, for a June 5-7, 2011, trip, there is evidence that he traveled to and met with his Ph.D advisor between 9:00 a.m. and 10:30 a.m. - official duty hours. And, for his October 20-22, 2011, trip, there is evidence that it was a pre-text to have his personal travel expenses paid for by the government.

#### *June 5-7 trip*

On Sunday June 5, Mr. Edwards flew to Fort Lauderdale to visit the DHS-OIG Miami field office on June 6. The purpose of the visit, according to Mr. Edwards, was to have audit and investigations staff brief him on case statistics and on-going, significant open cases. (Attachment 6). The night before the trip, Saturday evening June 4, Mr. Edwards's special assistant emailed him directions for travel from his Fort Lauderdale hotel to Nova Southeastern University. (Attachment 26). About an hour later, she sent an email to the AIG for Audits notifying her that Mr. Edwards had a 9:00 a.m. meeting on June 6 and he would like to meet with audit staff at about 10:30 a.m. (Attachment 27). The email does not say with whom Mr. Edwards would meet at 9:00 a.m. or the location of the meeting. Mr. Edwards's time and attendance records do not show he took leave between 9:00 a.m. and 10:30 a.m. on June 6. (Attachment 28).

Mr. Edwards could not recall with whom he met and where he was at 9:00 a.m. on June 6. (Attachment 6). Although he said it was "unlikely" that he met with Nova Southeastern University officials during this time, there is circumstantial evidence that he met with his Ph.D advisor. First, his assistant sent him directions to the university where his advisor was located. (Attachment 26). Second, his advisor sent him an email on June 6 at 1:32 p.m. saying, "It was great meeting with you" and describing a presentation Mr. Edwards was to make

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duplicative when it was determined that GAO was performing an audit and review of PARM oversight of DHS Acquisitions.

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to his students "[f]or the evening." (Attachment 29). The advisor's email was in response to an email from Mr. Edwards to him entitled, "Dissertation." Mr. Edwards made a presentation to Nova Southeastern students at 6:00 p.m. on June 6. (Attachment 30).

*October 20-22 trip*

A DHS-OIG time and attendance record shows that, on October 12, 2011, Mr. Edwards planned to use eight hours of annual leave for October 21. (Attachment 31). Before October 12, Mr. Edwards scheduled a visit to the Miami field office for October 20. (Attachment 32). The agenda for the trip indicated Mr. Edwards and the DHS-OIG Deputy Assistant Inspector General (AIG) for Investigations would arrive at the Ft. Lauderdale airport at 11:00 a.m. (Attachment 33). At 12:00 noon, they were scheduled to meet with investigations staff at the Miami field office. The agenda does not describe the purpose for the trip. Mr. Edwards and the Deputy AIG were scheduled to depart the Miami field office at 2:00 p.m. At that time, the Deputy AIG would return to Washington, DC, and Mr. Edwards would obtain a rental car at the Ft. Lauderdale airport. (Id.) Mr. Edwards also reserved a room at a nearby Plantation, Florida, hotel room for two nights - October 20 and 21. (Attachment 34).

On October 19, 2011, the Miami Special Agent-in-Charge (SAC) sent an email to his staff notifying them that Mr. Edwards would still travel to Miami, but would not appear at the office on October 20. (Attachment 35). On October 20, Mr. Edwards and the Deputy AIG arrived at the Ft. Lauderdale airport at approximately 11:30 a.m., where they were met by the Miami SAC. (Attachment 36). According to the SAC, he drove them to a Ft. Lauderdale waterfront restaurant, where, for approximately an hour and a half, they had lunch. (Id.). According to the Deputy AIG, the three of them discussed staffing assignments for the Orlando sub-office for approximately 15 minutes. (Attachment 37). When the lunch meeting ended, the Deputy flew back to Washington, while Mr. Edwards retrieved his rental car at 2:11 p.m. (Attachments 36, 37 and 38). Around 4:15 p.m., Mr. Edwards checked into his hotel. (Attachment 38). The total cost to the government for Mr. Edwards's trip (airfare, hotel for one night, rental car, gas, meals, mileage and airport parking) was \$742.39. (Id.) The cost for the Deputy AIG for Investigations to make the trip was \$678.65. (Attachment 38).

