



An Investigation of Alleged Misconduct by Community Relations Service

(b)(6); (b)(7)(C)

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January 2023

Revised February 2023



I. Introduction

This report describes the Office of the Inspector General's (OIG) investigation of allegations that [REDACTED] of the Department of Justice's (Department or DOJ) Community Relations Service (CRS) may have violated federal ethics rules. On [REDACTED] reported to the OIG that she had received information that [REDACTED] had asked two CRS contractors to perform personal assignments for her during work hours. According to the complaint, [REDACTED] asked Contractor 1 to generate address labels for a personal event, but Contractor 1 refused. The complaint further stated that, at [REDACTED] request, Contractor 2 had wrapped Christmas presents for [REDACTED] and had generated "more than" 50 address labels for a personal event. In response to [REDACTED] complaint, the OIG opened an investigation. In the course of the investigation, the OIG learned of other similar allegations involving actions by [REDACTED] which we included in the scope of the investigation and which are described herein.

We interviewed [REDACTED] and other CRS personnel and contractors with relevant information as part of this investigation, as well as [REDACTED]. We also reviewed relevant emails and documents. Section II provides background on CRS, as well as the ethics regulations applicable to the allegations against [REDACTED]. Section III summarizes our factual findings and Section IV includes our analysis and conclusions.

Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether Department personnel have committed misconduct. The Merit Systems Protection Board applies this same standard when reviewing a federal agency's decision to take adverse action against an employee based on such misconduct. See 5 U.S.C. § 7701(c)(1)(B); 5 C.F.R. § 1201.56(b)(1)(ii). We have provided a copy of our report to the Office of the Deputy Attorney General (ODAG) and CRS. We have also provided a copy of our report to the Professional Misconduct Review Unit.

II. Background

A. CRS

According to DOJ's website, the Civil Rights Act of 1964 created CRS "to assist communities facing disputes, disagreements, or difficulties relating to allegations of discriminatory practices based on race, color, or national origin." CRS's mandate was expanded in 2009 under the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act to include "working with communities to prevent and respond to alleged hate crimes based on actual or perceived race, color, national origin, gender, gender identity, sexual orientation, religion, or disability." CRS provides facilitation, mediation, training, and

consultation services that, according to the Department’s website, “improve communities’ abilities to problem solve and build capacity to prevent and respond to conflict, tension, and hate crimes based on race, color, national origin, gender, gender identity, sexual orientation, religion, and disability.” As part of its work with religious organizations, CRS provides “training to law enforcement, government officials, and others on religious customs, cultures, and practices of the Muslim and Sikh communities to strengthen relationships between law enforcement and the communities they serve.” CRS staff members are also called “conciliators,” to reflect the role they play in the communities in which they operate.

CRS is subdivided into 10 geographical regions across the country and each of these regions has a regional office. The regional offices are primarily responsible for conducting the training sessions, mediations, and other activities of CRS. Each region is led by a Regional Director. CRS Headquarters is located in Washington, D.C. Many of the employees working at CRS Headquarters are contractors and interns.

(b)(6); (b)(7)(C)

B.

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)



(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

did not directly supervise any CRS staff until

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

told the OIG that during the period when

(b)(6); (b)(7)(C)

was leading CRS,

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

managed CRS

(b)(6); (b)(7)(C)

C. Standards of Ethical Conduct for Employees of the Executive Branch

The Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct), promulgated by OGE and found at 5 C.F.R. Part 2635, set forth 14 general principles of ethical conduct in Subpart A and specific standards in Subparts B through I that apply to executive branch employees. Subparts B through I address the standards governing conduct such as gifts between employees, conflicts of interest, and misuse of position. See 5 C.F.R. §§ 2635.201-902.

Subpart G of the Standards of Conduct is labeled “Misuse of Position” and contains two regulations applicable here. First, 5 C.F.R. § 2635.702 addresses use of public office for private gain. Section 702 begins with a general statement of the rule against using one’s public office for private gain and then identifies specific prohibitions in paragraphs (a) thorough (d), although the regulation also states that the specific prohibitions are not intended to be exclusive or to limit the application of this section. Relevant here is Section 702(a), which states that “an employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.” Induce is a broad term that means “to move by persuasion or influence.”⁴

The second Subpart G regulation that is applicable here concerns the use of government property. Section 704(a) states that “an employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.” The definition of “Government property” includes “*the services of contractor personnel*,” “telephone and other telecommunications equipment and services,” “automated data processing capabilities,” and “printing and reproduction facilities.”⁵ (Emphasis added) Section 704(a) must be read in conjunction with 28 C.F.R. § 45.4(a), which authorizes the limited personal use of certain government property—

⁴ See www.m-w.com/dictionary/induce?utm_campaign=sd&utm_medium=serp&utm_source=jsonld.

⁵ 5 C.F.R. § 2635.704(b)(1).



“Government office and library equipment and facilities”—by Department of Justice employees; specifically, permitting “[p]ersonal uses that involve only negligible expense (such as electricity, ink, small amounts of paper, and ordinary wear and tear)” and limited personal “telephone/fax calls to locations within the office's commuting area, or that are charged to non-Government accounts.”⁶ However, this regulation does not include “the services of contractor personnel” within the scope of the permitted negligible, personal use of government property.

III. Factual Findings

A. (b)(6); (b)(7)(C) Asks CRS Contractor 1 to Prepare Address Labels for a Personal Matter for (b)(6); (b)(7)(C)

A CRS Contract employee, Contractor 1, who did not work directly for (b)(6); (b)(7)(C) told the OIG that in (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) approached her in the CRS office and asked her to create address labels for (b)(6); (b)(7)(C). Contractor 1 stated that she found (b)(6); (b)(7)(C) request “odd” because she normally received her assignments from (b)(6); (b)(7)(C) not (b)(6); (b)(7)(C). According to Contractor 1, in response to questions from Contractor 1 about the assignment, (b)(6); (b)(7)(C) said that the labels were for a personal matter and that she would pay Contractor 1 for creating the labels. According to Contractor 1, (b)(6); (b)(7)(C) told her that the contracting company's (b)(6); (b)(7)(C) said that Contractor 1 could do this assignment for (b)(6); (b)(7)(C). Contractor 1 said that she offered to show (b)(6); (b)(7)(C) how to complete the labels assignment for herself, but (b)(6); (b)(7)(C) stated, “I need it done.” (b)(6); (b)(7)(C) ended the conversation without getting Contractor 1 to do the labels assignment for her.

