



U.S. OFFICE OF SPECIAL COUNSEL

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The Special Counsel

January 31, 2013

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

Re: OSC File No. DI-11-3458

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), please find enclosed a report received from the Honorable Thomas Vilsack, Secretary of Agriculture, in response to disclosures made by Joseph Hastings, an Information Technology Specialist, Agriculture Marketing Service (AMS), Information Technology Service (ITS), U.S. Department of Agriculture (Agriculture), Washington, D.C. Mr. Hastings alleged that AMS employees engaged in a violation of law, rule, or regulation and gross mismanagement by failing to record millions of dollars of information technology (IT) equipment into the inventory management system and, further, that for several years AMS employees may have incurred unnecessary repair expenses for equipment covered by manufacturer warranties. Mr. Hastings consented to the release of his name.

**The agency investigation partially substantiated the allegations finding that some IT equipment was not properly inventoried. The investigation determined that IT equipment was missing from the inventory. The agency was able to approximate the dollar value of 11 items that were unaccounted for, but was unable to assign a value to approximately 141 items also identified as missing. The investigation found that the 141 missing items were now obsolete because they were more than five years old; however, due to the issues with the inventory system it is unclear whether those items were missing prior to being rendered obsolete, thereby increasing the value of IT equipment missing, or whether they were surplus at the appropriate time. Thus, while the investigation could not confirm the value of the missing equipment as alleged, it did substantiate significant deficiencies in the inventory system.**

The investigation also found there was insufficient evidence to conclude that management officials interfered with the equipment inventory system or that government funds were spent to repair items under warranty. A supplemental response from AMS Administrator David R. Shipman stated that the revised ITS program directive requires that all accountable property be managed consistently and includes a quarterly validation review to ensure the accuracy of IT inventory reports. In addition, ITS will incorporate inventory management support into the incident management system that will be implemented in FY 2013, and ITS managers will work

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with the ITS inventory manager to ensure the inventory duties are properly conducted. I have determined that the agency's findings appear reasonable.

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

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

The allegations in this case were referred to Secretary Vilsack on September 27, 2011. The AMS Compliance Branch investigated the allegations. Secretary Vilsack transmitted the agency's report to OSC on December 16, 2011. On December 20, 2012, OSC received a supplemental response from AMS Administrator Shipman, included with the agency report, that provides an update on the agency's corrective actions. Mr. Hastings provided a revised and final version of his comments on December 21, 2012.

### **The Allegations**

Mr. Hastings alleged that for approximately 10 years, Charles Barclay, former Branch Chief, Infrastructure Operations Branch, and Lisa Dukeman, Mr. Hastings' supervisor and current Branch Chief, Infrastructure Operations Division, ordered millions of dollars of IT equipment, including routers, servers, and switches, but prevented the equipment from being recorded in the inventory management system.<sup>1</sup> According to Mr. Hastings, new equipment received by AMS is stored in the front office and the employee who ordered the equipment is called to verify that the correct equipment was received. Once the equipment order has been verified, payment to the vendor is authorized.

AMS Information Technology Group Directive 202 (Directive 202) ensures that products and services are properly managed and inventoried. Section 3 provides that when property is received, the Office of Chief Information Officer (OCIO) Equipment Inventory Manager is

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<sup>1</sup>Mr. Barclay served as Branch Chief for the Infrastructure Operations Branch from 2002 until 2007, when he accepted a position outside of AMS with the U.S. Forest Service and was succeeded by Ms. Dukeman. Due to a restructuring, Ms. Dukeman's title became Branch Chief of the Infrastructure Operations Division.

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required to: 1) enter the item identifying information into the inventory, 2) confirm the accuracy of serial numbers, and 3) attach inventory bar code numbers on all the equipment within four hours. Mr. Hastings performed these tasks for the Washington, D.C. office and explained that only after these tasks are completed are the items removed from OCIO.

