REPORT OF INVESTIGATION

SUBJECT	CASE NUMBER
(b)(6); (b)(7)(C) (Retired)	2015-004194

OFFICE CONDUCTING INVESTIGATION	DOJ COMPONENT
Washington Field Office	Drug Enforcement Administration

DISTRIBUTION	STATUS
☒ Field Office WFO	☐ OPEN ☐ OPEN PENDING PROSECUTION ☒ CLOSED
☒ AIGINV	PREVIOUS REPORT SUBMITTED: ☐ YES ☒ NO
☒ Component DEA	Date of Previous Report:
☐ USA	
☐ Other	

SYNOPSIS

This investigation was predicated upon the receipt of three separate anonymous letters received by the Department of Justice (DOJ), Drug Enforcement Administration (DEA) Office of Chief Counsel (OCC), DEA Office of Professional Responsibility (OPR), and DOJ Office of the Inspector General (OIG), respectively. In each of these letters, the anonymous complainant(s) alleged that:

- (b)(6); (b)(7)(C) accepted a position with (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) upon his retirement from DEA. Upon his arrival at (b)(6); (b)(7)(C) allegedly received preferential treatment from DEA (b)(6); (b)(7)(C) with respect to (b)(6); (b)(7)(C) requests for drug quota increases. Specifically, the letters alleged that, "(b)(6); (b)(7)(C) staff ... have been unduly and inappropriately ordered by Senior (b)(6); (b)(7)(C) Management to provide favoritism to a company (b)(6); (b)(7)(C) because a retired (b)(6); (b)(7)(C) went to work for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)
- After (b)(6); (b)(7)(C) accepted a position with (b)(6); (b)(7)(C) "...DEA (b)(6); (b)(7)(C) Staff working in (b)(6); (b)(7)(C) were now ordered to increase quotas for (b)(6); (b)(7)(C) and quota requests were hand-walked through the (b)(6); (b)(7)(C) process by (b)(6); (b)(7)(C) through order of (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) .." and "(b)(6); (b)(7)(C) Staff were intimidated by (b)(6); (b)(7)(C) and ordered to grant increased Quotas for (b)(6); (b)(7)(C) , and (b)(6); (b)(7)(C) quota requests were given

DATE September 28, 2021	SIGNATURE	(b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) PREPARED BY SPECIAL AGENT		
DATE September 28, 2021	SIGNATURE	Digitally signed by Russell W. Cunningham Date: 2021.09.28 09:56:28 -04'00'
Russell W. Cunningham APPROVED BY SPECIAL AGENT IN CHARGE		

special timing priority because [redacted] ..demanded immediate approval." This alleged action by [redacted] resulting in immediate approvals for [redacted] requests "...was done over the objection of [redacted] Staff who argued that the increases in quota quantities were unwarranted..." and that "..[redacted] browbeat Staff into such unwarranted activity."

- [redacted]

- [redacted] accepted a position with [redacted] after retiring from the DEA [redacted]. Specifically, [redacted] accepted a position with "...the same firm he obtained unwarranted quota, on behalf of his friend (former [redacted]

- [redacted] and [redacted] "...used their positions to provide undue influence within DEA for special treatment in terms of unwarranted Quota for [redacted]

[redacted]

Additionally, during the course of the investigation, the OIG received allegations that [redacted] he lacked candor during his interactions with DEA Office of Chief Counsel.

[redacted]

Nonetheless, the OIG investigation determined that [redacted] and [redacted] interactions with [redacted] resulted in [redacted] misusing his position at DEA and that [redacted] therefore violated policies as set forth in the DEA Manual Chapter 27-2735, Misuse of Position and Coercion. Specifically, through his actions, [redacted] gave [redacted] preferential treatment, including by pressuring and directing subordinates to do the same.