After this exchange with (b)(6); (b)(7)(C) according to Contractor 1, she contacted the contracting company's (b)(6); (b)(7)(C) to discuss (b)(6); (b)(7)(C) request. Contractor 1 told the OIG that she explained to the (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) request was a personal assignment for (b)(6); (b)(7)(C) and not for DOJ, and the project manager said that he was not aware that the labels were for a personal matter and had assumed, based on what (b)(6); (b)(7)(C) said, that the labels work request was for CRS.

During the OIG's interview of the contracting company's project manager, he confirmed that (b)(6); (b)(7)(C) had approached him and asked him “if there [was] someone that can help (b)(6); (b)(7)(C) with something.” The (b)(6); (b)(7)(C) said that he did not recall if (b)(6); (b)(7)(C) mentioned Contractor 1. According to the (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) “briefly mentioned that it was printing or creating labels and then printing some addresses.” The (b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) did not mention that the labels project was for her personal, not CRS, use.

⁶ See 5 C.F.R. § 3801.105 (stating that 28 C.F.R. § 45.4 is a “Department rule authorizing limited personal use of Department of Justice office and library equipment and facilities by its employees”).



When we asked (b)(6); (b)(7)(C) whether she asked Contractor 1 to work on the labels, (b)(6); (b)(7)(C) said, "Absolutely not."⁷ (b)(6); (b)(7)(C) also denied speaking to the (b)(6); (b)(7)(C) about having Contractor 1 work on labels for her.

B. (b)(6); (b)(7)(C) Asks CRS Contractor 2 to Generate Address Labels for a Personal Matter, and Contractor 2 Complies with the Request

Another CRS Contract employee, Contractor 2, who did not work directly for (b)(6); (b)(7)(C) told the OIG that in (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) approached Contractor 2 to prepare some address labels for her. Contractor 2 told the OIG that (b)(6); (b)(7)(C) gave her an address book with asterisks next to the names and addresses for which (b)(6); (b)(7)(C) said she needed to have labels created. Contractor 2 said that she typed the names and addresses in a Word document and sent it by email to (b)(6); (b)(7)(C). Emails we reviewed showed that at 10:30 a.m. on (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) emailed Contractor 2 a Word document containing 14 names and addresses and wrote in the email, "Thank you [Contractor 2] for your help." Later that day at 3:20 p.m., Contractor 2 emailed the Word document back to (b)(6); (b)(7)(C) and the document contained a total of 59 names and addresses.

Contractor 2 said that (b)(6); (b)(7)(C) also gave her a case of envelopes and return address labels that had (b)(6); (b)(7)(C) daughter's name on them, not (b)(6); (b)(7)(C). Contractor 2 said that once (b)(6); (b)(7)(C) approved the Word document with the names and addresses, Contractor 2 printed the names and addresses on labels and affixed those labels as well as the return address labels on the envelopes. According to Contractor 2, (b)(6); (b)(7)(C) offered to provide a gift to Contractor 2, but Contractor 2 declined the gift. Contractor 2 estimated that the assignment took her approximately 3 hours to complete. When asked why she performed this assignment for (b)(6); (b)(7)(C) Contractor 2 stated, "[B]ecause she is one of the management people [at CRS], I didn't question it." In an email that (b)(6); (b)(7)(C) sent to another CRS contractor on (b)(6); (b)(7)(C) the day of the labels project, (b)(6); (b)(7)(C) acknowledged that she sometimes served as (b)(6); (b)(7)(C). Contractor 2 also told us that she performed other labels assignments for (b)(6); (b)(7)(C) on a few occasions; however, she did not have documentation of these other assignments and did not recall

⁷ In comments submitted after reviewing a draft of this report, (b)(6); (b)(7)(C) wrote that her recollection was that the OIG investigator asked her whether Contractor 1 "had helped [her] on any non-work matter," and she responded, "Absolutely not." We note that during her OIG interview, which was audiotaped, investigators asked (b)(6); (b)(7)(C) five successive questions about whether she had sought Contractor 1's assistance—investigators asked her whether she had asked anyone to assist her before she asked Contractor 2 to help her with the labels, specifically whether she asked Contractor 1 to assist her, whether she asked Contractor 1 to assist her with anything that was personal, whether she spoke to the (b)(6); (b)(7)(C) about having Contractor 1 assist her with the labels, and a follow-up question confirming that she did not recall any conversation with the (b)(6); (b)(7)(C) about having Contractor 1 work on labels for her. (b)(6); (b)(7)(C) answers varied among "No," "Not to my recollection," and "Absolutely not."

(b)(6); (b)(7)(C) also stated in her comments to the draft report: "While I was initially sure that she did not help me, I was unsure if during our meetings and conversations I had sought out her help."



specific details other than that she believed the labels assignments were also for

(b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

Contractor 1 and Contractor 2 told us that they had a conversation outside the work place a few weeks after Contractor 2 had performed the label work for (b)(6); (b)(7)(C) and during this conversation they both became aware that each of them had been asked by (b)(6); (b)(7)(C) to perform the label assignment.⁸

(b)(6); (b)(7)(C) told the OIG that she was planning to have lunch with Contractor 2 and that (b)(6); (b)(7)(C) was “freaking out” because (b)(6); (b)(7)(C) “couldn’t figure out how to print something out” and was about to go on a trip out of the country. (b)(6); (b)(7)(C) stated that she “had to print out a couple labels” and also stated, “it was simply a couple labels” that were “for (b)(6); (b)(7)(C).” According to (b)(6); (b)(7)(C) in response to (b)(6); (b)(7)(C) expressing that she was “frantic, trying to get things done,” Contractor 2 “offered to help” and told (b)(6); (b)(7)(C) that she “didn’t have anything to do.” (b)(6); (b)(7)(C) said that she accepted the offer but told Contractor 2 that Contractor 2 was not required to complete the work. (b)(6); (b)(7)(C) also said that she emphasized to Contractor 2 that the work should be done on Contractor 2’s lunch break.