According to Mr. Hastings, when Mr. Barclay or Ms. Dukeman ordered equipment, he or she verified that the correct items were received and authorized payment to the vendors. They would then, with rare exceptions, remove the equipment from OCIO to a server room, a secure breezeway, or their offices before Mr. Hastings could record it in the inventory management system, confirm the serial numbers, and affix the barcodes. Mr. Hastings reported that he was notified when the front office receptionist and a purchasing officer ordered equipment, but was not notified when Mr. Barclay or Ms. Dukeman ordered equipment. Instead, he contended that he learned about Mr. Barclay's and Ms. Dukeman's equipment orders by reviewing the purchase orders or observing the equipment when it was surplus.

Mr. Hastings provided a copy of the inventory spreadsheet that listed over 200 items that were not processed in accordance with Section 3 of Directive 202 when received by OCIO. He further alleged that because the inventory management system is used to track warranty information, the failure to record all the IT purchases could have resulted in the agency incurring repair costs for equipment covered under manufacturer warranties.

### **The Department of Agriculture Report**

The AMS Compliance Branch investigation included interviews with USDA staff and a review of the supporting documents pertaining to the equipment. The investigation was limited to a review of the purchasing and inventory for FY 2007 through FY 2011, even though Mr. Hastings alleged that the improper practices had been occurring for 10 years. The Director, Compliance Safety and Security Division, defined the scope of the investigation in this manner because Mr. Hastings assumed responsibility for the inventory management system in FY 2007.

The report describes ITS as an entity that provides effective and cost efficient IT services for AMS. In September 2000, ITS purchased IntelliTrack, a commercial database software program, to inventory all equipment and store the data in one central database. The program required the property office to barcode all equipment and enter identifying information, including the make, model, and serial number into the database.

Mr. Hastings told investigators that, due to a problem with the hand scanner and because the IntelliTrack program was no longer compatible with the ITS operating system, he did not use the program and uninstalled it from the ITS server. Mr. Hastings continued to use the IntelliTrack barcodes but replaced the software program with the Information Management System (IMS), a Microsoft Office Excel spreadsheet that he created. He stated that he was responsible for maintaining the IMS and accounting for all ITS IT equipment, including barcoding. He maintained, however, that Ms. Dukeman and Mr. Barclay did not allow him to access secure areas, and, as a result, he could not complete his inventories. He further

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maintained that millions of dollars of equipment was unaccounted for because it was not recorded on his inventory spreadsheet. Mr. Hastings stated that he informed Ms. Dukeman and Frank Fuestel, ITS Senior Network Engineer, that he was unable to account for all IT equipment. To help address the matter, he posted his spreadsheet on the Intranet website so that employees could access it and update it as necessary.

Investigators interviewed Larry W. Dosier, Information Technology Specialist, Enterprise Application Services Division, ITS who worked with the IntelliTrack system from 2003 to late 2007 before the program was turned over to Mr. Hastings. Mr. Dosier reported that the inventory was up-to-date when he left so there was no need to conduct a final inventory upon his departure. He did not report any problems with the IntelliTrack system and stated that Mr. Hastings did not ask him for assistance or contact him about any problems. He noted that his understanding of the policy was that equipment should not be placed into service prior to being logged into the system and barcoded. However, there was an exception to this policy for routers, servers, or switches because they were mission critical and had to be replaced immediately. For these items, it was permissible to affix a barcode at a later date.

The investigation also included interviews with ITS staff responsible for managing IT equipment. Mr. Zollicoffer, Information Technology Specialist, in the ITS office in Lakewood, Colorado, explained that he managed the network equipment except for the switches and routers, which were handled by Mr. Feustel. He informed investigators that he had not seen the spreadsheet produced by Mr. Hastings until this investigation but stated that in August 2011, he sent Mr. Hastings a complete accounting of the ITS inventory in Lakewood. He further noted that Mr. Hastings had not contacted him with any concerns about the inventory. According to the report, the spreadsheets Mr. Zollicoffer provided showed that all ITS equipment and servers in Lakewood were accounted for.