Mr. Edwards said one reason for the trip was to discuss staffing assignments for the Orlando sub-office. (Attachment 6). A second reason, Mr. Edwards initially claimed, was to make a presentation on the mission of the DHS-OIG to his Ph.D advisor's master's class at Nova Southeastern University. (Id.) Although this presentation was not on his agenda, a timeline Mr. Edwards gave us prior to his interview claimed he made the presentation on October 20 at 4:00 p.m. (Attachment 40). After his interview, he was asked to confirm he made the presentation on October 20. He responded that, upon his review of his personal files, his timeline was incorrect and there was no presentation scheduled for October 2011. (Attachment 30). He confirmed he gave the presentation on June 6, 2011. (Id.).

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A third reason for the trip, Mr. Edwards said, was to meet with auditors on October 21, the day of his scheduled annual leave, about the treatment of minority employees by the AIG for Audits. (Attachment 6). These meetings were not on his agenda, he did not schedule the meetings beforehand, nor did he tell any of the auditors he intended to meet with them. (Id.). Instead, he told us, he intended to "take a chance" on meeting with them. (Id.). He said that he did not meet with them because he learned that day that they, for various reasons, were not in the office on October 21. (Id.). After learning this, he said, he submitted his request for annual leave for October 21. (Id.).

There is evidence that Mr. Edwards used this trip as a pre-text to have his expenses related to his annual leave paid for by the government. First, none of the three reasons given by Mr. Edwards for the trip occurred. His October 20 meeting with staffers was cancelled. Instead, he met with the SAC at a waterfront restaurant for lunch. He did not make a presentation on the mission of the DHS-OIG on October 20 (after initially indicating to us he did). And, he did not meet with auditors on October 21 about the treatment of minority employees, despite the fact that time and attendance records show that three of the four employees Mr. Edwards said he wanted to meet with were in the office on that day. (Attachments 30 and 41). Second, the subject matter of the meeting that did occur, i.e., staff assignments, did not require a trip to Miami for a face-to-face meeting. And, the discussion regarding staff assignments took only 15 minutes. Third, his time and attendance record shows, contradicting what he told us, that he knew in advance he would be on annual leave on the second day of his trip - Friday, October 21.

#### **Mr. Edwards' Response to Findings**

The evidence does not support the substantiation of the allegations concerning Mr. Edwards' travel to Florida in June and October 2011. It was a standard and customary DHS-OIG practice that the IG visit each field office in the United States at least twice during each fiscal year. This practice was followed by Mr. Edwards and his predecessor, Richard L. Skinner. These visits were not typically scheduled to address any particular urgent issues confronted by the field offices; rather, they were intended to allow field office staff to periodically meet with the IG and functioned as a forum in which field office employees could discuss work issues and related concerns. The on-site visits also allowed the IG to remain informed regarding significant matters being handled by the field offices.<sup>5</sup>

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<sup>5</sup> While Acting IG, Mr. Edwards made several trips to Florida for activities relating to his graduate studies at Nova. These trips were taken while Mr. Edwards was on leave and at his personal expense. While these trips were non-business related, Mr. Edwards used some of his personal time to meet with officials at the Miami field office in order to keep abreast of important issues and cases with which the office was involved.

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In keeping the with custom and practice of his office, since his appointment as acting IG, Mr. Edwards regularly visited each of the IG field offices located in the United States, including the field offices located in Miami and Orlando Florida. During his tenure as Acting IG, Mr. Edwards traveled to Florida to visit the field offices on a total of five (5) separate occasions. Although each of these visits were business related and involved, among other things, meetings with field office staff, Mr. Edwards was accused of making these trips as a pretext to further his Ph.D. studies at Nova Southeastern University in Fort Lauderdale, Florida.

According to the draft ROI, there is not sufficient evidence to support a finding that all five (5) of these trips were pretextual. ROI at 9. However, the draft ROI substantiates the allegations concerning two (2) of these trips, concluding: (i) that Mr. Edwards met with his Ph.D. advisor during official duty hours during his trip to Florida in June 2011; and (ii) that his October 2011 trip to Florida was a pretext in order to have his personal travel expenses paid by the government.

As set forth below, the evidence does not support these findings of wrongdoing.

