



U.S. OFFICE OF SPECIAL COUNSEL
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Washington, D.C. 20036-4505

The Special Counsel

November 6, 2012

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

Re: OSC File No. DI-12-0081

Dear Mr. President:

Pursuant to 5 U.S.C. § 1213(e)(3), enclosed please find an agency report and a supplemental agency report based on disclosures received from Stephen Ford, Department of Defense Education Activity (DoDEA), Department of Defense Dependents Schools-Europe (DoDDS-E), Mainz-Kastel, Germany. Mr. Ford, who consented to the disclosure of his name, is an Information Technology (IT) Specialist in the Information Assurance Branch of the Information Technology Division of DoDDS-E. Mr. Ford alleged that IT supplies and equipment were purchased but never used, and that software was licensed but never implemented as a result of gross mismanagement and a gross waste of funds.

The agency report substantiated Mr. Ford's allegations. Specifically, the investigation found that more than \$770,000 in IT equipment was procured, stored in a warehouse or laboratory, and never used. The investigation further concluded that software was purchased but never upgraded and, therefore, never used. Finally, IT equipment was either purchased without an implementation plan or, if purchased pursuant to an implementation plan, never used because staff was not assigned to install and configure the equipment. In a supplemental report, the agency outlined corrective actions which it has taken to ensure that this situation does not recur in the future. Based on my review of the original disclosure, the agency's reports and Mr. Ford's comments, I have determined that the reports contain all of the information required by statute and that the findings appear to be 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).

The President

November 6, 2012

Page 2

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).

Mr. Ford's allegations were referred to the Honorable Leon E. Panetta, Secretary of Defense, to conduct an investigation pursuant to 5 U.S.C. § 1213(c) and (d) on December 21, 2011. In accordance with a Secretary of Defense memorandum dated February 9, 1998, the DoD Inspector General (IG) was delegated authority to review and sign the report. The DoD IG then tasked the investigation to DoDEA. On July 3, 2012, Acting Inspector General Lynne M. Halbrooks submitted her report, based on the results of the DoDEA investigation. In a supplemental report dated August 1, 2012, Ms. Halbrooks responded to an OSC request for additional information detailing the corrective actions taken in response to the investigative findings. As required by 5 U.S.C. § 1213(e)(3), I am now transmitting the reports and Mr. Ford's comments to you.

I. The Whistleblower's Disclosure

Mr. Ford alleged that costly IT equipment has been permitted to languish in an IT warehouse or an IT lab because it was either purchased without an implementation plan or, if it was purchased with an implementation plan, remains in the warehouse and lab because manpower resources were not properly allocated for the installation and configuration of the equipment. Mr. Ford explained that many of these items have been stored in the warehouse or lab for several years and are either past or nearing their manufacturer warranty deadlines and/or useful life. Mr. Ford contends that pursuant to a properly managed procurement system, IT equipment should remain in a warehouse no more than a few weeks prior to installation. He attributes the mismanagement that has resulted in the wasteful purchase of this equipment to IT Division Chief Neal Sutton. Mr. Sutton served as the IT Division Chief for at least the past five years.

Mr. Ford also alleged that in 2007, the agency purchased a license for a product called Computer Associates Software Delivery (CA), Version 11.5, to update an earlier version of the same software. According to Mr. Ford, Mr. Sutton would not permit the implementation of the updated software even though, had it been installed, the updated software would have addressed the problems that existed with the earlier version. Despite the purchase of the license for the updated version of the software approximately five years ago, the agency continues to use the earlier version of the software.

The President

November 6, 2012

Page 3

II. The Agency's Investigation and Report

As indicated above, the DoDEA investigation substantiated Mr. Ford's allegations. According to the report, more than \$770,000 worth of IT equipment, including routers, servers, a telephone system, and smartboards, was purchased but unused. A wide range of explanations was provided by IT management to explain why the equipment languished, including a lack of planning, a lack of cooperation from Signal Battalions and Commands, difficulty gaining approval for connection, necessity for the system to interface with school emergency alarm systems, a lack of resources, union issues, and circuit upgrade issues. Noting that at the time of the investigation there were no procedures in place for regular inspection and deployment or disposal of IT equipment, the investigation recommended that warehouse management procedures be "tightened." The investigation recommended that project charters and planning documents for projects over a certain cost threshold should be submitted for approval and that determinations regarding equipment disposal should be made based on an established policy and amount of time after purchase or warranty expiration. No specific information was provided in the initial report regarding what, if any, policies or steps were specifically proposed or taken to address these issues.

Mr. Ford's allegation that a CA software update was purchased but never implemented was partially substantiated. The original CA software package was, according to the report, originally purchased in 2007 with the goal of providing a suite of products, including helpdesk management and software deployment modules. The report found that although the original CA software was implemented, DoDDS-E paid a maintenance fee on the CA contract which included all upgrades. Despite the fact that the agency had paid for and was entitled to these upgrades, the upgrades were never implemented. Rather, DoDDS-E IT management declined to upgrade the CA software and opted to transition to an entirely new software package which was already in place in both DoDDS Pacific and in Domestic Dependant Elementary and Secondary Schools. DoDDS-E experienced problems in launching the new software package, however, and was unable to complete the installation of the new software deployment module. As a result of DoDEA's investigatory findings with regard to the CA software upgrades, a recommendation was made to require that all project charters and planning documents include clear approaches to maintenance, support, and upgrade milestones and formally consider the resource requirements needed for each phase.