Mr. Fuestel, who managed the AMS network and purchased IT equipment, reported that on occasion, equipment was stored in his office. However, he stated that Mr. Hastings had access to his office so he could barcode the equipment. He also stated that large equipment was stored in the server room hallway, also referred to as the breezeway. The report notes that Mr. Hastings identified the breezeway as a secure area, but that it was open to employees from 7:00 a.m. to 5:00 p.m. Mr. Fuestel reported that Mr. Hastings had access to the equipment and could barcode it as necessary. He received a copy of Mr. Hastings' spreadsheet but reported to Ms. Dukeman that it included outdated equipment no longer in ITS' possession and he did not find it useful. In response to Ms. Dukeman's instructions, Mr. Fuestel sent Mr. Hastings his inventory information related to the switches and routers.

The AMS Compliance Branch analyzed all three spreadsheets and concluded that not all the routers, servers, and switchers had been barcoded and inventoried. The report also noted that some of the items Mr. Hastings identified as missing were on Mr. Zollicoffer and Mr. Fuestel's spreadsheets. A review of the Report of Transfer or Other Disposition or Construction of Property forms and the Personal Property Physical Inventory Report determined that 360 items listed on Mr. Hastings' spreadsheet were missing. Douglas Bailey, Deputy Administrator for

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ITS, provided an updated spreadsheet identifying the status and location of the missing 360 items as well as 5 additional items subsequently identified by Mr. Bailey as missing. The report states that of the total 365 items, 213 were located and 152 remained unaccounted for. ITS reported that 141 of the 152 items were more than 5 years old, obsolete, with \$0 value, and would have been surplussed. However, ITS did not provide documentation verifying when the items were surplussed. Thus, the value of this IT equipment unaccounted for by the inventory may be higher. The remaining 11 items, each with a value of less than \$500, were identified as: 3 Dell docking stations, models unknown; 4 Dell monitors manufactured between 2005 and 2007; 1 Dell monitor stand; and 3 port replicators.

Mr. Bailey stated that he was unaware of any problem with the ITS inventory prior to the investigation into these allegation and that ITS had not purchased nearly the amount of IT equipment alleged. Mr. Bailey explained that Directive 202 was a guide and did not specify which items required barcodes and which did not. He reported that routers, servers, and switches did not require barcodes because they were not assigned to individual employees. According to Mr. Bailey, these items were rack-mounted, industrial equipment with no value to an individual user and were too specialized to command any value on the black market. However, he noted that if an item was easily removed from the facility, such as a laptop or desktop computer, it should have a barcode.

Mr. Barclay stated that upon receipt of the routers at the ITS front desk, he would configure the items and send them to the user. He reported that Mr. Hastings had access to newly received equipment, including items in the breezeway. Mr. Bailey added that he did not deny Mr. Hastings access to equipment in the server room or prevent him from conducting the inventory. Finally, he stated that he did not take computer equipment home and did not keep any computer equipment in his office with the exception of cell phones kept in a locked cabinet.

Ms. Dukeman noted that Mr. Hastings was responsible for the inventory, barcoding, surplussing ITS IT equipment, and preparing the annual inventory report. She identified her primary concern as the barcoding of desktop and laptop computers, but noted that she did require that the inventory be complete. Ms. Dukeman stated that Mr. Hastings notified her that his spreadsheet was missing information on some equipment. She instructed Mr. Zollicoffer and Mr. Fuestel to forward their inventory information to him. Mr. Hastings did not report any concerns regarding desktops or laptops that he could not locate. Ms. Dukeman also stated that the breezeway area was open from 7:00 a.m. until 5:00 p.m. when it was locked to secure the equipment. She explained that Directive 202 was being revised and that she asked Mr. Hastings to review the inventory section and recommend a different time frame if the four hours in the Directive was insufficient to complete the documentation and barcoding for new equipment. She reported that her door was generally open but that she had told Mr. Hastings that if an item was in her office and she was in a meeting or otherwise occupied, he could complete the inventory at another time. Finally, she stated that she did not prevent Mr. Hastings from accessing equipment or maintaining his inventory.