#### June 5-7 trip

As a matter of relevant background, Mr. Edwards began his doctoral studies at Nova Southeastern University in August 2002. The program in which Mr. Edwards was enrolled required completion of ten (10) courses before work on a dissertation could begin. The course work included mandatory lectures on campus twice during each semester. Significantly, Mr. Edwards completed the necessary course work for his doctorate in the Fall of 2004 -- long before he was appointed DHS Acting IG. Following completion of his course work in 2004, Mr. Edwards was not required to attend further lectures on campus.

Mr. Edwards discontinued his work towards his doctoral in 2005 but did not officially withdraw from the university. In 2010, Mr. Edwards was contacted by Dr. Eric Ackerman, Dean of the Graduate School of Computer Science, regarding re-enrolling in the university to complete his dissertation. Mr. Edwards made a decision to reenroll to complete his graduate studies and subsequently spoke to Dr. Ackerman concerning his dissertation and possibly meeting in Washington D.C. or in Miami during a field office visit.

Mr. Edwards was scheduled to travel to the Miami and Orlando field offices from June 5-7, 2011. See Exhibit 20 attached hereto. Prior to his departure, Mr. Edwards contacted Dr. Ackerman and requested a meeting since he was going to be in Florida visiting the Miami and Orlando field offices. During this discussion, Dr. Ackerman also suggested that Mr. Edwards meet with his newly assigned dissertation advisor, Dr. Tejay.

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This is no allegation that the basis for this trip was pretextual. Indeed, Mr. Edwards conducted Agency business during his flight to Miami on June 5, 2011. The following day, Mr. Edwards had an early conference call with his staff and then met with various Miami field office personnel, including members of the Audit and Investigations staff as well as the Assistant IG and Special Agent in Charge. Later that evening, at approximately 6:00 p.m., Mr. Edwards went to Nova and made a presentation to graduate students concerning the DHS-OIG mission. See Exhibit 21 attached hereto. The following day (June 7, 2011), Mr. Edwards traveled from Miami to Orlando and met with the Orlando office staff. At approximately 5:00 p.m., the Special Agent in Charge of the Miami/Orlando field office transported Mr. Edwards to the Orlando airport for a 6:20 p.m. flight. Mr. Edwards did not arrive home that day until 9:30 p.m. See Exhibit 20 attached hereto.

While the legitimacy of Mr. Edwards' travel to Florida is not questioned, he is accused of meeting with his Ph.D. advisor on campus at 9:00 a.m. on June 6, 2011, during duty hours. Mr. Edwards acknowledges meeting with his Ph.D. advisor; however, the meeting was very brief because, as is noted in the draft ROI, Mr. Edwards had a meeting with Audit staff at the Miami field office scheduled at 10:30 a.m. ROI at 9. While it does not appear that Mr. Edwards took leave when he met with his Ph.D. advisor, it is important to note that Mr. Edwards' time and attendance records only indicate total work hours for the day in question. In this regard, Mr. Edwards' position at DHS was not a "9 to 5" job. In his position as Acting IG of one of the largest agencies in the federal government, Mr. Edwards had an extraordinarily broad range of responsibilities and regularly worked late evenings and weekends. During this trip, Mr. Edwards performed various official duties in excess of his expected eight (8) duty hours each day. For example, when he returned home, Mr. Edwards did not arrive at his residence until after 9:30 p.m. Accordingly, the minimal amount of time Mr. Edwards spent meeting with his advisor was more than offset by his before and after hours work during this trip.

#### October 20-22 trip

The October 20-22 trip to Florida, like the trip in June, was a regular, planned field office visit -- one of many undertaken by Mr. Edwards in 2011. Mr. Edwards planned to meet with staff as was customary during such visits, obtain updates with regard to ongoing investigations and hold meetings concerning a proposed realignment affecting personnel in the New Orleans and Orlando field offices. The agenda for this trip confirms the meetings at the Miami field office on October 20, 2011. See Exhibit 22 attached hereto. While there were no pressing issues that mandated his presence in Florida in October, Mr. Edwards believed it was important to regularly meet with his field audit staff and felt it was within his authority to complete this trip. Mr. Edwards also learned that certain minority auditors employed at the Miami office believed they were being mistreated by the Assistant IG ("AIG") for Audits, and he planned to speak with

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these employees to obtain a better understanding of the issues involved.<sup>6</sup> As noted in the draft ROI, Mr. Edwards did not contact these employees in advance to schedule an interview. Mr. Edwards believed a less formal approach would be less intimidating and more likely to elicit information that he could use to assess the situation. Accordingly, as noted in the ROI, Mr. Edwards decided to “take a chance” that these employees would be available during his trip.