OIG investigators followed up and asked, “So, as far as what [Contractor 2] did though, she just—you were saying she just printed some labels out?” (b)(6); (b)(7)(C) responded, “[Contractor 2] assisted me, yeah. I couldn’t straight—I couldn’t get it straight.” When asked whether Contractor 2, in addition to printing out the labels, affixed them to envelopes, (b)(6); (b)(7)(C) stated, “No. No, no. It was just print out a couple sheets of labels. It was just print them out. There were some names that had to be adjusted and print them out.” When asked whether she provided Contractor 2 an address book or a Word document to use on the project, (b)(6); (b)(7)(C) contradicted her previous statement that the project consisted of only printing and told us that she either wrote down the names and addresses for Contractor 2 or simply handed Contractor 2 a piece of paper with the names and addresses that (b)(6); (b)(7)(C) “hadn’t...gotten to” and that she (b)(6); (b)(7)(C) “had done most of the names.” (b)(6); (b)(7)(C) stated that she (b)(6); (b)(7)(C) affixed the labels onto the envelopes herself, as well as the return address labels, and (b)(6); (b)(7)(C) denied that (b)(6); (b)(7)(C) name appeared on the return address labels. (b)(6); (b)(7)(C) also denied offering to pay Contractor 2 for helping her.

According to (b)(6); (b)(7)(C) the work that she needed help with would only have taken “a few minutes” because there were not many labels. (b)(6); (b)(7)(C) stated that any use of government property for this project was “de minimis government use.” (b)(6); (b)(7)(C) also stated that because she was “the Ethics person” she “would never use subordinates” and that she would “never do anything unless it’s lunch time or break time.” According to (b)(6); (b)(7)(C) she and Contractor 2 had lunch together in a conference room that day, but she

⁸ Contractor 1 also told us that Contractor 2 told her that she had wrapped gifts for (b)(6); (b)(7)(C) during the workday in (b)(6); (b)(7)(C). We discuss the gift wrapping below.



could not recall whether Contractor 2 printed the labels during lunch. (b)(6); (b)(7)(C) reiterated that Contractor 2 offered to help. When asked why Contractor 2 would have been in a position to assist (b)(6); (b)(7)(C) given that Contractor 2 did not work for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) stated that Contractor 2 would come to her office to talk and that (b)(6); (b)(7)(C) would stop by Contractor 2's cubicle to talk, that they had lunch together on occasion, and that, after the events in question, (b)(6); (b)(7)(C) had helped throw a baby shower for Contractor 2. (b)(6); (b)(7)(C) however, also told us that she did not know Contractor 2's last name.⁹

We asked (b)(6); (b)(7)(C) if she had ever asked other CRS personnel to do personal work for her during the official workday. (b)(6); (b)(7)(C) stated that she had not asked other staff to do personal work for her while they were on official duty during the workday, but that on occasion employees had volunteered to help her with her personal work. (b)(6); (b)(7)(C) stated, "So, no, I've never asked, but has anyone ever helped me? Yes."

C. (b)(6); (b)(7)(C) Asks Contractor 2 to Wrap Christmas Presents, and Contractor 2 Complies with the Request

Contractor 2 told the OIG that, around the same time that (b)(6); (b)(7)(C) approached her about the address labels in December 2019, (b)(6); (b)(7)(C) also asked her to wrap children's Christmas gifts for something involving (b)(6); (b)(7)(C) church. According to Contractor 2, she wrapped three gifts, and it took her less than 30 minutes. According to Contractor 2, while Contractor 2 was wrapping the gifts, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) asked what Contractor 2 was doing and after learning that Contractor 2 was wrapping gifts for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) said, "don't wrap these gifts," collected the gifts, and returned them to (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) told us that she was on her break one day and heard voices, which caused her to see what was going on. She said she saw Contractor 2 and (b)(6); (b)(7)(C) putting some items in a bag that she learned from (b)(6); (b)(7)(C) were gifts for underprivileged or homeless people. (b)(6); (b)(7)(C) said that she also observed other unwrapped items at Contractor 2's desk. According to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) she said to Contractor 2, "Let me take these off your hands;" took the items and

⁹ In comments provided to the OIG after reviewing a draft of this report, (b)(6); (b)(7)(C) stated that Contractor 2 was not "coerced or induced" by (b)(6); (b)(7)(C) to do the labels assignment for her. Instead, according to (b)(6); (b)(7)(C) "this person and myself have a personal relationship and she did not mind assisting me with this one-time nominal task associated with typing labels that should not have taken more than 30/45 minutes of time during non-duty hours." We do not find persuasive (b)(6); (b)(7)(C) argument that Contractor 2 was not coerced or induced to do the labels assignment for (b)(6); (b)(7)(C) because she and Contractor 2 have a personal relationship. (b)(6); (b)(7)(C) was temporarily in charge of CRS when she gave Contractor 2 the labels assignment. Moreover, Contractor 2 stated that she did not know why (b)(6); (b)(7)(C) asked her to do the labels assignment and stated that she did the assignment because (b)(6); (b)(7)(C) was one of the "management people" at CRS and that is why she "didn't question it." We note that (b)(6); (b)(7)(C) estimate of how long it took Contractor 2 to do the labels assignment changed from "a few minutes" during her OIG interview to "30/45 minutes" in her comments to the draft report.



put them in pre-made gift boxes; and gave them to (b)(6); (b)(7)(C). When asked why she took this action, (b)(6); (b)(7)(C) said that, because she believed that Contractor 2 was on a break, she was concerned that Contractor 2 would have her break taken up assisting (b)(6); (b)(7)(C) and a break is "your time."

In our first interview with (b)(6); (b)(7)(C) when asked whether Contractor 2 had wrapped gifts for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) stated, "Absolutely not." She said she did recall that CRS employees exchanged gifts with each other in (b)(6); (b)(7)(C) and that she recalled having had gifts in a bag for the gift exchange. In a second interview with OIG, (b)(6); (b)(7)(C) said that she and (b)(6); (b)(7)(C) had clothes that they were planning to donate to a church, and "we just put clothes in a bag.... It wasn't anything more than two seconds of putting clothes in a bag." When asked whether the donations were personal or on behalf of CRS, (b)(6); (b)(7)(C) stated that she was "probably" getting donations from (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and that she might have gotten donations from other people and had them in the office. When investigators followed up and asked again whether it was a CRS or personal activity, (b)(6); (b)(7)(C) stated,

Well, see, well, I mean, we're in the Community Relations Service, we always do stuff in the community. So, it was probably other attorneys doing it with us, like, the other Department of Justice, or it could have been, we did it together.... But CRS didn't give me money for it.