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The cumulative testimony from AMS employees did not support the allegation that Ms. Dukeman and Mr. Barclay prevented Mr. Hastings from accessing or barcoding IT equipment. Thus, the allegation was not substantiated.

The investigation also included a review of the funds expended by ITS for the purchase of IT equipment from FY 2007 through FY 2011. The budget classification codes and the purchasing document showed that ITS obligated \$663,423 for IT equipment during this period and had disbursed \$584,507 as of November 2011, less than Mr. Hastings' allegation that millions of dollars had been spent for IT equipment that was now missing.

The AMS Compliance Branch also investigated the allegation that a lack of ITS oversight resulted in the agency incurring service charges for products under warranty. Mr. Hastings did not have any knowledge of the warranties on the servers, routers, or switches because he was not responsible for the repairs for that equipment. Investigators interviewed the employees responsible for managing the warranties and determined that the government had not incurred any expense associated with repairing servers, routers or switches under warranty. The report explains that when an employee contacts Hewlett Packard (HP) regarding the equipment, the employee is asked to provide a serial number for the equipment in question. HP then informs the employee whether there is a warranty on the product. If the product was covered by a warranty, the HP service desk would work to resolve the problem. If the product is not covered by a warranty, the HP service desk does not provide assistance to the employee.

In addition, the report explains that the server room contained all CISCO Systems (CISCO) equipment, with the exception of two appliances covered under another warranty. In the past, the equipment had different warranty renewal dates. Mr. Fuestel reported that he simplified the process by arranging for all the CISCO equipment warranties to be renewed on the same day. He explained that each year in anticipation of the warranty renewals, he inventories and obtains price quotes for the network equipment. Based on the information obtained in the investigation, the allegation that government funds were improperly spent on equipment repairs was not substantiated.

#### *Agency's Corrective Actions*

The report sets forth the corrective actions planned in response to these investigative findings. AMS will: 1) review and revise the ITS procedures with inventory tagging of accountable property in the program directive; 2) clarify ITS property tagging procedures to quickly identify equipment; 3) review inventory manager worksheets to determine if equipment is being promptly added to lists when received and marked as surplus when appropriate; 4) research updated systems for tracking inventory and require users to implement any new system; and 5) hold the inventory manager accountable for fulfilling his responsibilities.

On December 20, 2012, OSC received a supplemental response from the AMS Administrator Shipman that provided an update on the agency's actions. Administrator Shipman stated that the ITS program directive was revised. The revised directive requires that all

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accountable property be managed according to the same set of management controls and includes a quarterly validation process to ensure the accuracy of the inventory reports. Employees also notify the inventory manager when equipment is received. Further, ITS inventory management support will be incorporated into the agency's incident management system scheduled to be implemented in FY 2013 and ITS managers will work with the inventory manager to ensure asset management duties are properly performed.

**Mr. Hastings' Comments**

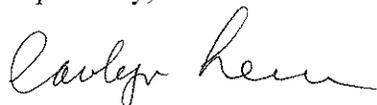
Mr. Hastings notes that he served in the U.S. Army and is a disabled veteran. He writes that the whistleblowing process is very difficult, believes that it has hurt his career and chronicles the hostility that he has experienced. Mr. Hastings emphasizes that his motive in reporting these allegations was to identify and remedy problems at the agency. He disagrees with the agency's findings and maintains that he notified management of the problems with the inventory through e-mails to his supervisor. Mr. Hastings' comments are enclosed.

**The Special Counsel's Findings**

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

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the agency report, agency supplemental response, and the whistleblower's comments to the Chairwoman and Ranking Member of the Senate Committee on Agriculture, Nutrition and Forestry and to the Chairman and Ranking Member of the House Committee on Agriculture. I have also filed a copy of the documents in OSC's public file, which is available online at [www.osc.gov](http://www.osc.gov). This matter is now closed.

Respectfully,



Carolyn N. Lerner

Enclosures