The draft ROI emphasizes the fact that after Mr. Edwards scheduled this trip, he submitted a request for eight (8) hours of leave on October 21, 2011 (a Friday). Assuming the purpose of the trip was legitimate, and it was, there is nothing significant about the fact that Mr. Edwards took some personal time off during this trip. Mr. Edwards had ample leave that was available. Further, we are aware of no rules, regulations or policies (none are cited in the draft ROI) that would prohibit the use of leave in this situation, provided during any period of leave Mr. Edwards paid for his lodging, transportation, meals and other expenses with personal funds. This is exactly what occurred and there are no allegations that Mr. Edwards charged the government for his personal expenses while he was on leave.<sup>7</sup>

Originally, Mr. Edwards was scheduled to travel to Florida for a meeting with the Miami field office with the Assistant IG for Investigations (“AIGI”). When the AIGI developed a conflict, the principal Deputy AIG for Investigations (“DAIGI”) was tasked with accompanying Mr. Edwards to Florida. At some point prior to departure, Mr. Edwards learned that the Miami field office had no new cases to report. Mr. Edwards was also informed that the Special Agent in Charge of the Miami field office had proposed, in lieu of a meeting at the field office, a working lunch to discuss the proposed New Orleans/Orlando realignment. Mr. Edwards concluded there was still a legitimate need to travel to Florida to address the proposed realignment and because he expected to meet with the Miami Audit staff to discuss the allegations of mistreatment by the Assistant IG for Audits.<sup>8</sup>

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<sup>6</sup> These allegations can be verified by Jewel Butler, who was formerly Audit Director and subsequently became Director for Audit Operations. To the best of Mr. Edwards’ recollection, the other audit employees involved were Beverly Bush, Ignacio Yanes, Mark Ferguson and Yeseira Diaz.

<sup>7</sup> Given that he would have to return to Washington following the conclusion of his meetings, the cost associated with the flight home would, in our view, be an appropriate charge to the government.

<sup>8</sup> Initially, Mr. Edwards told investigators that he was also scheduled to make a presentation regarding the DHS-OIG mission at Nova on October 20, 2011. After reviewing his personal

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Mr. Edwards and the DAIGI arrived in Fort Lauderdale on October 20, 2011 at approximately 11:30 a.m. They were met at the airport by the Miami Special Agent in Charge and proceeded to a restaurant for a working lunch to discuss the proposed office realignment. Mr. Edwards strongly disputes the account of the DAIGI contained in the draft ROI that approximately fifteen (15) minutes was spent discussing the realignment. See ROI at 10. According to Mr. Edwards, the discussion regarding the realignment was significantly more extensive and took up the majority of the approximate two (2) hour lunch meeting. While the draft ROI minimizes the importance and length of this meeting, it contains no information about the topic of discussion after the alleged fifteen (15) minute dialogue about the realignment. According to Mr. Edwards, the parties did not discuss personal, non-work related matters and the entire two (2) hour meeting involved DHS-OIG business.

After the conclusion of this meeting, the Special Agent in Charge drove the parties back to the airport where the DAIGI caught his previously scheduled return flight to Washington and Mr. Edwards picked up his rental car and drove to his hotel. Although a scheduled day off, Mr. Edwards planned to drive to the Miami field office the following day (October 21) to meet with the Audit employees. However, while speaking to his special assistant the following morning, Mr. Edwards learned that these employees were on alternate work schedules and generally teleworked on Fridays. As a result, Mr. Edwards concluded that these employees would be unavailable to meet with him and consequently, he did not travel to the Miami field office on October 21, 2011 as he had originally planned. Mr. Edwards subsequently checked out of his hotel the following day (the reservation specifies a noon checkout) and returned home via BWI airport that evening. Mr. Edwards used his personal funds and did not seek reimbursement from the government for the additional day. See Exhibit 22 attached hereto.