Investigators asked a third time whether it was an official work task or whether it was personal, and she responded that it was "something we were doing for the church" and that CRS was not involved. Investigators asked (b)(6); (b)(7)(C) at least eight times whether the assistance Contractor 2 provided with the gifts involved a personal matter or were for something work related before (b)(6); (b)(7)(C) clearly acknowledged that the gifts were for a personal matter. (b)(6); (b)(7)(C) said that she needed a bag or could not "find [her] wrapping paper;" that (b)(6); (b)(7)(C) gave her a holiday gift bag to use; and that Contractor 2 "might have put some clothes in the bag." (b)(6); (b)(7)(C) stated, "It wasn't, like, wrapping them up and [using] tape."¹⁰

D. Other Instances of CRS Contractors and Interns Performing Personal Work for (b)(6); (b)(7)(C)

During the course of the OIG's investigation, we became aware of other instances in which (b)(6); (b)(7)(C) requested CRS personnel to perform personal tasks for her. Many of

¹⁰ In her comments to the draft report, (b)(6); (b)(7)(C) stated that Contractor 2 had confused wrapping a gift for the office's holiday party with putting some items in a gift bag for (b)(6); (b)(7)(C) church event. We found that Contractor 2 testified credibly and specifically that (b)(6); (b)(7)(C) asked her to wrap three gifts for a holiday event involving (b)(6); (b)(7)(C) church and that it took her approximately 30 minutes. We do not believe that Contractor 2 was confused about wrapping gifts at the request of (b)(6); (b)(7)(C) for her church event.



these instances involved contractors or unpaid interns who had left CRS before we began our investigation. We describe the available evidence concerning these instances below.

1. Evidence Regarding Contractor 3 Creating a Brochure for (b)(6); (b)(7)(C)

Another CRS contract employee, Contractor 3, told the OIG that (b)(6); (b)(7)(C) asked her on several occasions to do personal assignments for (b)(6); (b)(7)(C) but Contractor 3 almost always declined due to her heavy workload and because she "need[ed] to be able to make sure we are doing the mission [of CRS]." Contractor 3 described how (b)(6); (b)(7)(C) appeared displeased to learn that Contractor 3 was too busy to help her. However, Contractor 3 told the OIG that on one occasion, she did assist (b)(6); (b)(7)(C) with something personal. According to Contractor 3, (b)(6); (b)(7)(C) asked her to put together a brochure for something related to the (b)(6); (b)(7)(C) for (b)(6); (b)(7)(C). According to Contractor 3, (b)(6); (b)(7)(C) emailed her the images and wording that (b)(6); (b)(7)(C) wanted her to use, and Contractor 3 put together a brochure using what (b)(6); (b)(7)(C) had given her.¹¹

We asked (b)(6); (b)(7)(C) whether Contractor 3 ever did any personal work for her, and she said that she did not recall. When we asked whether Contractor 3 ever worked on a flyer for her, (b)(6); (b)(7)(C) said that she (b)(6); (b)(7)(C) "might" have asked Contractor 3 one evening if Contractor 3 knew how to do something because Contractor 3 was "really good" with information technology but that they "weren't able to connect."

In a follow-up interview when we asked (b)(6); (b)(7)(C) whether Contractor 3 had worked on something (b)(6); (b)(7)(C) related for her, (b)(6); (b)(7)(C) said that Contractor 3 had "helped [her] out many, many years ago, about five years ago, when (b)(6); (b)(7)(C) first came [to CRS], because she knows I don't know technology."

(b)(6); (b)(7)(C) also said that Contractor 3 "was going to help [her] with something with (b)(6); (b)(7)(C) ..later in the evening, off work, (b)(6); (b)(7)(C) but that ultimately Contractor 3 did not perform the work for (b)(6); (b)(7)(C) because Contractor 3 said that she was too busy."¹² (b)(6); (b)(7)(C) stated, "But if the question is in the five past years that we worked together, have a relationship, [Contractor 3] has probably helped me with something, yeah." (b)(6); (b)(7)(C) further clarified that "99%" of the work that Contractor 3 did for her was related to her official duties and was not personal in nature.¹³

¹¹ According to Contractor 3, (b)(6); (b)(7)(C) Contractor 3 did not provide an approximate date for when she created the brochure for (b)(6); (b)(7)(C)

¹² (b)(6); (b)(7)(C) As discussed further below, (b)(6); (b)(7)(C) was involved in (b)(6); (b)(7)(C) and sought a (b)(6); (b)(7)(C) position within the organization (b)(6); (b)(7)(C)

¹³ In her response to the draft report, (b)(6); (b)(7)(C) stated that Contractor 3 was not induced or coerced to perform a personal assignment for her because she and Contractor 3 have a personal relationship. She

(Cont'd.)



We obtained two emails that (b)(6); (b)(7)(C) received in her government email account that were sent from (b)(6); (b)(7)(C) personal email account containing two attachments that appeared to be flyers or brochures promoting (b)(6); (b)(7)(C) candidacy for a (b)(6); (b)(7)(C) position within (b)(6); (b)(7)(C). In the follow-up interview when we asked (b)(6); (b)(7)(C) about these emails, (b)(6); (b)(7)(C) told the OIG that she was having trouble “moving stuff around” on the documents, and Contractor 3 “said send it to her, she’ll show (b)(6); (b)(7)(C) how to do it,” but that “as it turned out, she wasn’t able to help” (b)(6); (b)(7)(C) with it.¹⁴

2. Evidence Regarding CRS Contractors Assisting (b)(6); (b)(7)(C) with Documents Concerning (b)(6); (b)(7)(C) Seeking to Become a (b)(6); (b)(7)(C)

We obtained many emails between (b)(6); (b)(7)(C) and three other CRS contractors (Contractors 4, 5, and 6) revealing that the CRS contractors assisted (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C) with activities in connection with her seeking a (b)(6); (b)(7)(C) position in (b)(6); (b)(7)(C) including making flyers promoting her candidacy. Contractors 4, 5, and 6 were no longer employed at CRS at the time of our investigation. We did not interview Contractors 4, 5, and 6. Below we describe the emails we reviewed with (b)(6); (b)(7)(C) and her explanation concerning the emails.