Finally, the report substantiated Mr. Ford's allegation that IT equipment was purchased either without an implementation plan or, if it was purchased pursuant to a plan, it remains in the warehouse or the lab because manpower resources were not properly allocated to ensure its installation and configuration. The agency report found that although charters and project planning documents exist, they are not taken into account during the budget planning phase. The report suggested that there is pressure to make end-of-year purchases without regard to proper resource allocation. The report again recommended that project charters and planning documents include clear approaches to maintenance, support and upgrade milestones and formally consider the resource requirements needed for each phase.

III. Agency's Supplemental Report

Upon review of the agency's report, OSC determined that the initial report failed to include information regarding what, if any, specific corrective action was taken to address the findings and recommendations contained in the report. Our concerns were communicated to the agency and the agency responded in a supplemental report dated August 1, 2012. According to the supplemental report, Mr. Sutton left the employment of DoDEA six weeks after the onsite portion of the investigation. The supplemental report indicated that the equipment in both the IT warehouse and lab which, during the course of the investigation, was determined to be unused has been distributed to schools for use, deployed, and/or removed via Defense Resource Management Office (DRMO) procedures, if beyond its service life.

The report outlined additional steps that have been taken to prevent a recurrence of this problem. These steps include: a realignment of DoDDS-E IT Resource Management personnel to report directly to DoDEA Headquarters; the review and approval of all DoDDS-E IT purchases, including lower threshold government purchase card acquisitions; mandating project plans and charters prior to acquisition; and weekly reports to the Chief Information Officer on the status of each and every item in the warehouse and on the disposition of other ancillary inventory. With respect to Mr. Ford's allegation regarding the CA software, the supplemental report noted that the CA software has been rendered obsolete by the agency-wide implementation of the Microsoft System Center. Finally, the supplemental report indicated that, in an effort to improve procurement governance and oversight, DoDEA has established an Advanced Acquisition Planning Board, designed to facilitate a greater degree of agency leadership review prior to purchase and implementation of products and services.

IV. Whistleblower's Comments

In accordance with 5 U.S.C. § 1213(e)(1), Mr. Ford was given the opportunity to review and comment on the agency reports. He submitted his comments on September 25, 2012. In his comments, Mr. Ford took issue with the \$770,000 value assigned to the unused IT equipment; he estimated the overall value of the unused equipment at over \$2,000,000 and estimated the value of the equipment sent to DRMO alone at approximately \$300,000.¹ With respect to the CA software, Mr. Ford provided additional insight into the lack of an implementation plan and attempts on the part of the IT staff to upgrade the software to address some of the CA software problems. In his comments, Mr. Ford holds Division Chief Sutton responsible for the failure to upgrade. Mr. Ford further expressed concern that the agency failed to find any criminal or regulatory violations in its investigation. He also expressed concern that Mr. Sutton, the responsible party, was able to leave DoDEA and obtain a higher graded position within the

¹ In his comments, Mr. Ford correctly notes that he alleged to OSC that the unused equipment in the warehouse and IT lab was worth approximately \$2,000,000. In our discussions with Mr. Ford, we were only able to establish by a substantial likelihood that at least \$770,000 worth of equipment was purchased but unused and, therefore, included that dollar value in our referral to the agency.

The President
November 6, 2012
Page 5

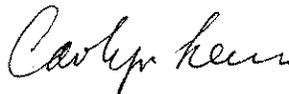
federal government. We note that Mr. Sutton left DoDEA during the course of the investigation and prior to issuance of a final investigative report.

V. Findings

I have reviewed the original disclosure, the agency reports, and Mr. Ford's comments. Based on that review, I have determined that the agency's reports contain all of the information required by statute, 5 U.S.C. § 1213(d). The agency's findings appear reasonable and it appears the agency has taken appropriate action in response to those findings. The agency investigation confirmed Mr. Ford's allegation that approximately \$770,000 worth of IT equipment was never used and, therefore, wasted. The agency has adopted new policies and procedures which I am hopeful will prevent a recurrence of this sort of mismanagement and an indeterminable amount of future wasteful spending.

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of the unredacted agency reports and Mr. Ford's comments to the Chairmen and Ranking Members of the Senate and House Committees on Armed Services. I have also filed copies of the reports, as revised by the DoD to include only employees' titles² in our public file, which is now available online at www.osc.gov. This matter is now closed.

Respectfully,



Carolyn N. Lerner

Enclosures

²The DoD provided OSC with a report containing employee names (enclosed), and a redacted report in which employees' names were removed. The DoD cited the Freedom of Information Act (FOIA) (5 U.S.C. § 552(b)(6)) as the basis for its redactions to the report produced in response to 5 U.S.C. § 1213, and requested that OSC post the redacted version of the report in our public file. OSC objects to the DoD's use of FOIA to remove these names because under FOIA, such withholding of information is discretionary, not mandatory, and therefore does not fit within the exceptions to disclosure under 5 U.S.C. § 1219(b).