Contrary to the conclusions set forth in the draft ROI, the evidence does not support a finding that this trip was a pretext used by Mr. Edwards to have the government pay expenses relating to his personal leave. In this regard, the brevity of the trip suggests that Mr. Edwards did not travel to Florida for personal reasons. If Mr. Edwards was traveling to Florida for personal reasons, one would logically expect a lengthier stay and there would be no reason to include the DAIGI. Moreover, the trip was planned in advance as one of Mr. Edwards' regular visits to the Miami field office and, as was customary, an agenda, to include a field office visit, was prepared.

It is certainly true that certain action items on the agenda, such as an office visit, did not occur. Likewise, the necessity of a face to face meeting between DHS officials may be debatable with the benefit of hindsight. However, viewed in proper context, it is apparent that Mr. Edwards acted appropriately and within his authority when he traveled to Florida in October

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files, Mr. Edwards discovered he had been mistaken -- that he had previously made this presentation during his earlier trip to Florida in June.

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2011. Trips like this one were routine and in keeping with customary practice of the DHS-IG. It was certainly Mr. Edwards' expectation to visit the Miami field office during this trip and meet with staff. While the agenda changed, the need to discuss the proposed realignment did not.

While Mr. Edwards' decision making is now questioned, his actions are not objectively unreasonable, particularly because he could not possibly predict how long the realignment meeting would last, whether the proposed realignment would also require a visit to the Miami field office or whether the meeting would raise any other unexpected issues that would require additional time. Further, Mr. Edwards also intended to meet with Audit personnel at the Miami field office on October 21, 2011, although he would be on scheduled leave that day.

As set forth above, there was a reasonable business justification for Mr. Edwards' travel to Florida and the evidence does not support a finding of a nefarious and pretextual motivation as suggested in the draft ROI. To the contrary, the evidence demonstrates that Mr. Edwards traveled to Florida to accomplish, and did accomplish, important business objectives on behalf of DHS-OIG.

### **Third Substantiated Allegation**

*Mr. Edwards allowed his Acting Chief of Staff to use official time to work on his doctoral dissertation and encouraged her to set aside her DHS-OIG work to do his school work.*

### **DOT OIG Findings**

Mr. Edwards allegedly used his Acting Chief of Staff to perform work related to his doctoral dissertation, and his IT Branch Chief to perform work associated with Mrs. Edwards's graduate studies. (Footnote omitted).

We found the amount of official time the IT Branch Chief spent assisting Mrs. Edwards was de minimis. The IT Branch Chief said she reviewed, on one occasion, an assignment Mrs. Edwards received as part of her graduate studies. (Attachment 42). She said Mr. Edwards forwarded the assignment to her. (Id.) As shown below, however, the Acting Chief of Staff used 20-25 hours of official time to assist Mr. Edwards with his dissertation.

The Acting Chief of Staff said she offered to assist Mr. Edwards with his dissertation, and he accepted her offer. (Attachment 43). Her assistance included "proofreading, editing [and] a little bit of research[.]" (Id.) She estimated she spent 20-25 hours of official time over about an eight month period working on Mr. Edwards's dissertation. (Id.)

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Mr. Edwards did not merely accept his Acting Chief of Staff's assistance, he encouraged her to set aside her OIG work so she could work on his dissertation. For example, in September 2011, he sent her an email asking her to review written comments on a dissertation-related paper he received from his Ph.D. advisor and asked her to "start fixing it." (Attachment 44). When she replied that she would "work on it this morning," he responded, "[P]lease let me [know] what is on [your] plate today so that I can delegate the work to other folks." (Id.) Also, in a February 2012, email, he asked her to telework from home to finish her edits to a dissertation-related document he drafted. (Attachment 45). And, she did so. (Attachment 46).

Mr. Edwards told us that, in hindsight, it was "probably poor judgment" for him to have the Acting Chief of Staff to work on doctoral dissertation. (Attachment 6).

#### **Mr. Edwards' Response to Findings**

Mr. Edwards acknowledges that he accepted his Acting Chief of Staff's offer to help him proof read, format and edit work relating to his dissertation. See Sworn Interview of Charles Edwards at 7. As set forth in Mr. Edwards' interview, his Acting Chief of Staff, Yvonne Manino, spent no more than 20 hours assisting him. Id. According to the draft ROI, Ms. Manino estimated that she spent 20-25 hours assisting Mr. Edwards. Draft ROI at 12.