On (b)(6); (b)(7)(C) at 10:06 am, (b)(6); (b)(7)(C) sent an email to Contractor 4 with a subject line stating “FW: Mailing List.” The email contained an attachment titled (b)(6); (b)(7)(C) Roster” that had a list of names, addresses, and contact information related to (b)(6); (b)(7)(C) members, including (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C). In the body of the email (b)(6); (b)(7)(C) wrote to Contractor 4, “I will bring you the labels. Thank ou. [sic]” We asked (b)(6); (b)(7)(C) whether she had asked Contractor 4 to create labels for her. (b)(6); (b)(7)(C) denied that this was the case and stated that Contractor 4 “never did anything [for (b)(6); (b)(7)(C) with respect to this email], but [the OIG] can confirm it with [Contractor 4].” (b)(6); (b)(7)(C) told the OIG that she was not sure why she sent the email to Contractor 4.

Less than 30 minutes after sending the “Mailing List” email to Contractor 4, (b)(6); (b)(7)(C) sent Contractor 4 another email containing an attachment that was an image of the (b)(6); (b)(7)(C) logo. The email did not contain any text. (b)(6); (b)(7)(C) told the OIG that the attachment was for a flyer that she was working on for her (b)(6); (b)(7)(C) candidacy.

(b)(6); (b)(7)(C) described Contractor 3 (b)(6); (b)(7)(C) to whom she was a mentor. (b)(6); (b)(7)(C) wrongly presumed the identity of Contractor 3. During (b)(6); (b)(7)(C) interviews, OIG investigators referred to Contractor 3, as well as other contractors and CRS employees, by name. During these interviews, it was clear that (b)(6); (b)(7)(C) understood the identity of Contractor 3.

¹⁴ Consistent with (b)(6); (b)(7)(C) explanation, we found emails from (b)(6); (b)(7)(C) to Contractor 3 seeking assistance in revising flyers and brochures for (b)(6); (b)(7)(C) efforts to obtain a (b)(6); (b)(7)(C) position within (b)(6); (b)(7)(C) and we did not find emails from Contractor 3 to (b)(6); (b)(7)(C) on this project. As discussed further below, other emails we obtained showed that (b)(6); (b)(7)(C) enlisted the assistance of other CRS contractors with documents related to her efforts for a position in (b)(6); (b)(7)(C).



(b)(6); (b)(7)(C) stated that she had not asked Contractor 4 to do anything for her in connection with (b)(6); (b)(7)(C) and that she must have just been sharing the logo with her. (b)(6); (b)(7)(C) repeatedly emphasized that Contractor 4 "never did anything,...never did anything or helped us with it."

In the afternoon of that same day, (b)(6); (b)(7)(C) sent two more emails to Contractor 4 related to (b)(6); (b)(7)(C). Again, neither email contained any text. The first email contained an attachment that was a flyer that included the logo that was attached to the email sent earlier in the morning and the second email contained photos of (b)(6); (b)(7)(C). A little later in the afternoon, Contractor 4 sent two emails to (b)(6); (b)(7)(C) containing three attachments that were revised versions of the flyer that (b)(6); (b)(7)(C) had sent to the employee earlier in the day. The attachments in the email were titled, (b)(6); (b)(7)(C) flyer 2," (b)(6); (b)(7)(C) FLYER," and (b)(6); (b)(7)(C) flyer." Contractor 4 sent another email to (b)(6); (b)(7)(C) 2 days later on the morning of (b)(6); (b)(7)(C) with an attachment very similar to the ones she sent on (b)(6); (b)(7)(C). After reviewing these emails, (b)(6); (b)(7)(C) told OIG that it was possible that Contractor 4 "might have moved something around" for her in the attachments, but that she did not recall.

(b)(6); (b)(7)(C) sent herself an email on (b)(6); (b)(7)(C) at 7:45 am from her personal email account to her DOJ email account containing two attachments with photos of (b)(6); (b)(7)(C) and her family as well as text promoting her candidacy for (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C). Later that day, Contractor 5 sent an email to (b)(6); (b)(7)(C) with an attachment called "Flyer for (b)(6); (b)(7)(C)." In the email to (b)(6); (b)(7)(C) Contractor 5 wrote, "Please see attached. This flyer is editable if you want to make any additional changes. Let me know if you need anything else. Thanks."

During her OIG interview, (b)(6); (b)(7)(C) explained that she was trying to edit the flyer on her government computer to produce a document promoting her (b)(6); (b)(7)(C) candidacy, but she was having difficulty. According to (b)(6); (b)(7)(C) Contractor 5 was in (b)(6); (b)(7)(C) office working on a CRS flyer, and she told him that she was "putting together something, something that [she wanted] to do and [she couldn't] move the pictures around." According to (b)(6); (b)(7)(C) Contractor 5 offered to assist (b)(6); (b)(7)(C) with her the flyer and said it would "take [him] three seconds."

A few hours after receiving the email from Contractor 5 with the (b)(6); (b)(7)(C) flyer, (b)(6); (b)(7)(C) received an email from Contractor 6 with an attachment titled, "presentation (b)(6); (b)(7)(C)." The attachment contained some of the same material that (b)(6); (b)(7)(C) had forwarded to Contractor 4 but was arranged differently and edited. We asked (b)(6); (b)(7)(C) about this email, and she explained that Contractor 6 had also assisted her by working on her (b)(6); (b)(7)(C) flyer. (b)(6); (b)(7)(C) stated, Contractor 6 "might have tried to help me a little bit, too, for a couple of minutes...."



3. Evidence Regarding CRS Intern 1 Creating a Poster for (b)(6); (b)(7)(C)

Based upon emails we reviewed and other evidence, we determined that CRS Intern 1 created a poster for (b)(6); (b)(7)(C) that was for an event involving (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) stated that, before CRS Intern 1 came to work at CRS, she knew of her and knew that CRS Intern 1 was involved in (b)(6); (b)(7)(C) but she had never met her. (b)(6); (b)(7)(C) said that she became a mentor to CRS Intern 1 and other employees at CRS. (b)(6); (b)(7)(C) told the OIG that she also assisted CRS Intern 1 with her resume.

In our first interview with (b)(6); (b)(7)(C) she told the OIG that she mentioned to CRS Intern 1 that she was contemplating hiring someone to generate a poster for an event involving (b)(6); (b)(7)(C) and that CRS Intern 1 volunteered to do it. (b)(6); (b)(7)(C) told us that she was not sure whether the conversation with CRS Intern 1 about the poster occurred at work or outside of work. (b)(6); (b)(7)(C) told us that she told CRS Intern 1 to do the personal assignment outside of the workplace. (b)(6); (b)(7)(C) recalled that CRS Intern 1 completed the poster and emailed it to her "at home" and that she (b)(6); (b)(7)(C) printed it at Kinko's. (b)(6); (b)(7)(C) said that in return for CRS Intern 1 completing the poster, she sent CRS Intern 1 a thank you note and gift card.

We obtained email exchanges between (b)(6); (b)(7)(C) and CRS Intern 1 that were sent and received during the workday using their DOJ email accounts concerning the personal poster project. In one such email, CRS Intern 1 reported to (b)(6); (b)(7)(C) on the status of the project and asked (b)(6); (b)(7)(C) for further guidance.

In a follow-up interview with (b)(6); (b)(7)(C) we reviewed these emails with her and asked (b)(6); (b)(7)(C) if this project was solely performed outside of the work place. (b)(6); (b)(7)(C) told us that CRS Intern 1 "did it mainly at home," and she estimated that "99 percent was outside of work." (b)(6); (b)(7)(C) explained that there were a few emails concerning the project using the DOJ email system, but these emails were then forwarded to (b)(6); (b)(7)(C) personal email address and that nothing further regarding the project involved work time or resources.

4. Evidence Regarding CRS Intern 2 Editing (b)(6); (b)(7)(C) Documents for (b)(6); (b)(7)(C)

We also found two emails sent by CRS Intern 2 during the workday to (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C) containing attachments related to (b)(6); (b)(7)(C) personal (b)(6); (b)(7)(C) activities. The first email, dated (b)(6); (b)(7)(C) was in response to an email that (b)(6); (b)(7)(C) had sent to CRS Intern 2 a short time earlier that was titled "Thank you." This first CRS Intern 2 email contained an attachment titled (b)(6); (b)(7)(C) The attachment was a (b)(6); (b)(7)(C) document concerning volunteer service for the



organization. In this first email CRS Intern 2 wrote, "Here is what I could finish. Thank you." Or (b)(6); (b)(7)(C) CRS Intern 2 sent another email containing an attachment with an updated version of the (b)(6); (b)(7)(C) volunteer service document. CRS Intern 2 wrote in the text of the email to (b)(6); (b)(7)(C) "I am attaching the (b)(6); (b)(7)(C) community service sheet to this email. Please let me know if I need to make some changes."

We asked (b)(6); (b)(7)(C) about these emails, and she stated that she was a mentor to CRS Intern 2 and that the intern "might have looked at this for me and sent it back to me."

E. (b)(6); (b)(7)(C) Explanation for Personal Work Performed by CRS Contractors and Interns on her Behalf

(b)(6); (b)(7)(C) explained her actions with respect to engaging contractors and interns to perform personal work for her by stating:

It was innocent, it was de minimis, it was not a big deal. These are relationships with employees that I continue to have, who might have helped me with some technology here and there, but not, like, eight hours of government time, or two hours, or even one hour. I wouldn't do that.... I've explained to you what's going on, and I think that is it. I mean, if I innocently have asked them or they offered and they helped me a couple—you know, helped me do something here and there with technology, I mean, I don't know that anything is wrong with that.

(b)(6); (b)(7)(C) also told OIG that the employees involved with assisting her on personal matters were colleagues and friends and that she did not supervise them.¹⁵ When asked whether, given her senior position within CRS, there was implicit pressure on lower-level employees to assist her, she stated, "No.... Because these are personal relationships. So, I think you have to factor in the differences, personal relationships.... [B]ecause...I'm not anybody's boss. So, I don't supervise people at all."

(b)(6); (b)(7)(C) told us that she believed that the OIG's investigation into this matter was a "witch hunt" and that her conduct "was not a big deal." (b)(6); (b)(7)(C) also stated that she believed that the referral of these allegations to OIG was racist and discriminatory. According to (b)(6); (b)(7)(C) misconduct allegations have come up at CRS before involving white employees, and (b)(6); (b)(7)(C) decided to keep the matter in house, but when allegations about (b)(6); (b)(7)(C) surfaced, (b)(6); (b)(7)(C) referred the allegations to OIG. We asked (b)(6); (b)(7)(C) what the CRS policy was for referrals of misconduct or ethics issues to OIG, and she said there was no written policy, but there were normal practices followed and

¹⁵ (b)(6); (b)(7)(C)



sometimes similar matters were handled internally within CRS. (b)(6); (b)(7)(C) also voiced concerns that she should have been given an opportunity to address these issues prior to any referral to OIG and that (b)(6); (b)(7)(C) was out to “smear” her reputation.¹⁶

(b)(6); (b)(7)(C) denied that her referral of these allegations to the OIG was racist or discriminatory, or that she was motivated by personal animus towards (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) told the OIG that because (b)(6); (b)(7)(C) is the management official in CRS who would typically handle any internal investigation for CRS and the allegations were against (b)(6); (b)(7)(C), (b)(6); (b)(7)(C) believed that someone outside of CRS would have to investigate the allegations. For this reason, according to (b)(6); (b)(7)(C), when she learned about these allegations against (b)(6); (b)(7)(C) she consulted with (b)(6); (b)(7)(C) for advice and that it was (b)(6); (b)(7)(C) who decided that the allegations should be shared with the OIG. (b)(6); (b)(7)(C) confirmed to the OIG that (b)(6); (b)(7)(C) reported the allegations to him, and that he in turn decided that they should be reported to the OIG. (b)(6); (b)(7)(C) further told us, “I don’t know if [the allegations] are true or not, but these allegations—since they are involving ethics lapses and other things (b)(6); (b)(7)(C) it is so concerning.” She also stated, “I know I have a duty to report these concerns to OIG. I am extremely concerned that this behavior, if true, compromises (b)(6); (b)(7)(C) ability to function (b)(6); (b)(7)(C).”

(b)(6); (b)(7)(C) 17

IV. Analysis and Conclusions

We found that (b)(6); (b)(7)(C) misused her public office for private gain in violation of 5 C.F.R. § 2635.702(a), and because “the services of contractor personnel” are considered “government property,” we found that (b)(6); (b)(7)(C) misused government property in violation of 5 C.F.R. § 2635.704. We also found that (b)(6); (b)(7)(C) lacked candor during two of her interviews with the OIG when she repeatedly failed to fully and completely answer questions from OIG investigators and attempted to minimize and explain away her actions.