Mr. Edwards specifically denies that Ms. Manino's work on his behalf in any way interfered with, impeded or took precedence over the work requirements of the DHS-OIG. During his interview, Mr. Edwards stated unequivocally that DHS work remained the top priority at all times. Id. at 11. With regard to the assertion in the draft ROI that Mr. Edwards "encouraged [Ms. Manino] to set aside her OIG work so she could work on his dissertation," Mr. Edwards denies this allegation. According to Mr. Edwards, he did not delegate Ms. Manino's work to other employees so she could work on his dissertation. Id. at 12-13. As set forth in the transcript of his interview, the September 2011 email to Ms. Manino (Attachment 44 to the draft ROI) was not intended as a request that Ms. Manino put aside her DHS-OIG work so she could work on his dissertation; rather, his inquiry was merely part of his daily routine of prioritizing and delegating his staff's work. Id. During her interview before the Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Financial and Contracting Oversight, Ms. Manino confirmed that Mr. Edwards did not delegate her work so she could work on his dissertation, that her DHS-OIG work remained her priority at all times and that she assisted Mr. Edwards only in her spare time.

Further, it should also be noted that it is not entirely clear that Ms. Manino used official time to assist Mr. Edwards with his dissertation. In her memorandum dated July 8, 2013, Ms. Manino states that she assisted Mr. Edwards "at [her] home on [her] time." See Exhibit 23

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attached hereto. Further, most of the emails sent between Mr. Edwards and Ms. Manino concerning the dissertation were sent before or after core work hours.

Even if some of the work was performed during the work day, the distinction between core work hours and non-work hours is blurred in the DHS-OIG. As noted by Mr. Edwards, work in the DHS-OIG was not a "nine to five" job and required demanding hours well beyond core work hours. During her interview before the Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Financial and Contracting Oversight, Ms. Manino explained that she considered herself to be on duty 24/7 and that there was no real distinction between work and non-work hours. According to Ms. Manino, she assisted Mr. Edwards in her spare time. However, regardless of *when* Ms. Manino worked on Mr. Edwards' dissertation, the nominal amount of time Ms. Manino spent assisting Mr. Edwards with his dissertation is easily counter-balanced by the time she has spent working on DHS-OIG matters outside her core work hours.

Mr. Edwards acknowledges that he should have declined Ms. Manino's offer of assistance in order to completely avoid the appearance of any impropriety. With that said, there is no evidence that Mr. Edwards abused his authority or that this decision impaired the work of the DHS-OIG or in any way deprived the government of the services of a federal employee.<sup>9</sup> As such, this allegation should not be substantiated.

#### **Fourth Substantiated Allegation**

*Mr. Edwards allowed his IT Branch Chief to use official time and her personal time to perform work related to his teaching at Capitol College*

Mr. Edwards allegedly used his IT Branch Chief, his Executive Assistant and his Acting Chief of Staff to write lesson plans, review paperwork, and conduct other work associated with his employment at Capitol College and at System and Information Services Corporation (SISC).

The IT Branch Chief said she offered to assist Mr. Edwards with work associated with his teaching at Capitol College, but not SCIC. (Attachment 42) As with the Acting Chief of Staff, he did not approach her for assistance, but accepted her offer. (Id.) She said she did not prepare lesson plans for him, but, among other things, answered his technical questions, reviewed a presentation and prepared notes. (Id.) She said she did "as much as possible" of this work in the "evening or at home," but "sometimes" used her OIG computer." (Id.) (Footnote omitted). While at work, she said she limited her assistance to five to 10 minutes during lunch breaks. (Id.)

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<sup>9</sup> Ms. Manino received appropriate credit for her work in Mr. Edwards' dissertation.

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We found the Executive Assistant and Chief of Staff also spent time assisting Mr. Edwards with work related to his teaching. The amount of time, however, was de minimis. According to the Executive Assistant, she spent approximately 10-15 minutes over one year. (Attachment 47). According to the Chief of Staff, she spent approximately five hours over 1-2 years. (Attachment 48).