A. Misuse of Public Office for Private Gain—Section 702(a)

We found that (b)(6); (b)(7)(C) misused her public office for private gain in violation of 5 C.F.R. § 2635.702(a) on several occasions when (b)(6); (b)(7)(C) requested CRS contractors to perform personal tasks and the CRS contractors complied with her requests. Section 702(a) states that an employee shall not use “his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to

¹⁶ In response to the draft report, (b)(6); (b)(7)(C) reiterated that she felt that the referral of the allegations about her to the OIG was “discriminatory discipline.” (b)(6); (b)(7)(C) wrote, “I believe that the motive for reporting this matter stems from intentional, nefarious discriminatory discipline practiced by the (b)(6); (b)(7)(C) and not for corrective action.”

¹⁷ The Inspector General Act and Department regulations require DOJ components to report all non-frivolous allegations of misconduct to the OIG.



himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.” Induce is a broad term that means “to move by persuasion or influence.”

Specifically, we found that (b)(6); (b)(7)(C) requested contractors to, and that the contractors did, in fact: prepare, print, and affix address labels for something related to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) wrap Christmas gifts for donations to a church; and create a brochure for something related to the (b)(6); (b)(7)(C). The witnesses who testified about these events were credible, and their testimony was corroborated by other witnesses and contemporaneous emails.

With respect to the address labels, (b)(6); (b)(7)(C) flatly denied ever speaking with Contractor 1, and, while (b)(6); (b)(7)(C) acknowledged that Contractor 2 performed a personal task for her, (b)(6); (b)(7)(C) claimed that Contractor 2 “offered to help” her with the labels project and that the project involved only “a couple labels” and would have taken only “a few minutes.” We found (b)(6); (b)(7)(C) testimony lacked credibility and therefore do not credit her testimony that Contractor 2 “offered to help” her or that the project took only a few minutes. As an initial matter, we noted that (b)(6); (b)(7)(C) claim that she never spoke with Contractor 1 about the labels project is contradicted by Contractor 1’s testimony and that Contractor 1’s testimony was corroborated by the (b)(6); (b)(7)(C) who testified that Contractor 1 told him that (b)(6); (b)(7)(C) had asked Contractor 1 to assist her with a project. Similarly, Contractor 2’s testimony that (b)(6); (b)(7)(C) asked her to work on the labels is corroborated by Contractor 1’s testimony, as well as that of the (b)(6); (b)(7)(C) both of whom told the OIG that (b)(6); (b)(7)(C) asked for contractor assistance with a task involving labels. We believe that after asking Contractor 1 for assistance and not getting the response she was looking for, (b)(6); (b)(7)(C) then asked Contractor 2 for assistance.

(b)(6); (b)(7)(C) credibility is further undermined by the fact that her description of the work changed—first she stated repeatedly that it involved only printing labels and only acknowledged that more was involved after additional questioning by investigators. Moreover, the number of instances in which (b)(6); (b)(7)(C) asked contractors and interns to assist her with personal matters further supports our finding that (b)(6); (b)(7)(C) asked Contractor 2 to prepare address labels for her.¹⁸ We also did not credit (b)(6); (b)(7)(C) testimony that the project involved only a few labels. Contemporaneous emails between (b)(6); (b)(7)(C) and Contractor 2 show that Contractor 2 typed approximately 45 names and addresses before preparing the labels and that Contractor 2 performed this task during work hours, not during lunch, as claimed by (b)(6); (b)(7)(C). We credited Contractor 2’s

¹⁸ Although it is clear from the emails we reviewed and (b)(6); (b)(7)(C) testimony that several contractors and an intern assisted (b)(6); (b)(7)(C) with her involvement in (b)(6); (b)(7)(C) we did not include those instances in this section because of the lack of testimonial evidence concerning the contractors’ and interns’ interactions with (b)(6); (b)(7)(C).



testimony that she typed names and addresses, printed them on label sheets, and affixed them onto envelopes at the request of (b)(6); (b)(7)(C).

With respect to the Christmas gifts, (b)(6); (b)(7)(C) initially denied that she asked Contractor 2 to assist her with any gifts but in a follow-up interview acknowledged that she (b)(6); (b)(7)(C) had items in her office that were for a donation for a church and that Contractor 2 was involved with the items. However, (b)(6); (b)(7)(C) said that Contractor 2 merely “put some clothes in the bag.” We did not find this testimony credible. If the task involved merely putting clothes in a single bag, (b)(6); (b)(7)(C) could have done that herself. It makes more sense that the reason Contractor 2 was involved was because (b)(6); (b)(7)(C) needed something done other than putting clothes in a bag, and we credit Contractor 2’s testimony that what she did was wrapped gifts at her desk at (b)(6); (b)(7)(C) request.

We also credited Contractor 3’s testimony that she turned down repeated requests from (b)(6); (b)(7)(C) to assist with personal assignments, but that on one occasion, at (b)(6); (b)(7)(C) request, she assisted (b)(6); (b)(7)(C) with a brochure for the (b)(6); (b)(7)(C). Contractor 3 testified with specificity—she had a clear recollection that she assisted (b)(6); (b)(7)(C) only once, despite repeated requests from (b)(6); (b)(7)(C) and that the brochure (b)(6); (b)(7)(C) asked her assistance on was related to (b)(6); (b)(7)(C) daughter’s participation in the (b)(6); (b)(7)(C). When we asked whether Contractor 3 had assisted her with something (b)(6); (b)(7)(C) related, (b)(6); (b)(7)(C) acknowledged that Contractor 3 had assisted her “about five years ago, when (b)(6); (b)(7)(C) first came to CRS, because [Contractor 3] knows (b)(6); (b)(7)(C) doesn’t] know technology.” However, (b)(6); (b)(7)(C) thought that Contractor 3’s assistance involved “something with (b)(6); (b)(7)(C).”

We found that (b)(6); (b)(7)(C) used her position as (b)(6); (b)(7)(C) of CRS in a manner intended to induce Contractor 2 and Contractor 3 to assist her with these personal projects. (b)(6); (b)(7)(C) was at the time (b)(6); (b)(7)(C) on the executive management team for the office, and thus has an inherently influential position. She could potentially serve as a reference on future job applications for contractors, provide input to their management about their work assignments, or provide the contractors with information about job openings within CRS or other places in the Department about which she has knowledge. In addition, on occasion, she served as (b)(6); (b)(7)(C), including during the time period she approached Contractor 2 about working on the address labels. By asking the contractors to assist her, we found that (b)(6); (b)(7)(C) sought either directly or implicitly to persuade or influence them to perform the personal tasks for her, and, therefore, induced Contractor 2 and Contractor 3 to perform the personal tasks as requested. For these reasons, we concluded that (b)(6); (b)(7)(C) used her office for private gain, specifically to induce Contractor 2 and Contractor 3 to assist her with personal matters, in violation of 5 C.F.R. § 2635.702(a).