Mr. Edwards acknowledged it was "probably poor judgment" for him to allow his IT Branch Chief to use official time and her personal time to perform work related to his teaching at Capitol College. (Attachment 6)

#### **Mr. Edwards' Response to Findings**

According to the draft ROI, Mr. Edwards acted improperly by accepting an offer from the IT Branch Chief, Sonal Patel, to assist with work associated with his teaching at Capitol College. Mr. Edwards denies this allegation.

According to the draft ROI, Ms. Patel's assistance was limited to answering technical questions, reviewing a presentation and preparing notes. ROI at 12. Further, again according to the draft ROI, Ms. Sonal indicated that she did "as much as possible" of this work in the "evening or at home," but "sometimes" used her OIG computer -- but limited her assistance in this regard to 5 to 10 minutes during lunch breaks. These allegations are clearly insufficient to establish wrongdoing on Mr. Edwards' part. There is no evidence that Ms. Sonal performed any work on Mr. Edwards' behalf during work hours, except for very limited periods of time during her lunch break when she was presumably free to engage in any lawful activity of her choosing.

With regard to her use of her OIG computer, DHS Management Directive 4600.1 allows for limited personal use of government office equipment, such as computers, during non-work time when such use:

1. Involves minimal additional expense to the government.
2. Is performed on the employee's non-work time.
3. Does not reduce productivity or interfere with the mission or operations of DHS organizational elements.
4. Does not violate the Standards of Ethical Conduct for Employees of the Executive Branch.

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Measured under these standards, Ms. Patel's de minimus use of her work computer to assist Mr. Edwards with his work during her lunch breaks was clearly an authorized use of government property in that: (i) there was no expense to the government; (ii) the work was performed during her lunch break; (iii) there is no evidence that the work reduced her productivity or interfered with the mission or operations of DHS; and (iv) the work did not violate any applicable ethical standards.

During his interview, Mr. Edwards confirmed that Ms. Patel approached him and volunteered to provide assistance with work associated with his teaching at Capitol College. See Charles Edwards Interview at 17. Significantly, Mr. Edwards emphasized that he made it clear to Ms. Patel that her support activities were to take place during her personal time and not during work hours.<sup>10</sup> Id. at 17-18. Ms. Patel's rendition of the facts is substantially similar:

After I joined DHS OIG as the Branch Chief and knowing the [sic] Mr. Edwards is teaching, I volunteered on several occasions to oversee, cross check or review some the [sic] work since I am very familiar with C sharp and C ++ and also have the visual studio software. I did not prepare his lesson plans nor his class notes. Whenever he sent me an email to clarify certain technical questions I did it on my own time. The entire time spent on this effort is about 5 hours.

See Exhibit 24 attached hereto.

According to the draft ROI, the Chief of Staff also spent about 5 hours of time assisting Mr. Edwards with work related to his teaching. This amount of time was considered de minimus. See ROI at 13. The five (5) hours of time spent by Ms. Patel assisting Mr. Edwards should similarly be considered de minimus. Moreover, the evidence only demonstrates that Ms. Patel provided limited assistance to Mr. Edwards during non-work time at home or during lunch breaks. As set forth above, her limited personal use of her OIG computer during non-work status was permissible under Management Directive 4600.1. As such, this allegation should not be substantiated.

### Conclusion

The decision to withhold a number of documents relied upon by the DOT OIG in preparing its draft ROI raises significant due process concerns. In effect, Mr. Edwards has been

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<sup>10</sup> Ms. Patel did not report to Mr. Edwards and was not within the group of employees at DHS-OIG that Mr. Edwards considered to be on duty 24/7, like Ms. Manino.

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deprived of the right to review the evidence allegedly supporting the four (4) allegations substantiated in the draft ROI. On this basis alone, these allegations cannot be substantiated.

Further, as set forth above, the evidence simply does not support substantiation of any of the four (4) allegations at issue. In this regard, Mr. Edwards' wife's employment at DHS was properly disclosed and vetted in advance, his travels to Florida were appropriate and customary and the assistance provided by his subordinates was voluntary and in no way interfered with their work on behalf of DHS-OIG. Accordingly, we respectfully submit that the allegations at issue cannot and should not be substantiated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marc J. Smith', written over a horizontal line.

Marc J. Smith