B. Misuse of Government Property—Section 704

We also found that (b)(6); (b)(7)(C) violated the provision of Subpart G relating to the use of government property by using the services of government contractor personnel to perform personal tasks for her, including preparing address labels, wrapping Christmas presents for a church, preparing a flyer for (b)(6); (b)(7)(C) and preparing flyers in connection with her seeking a (b)(6); (b)(7)(C) position in (b)(6); (b)(7)(C). See 5 C.F.R. § 2635.704. Section 704(a) states that an “employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.” Section 704(b)(1) defines “government property” as including “the services of contractor personnel.”

Although, as described above, 28 C.F.R. § 45.4 authorizes Department employees limited personal use of certain government property, including “Government office and library equipment and facilities,” the regulation does not include “the services of contractor personnel” in the description of government property of which limited personal use is allowed. Even assuming, as (b)(6); (b)(7)(C) testified, that Contractors 2, 3, 4, 5, and 6 spent only a small amount of time performing personal assignments for (b)(6); (b)(7)(C) her argument that the personal tasks consisted of permitted “de minimis use” lacks merit given that the limited personal use exception does not extend to the services of contractor personnel.¹⁹ In addition, even assuming that Contractors 2 and 3, as well as Contractors 4, 5, and 6—whom (b)(6); (b)(7)(C) conceded assisted her with her (b)(6); (b)(7)(C) campaign flyers—volunteered or offered to help (b)(6); (b)(7)(C) it was impermissible for her to allow them to perform any personal tasks for her. Based upon the foregoing, we concluded that (b)(6); (b)(7)(C) violated 5 C.F.R. § 2635.704.

Although it does not appear that any contractor or intern spent a significant amount of time on any of the personal projects for (b)(6); (b)(7)(C) we were troubled by the number of instances in which (b)(6); (b)(7)(C) requested contractors and interns to assist her with personal matters. (b)(6); (b)(7)(C) as CRS’s (b)(6); (b)(7)(C) has a duty to maintain the highest of ethical standards and to avoid even the appearance of impropriety. In addition, (b)(6); (b)(7)(C) she should have known that the exception permitting an employee limited personal use of government property did not extend to having contractors performing personal tasks for her. We find it inexcusable that someone in her position would repeatedly ask CRS contractors and interns to do personal tasks for her—a request that is clearly at odds with the principles laid out in the Standards of Conduct.

¹⁹ In response to the draft report, (b)(6); (b)(7)(C) reiterated that any use of government computers and paper was “de minimis” or “negligible” and cited to 28 C.F.R. § 45.4. (b)(6); (b)(7)(C) did not address the fact that our finding concerns her misuse of the services of contractor personnel, not government computers and paper. As noted above, Section 45.4 does not include the services of contractor personnel as a type of property for which limited personal use is allowed.



C. (b)(6); (b)(7)(C) Lacked Candor

We found that (b)(6); (b)(7)(C) lacked candor during the first two of her four OIG interviews. DOJ policy states that “Department employees have a duty to, and shall, cooperate fully with the Office of the Inspector General.”²⁰ A fundamental component of “cooperat[ing] fully” is testifying truthfully and completely when interviewed by OIG investigators. Although the Department, unlike many of the Department’s law enforcement components, does not have standards of conduct or a policy that defines “lack of candor,” the Merit Systems Protection Board (MSPB), in comparing “lack of candor” to the separate and distinct charge of “falsification,” defined lack of candor as follows:

Falsification involves an affirmative misrepresentation, and requires intent to deceive. *Naekel v. Dep’t of Transp.*, 782 F.2d 975, 977 (Fed. Cir. 1986). Lack of candor, however, is a broader and more flexible concept whose contours and elements depend upon the particular context and conduct involved. It may involve a failure to disclose something that, in the circumstances, should have been disclosed in order to make the given statement accurate and complete. It would be comparable to the distinction in the Federal securities laws governing securities registration statements between ‘an untrue statement of a material fact’ and the failure ‘to state a material fact...necessary to make the statements therein not misleading.’²¹

In another case, the MSPB has stated that two elements are necessary to prove a “lack of candor” charge: “(1) that the employee gave incorrect or incomplete information; and (2) that he did so knowingly.”²²

We found that (b)(6); (b)(7)(C) lacked candor during her OIG interviews given her repeated failure to fully and completely answer questions from OIG investigators and her attempts to minimize and explain away her actions. As discussed above, (b)(6); (b)(7)(C) flatly denied asking Contractor 1 to work on labels for her, and we found that she lacked credibility when she testified that Contractor 2 “offered to help” her with the address labels project, that the project consisted of only printing labels, that the project would have taken only a few minutes, and that, with respect to the Christmas gifts, that she simply asked Contractor 2 “to put some clothes in a bag” rather than wrap the gifts for her. We similarly found that (b)(6); (b)(7)(C) minimized her interactions and requests for assistance to Contractor 3. In addition, OIG investigators had to ask (b)(6); (b)(7)(C) at least eight times whether the assistance Contractor 2 provided with the gifts involved a personal matter or were for something work related before (b)(6); (b)(7)(C) finally acknowledged that the gifts were for a

²⁰ 28 C.F.R. § 45.13; *see also* Justice Manual 1-4.200 (Allegations of Misconduct by Department of Justice Employees—General Considerations).

²¹ *Ludlum v. Dep’t of Justice*, 278 F.3d 1280, 1283-84 (Fed.Cir.2002). *see also* *Gootee v. Veterans Admin.*, 36 M.S.P.R. 526, 529-30 (1988); *Soc. Sec. Admin. v. Steverson*, 111 M.S.P.R. 649, 655-56 (2009).

²² *Fargnoliv. Dep’t of Commerce*, 123 M.S.P.R. 330, 338 (2016)



personal matter. That exchange was characteristic of (b)(6); (b)(7)(C) OIG interviews and falls far short of a Department employee's duty to cooperate fully with an OIG investigation. Based on the foregoing, we found that (b)(6); (b)(7)(C) lacked candor during her OIG interviews.