[redacted]

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

In addition, the OIG found that (b)(6) lacked candor during his meeting with (b)(6); (b)(7)(C) on (b)(6); (b)(7)(C) when (b)(6); (b)(7)(C) interviewed (b)(6) while completing his Employee Exit Clearance Record. Although (b)(6) did not receive a formal offer of employment until 12 days later, at the time of his exit interview (b)(6) was aware that (b)(6); (b)(7)(C) had succeeded in creating a new position at (b)(6); (b)(7)(C) intended for him, and that he would be interviewed for the position on (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) lack of candor thwarted the purpose of the meeting by impeding (b)(6); (b)(7)(C) ability to provide (b)(6) with the most effective counsel concerning his likely post-retirement employment, and resulted in the completion of a FORM DEA – 171a (12-13) – Employee Exit Clearance Record by (b)(6); (b)(7)(C) in a manner that failed to reflect the advanced nature of (b)(6); (b)(7)(C) application with (b)(6); (b)(7)(C)

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

The OIG has completed its investigation and is providing this report to DEA for its information.

Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether DOJ 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).

ADDITIONAL SUBJECTS

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

DETAILS OF INVESTIGATION

Predication

This investigation was predicated upon the receipt of three separate anonymous letters received by the Department of Justice (DOJ), Drug Enforcement Administration (DEA) Office of Chief Counsel (OCC), DEA Office of Professional Responsibility (OPR), and DOJ Office of the Inspector General (OIG), respectively. Each letter was slightly different, but taken together the anonymous complainant(s) alleged that:

- (b)(6); (b)(7)(C), accepted a position with (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) upon his retirement from DEA. Upon his arrival at (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) allegedly received preferential treatment from DEA (b)(6); with respect to (b)(6); (b)(7)(C) requests for drug quota increases. Specifically, the letters alleged that, "(b)(6); (b)(7)(C) staff ... have been unduly and inappropriately ordered by Senior (b)(6); (b)(7)(C) Management to provide favoritism to a company (b)(6); (b)(7)(C) because a retired (b)(6); (b)(7)(C) went to work for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)
- (b)(6); (b)(7)(C)
- After (b)(6); (b)(7)(C) accepted a position with (b)(6); (b)(7)(C) "...DEA (b)(6); (b)(7)(C) Staff working in (b)(6); (b)(7)(C) were now ordered to increase quotas for (b)(6); (b)(7)(C) and quota requests were hand-walked through the (b)(6); (b)(7)(C) process by DEA (b)(6); (b)(7)(C) through order of (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) .." and "(b)(6); (b)(7)(C) Staff were intimidated by (b)(6); (b)(7)(C) and ordered to grant increased Quotas for (b)(6); (b)(7)(C), and (b)(6); (b)(7)(C) quota requests were given special timing priority because (b)(6); (b)(7)(C) ..demanded immediate approval." This alleged action by (b)(6); (b)(7)(resulting in immediate approvals for (b)(6); (b)(7)(C) requests "...was done over the objection of (b)(6); (b)(7)(C) Staff who argued that the increases in quota quantities were unwarranted..." and that "... (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) browbeat Staff into such unwarranted activity."
- (b)(6) accepted a position with (b)(6); (b)(7)(C) after retiring from the DEA (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) Specifically, (b)(6) accepted a position with "...the same firm he obtained unwarranted quota, on behalf of his friend (former (b)(6); (b)(7)(C)
- (b)(6); (b)(7)(C) and (b)(6) "...used their positions to provide undue influence within DEA for special treatment in terms of unwarranted Quota for (b)(6); (b)(7)(C) ,"

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

Investigative Process

The OIG investigation consisted of interviews of the following individuals:

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

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

Background and Relevant Authority

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

The DEA Personnel Manual (DEA Manual)-Chapter 27 Personnel Relations and Services-2735 Employee Responsibilities and Conduct includes the following relevant sections:

2735.13 PURPOSE AND SCOPE

B. Scope

2. The absence of a specific regulation of conduct covering an act which tends to discredit DEA or the employee does not mean that such an act is condoned, permissible, or would not result in a disciplinary/adverse action.

2735.14 RESPONSIBILITIES

A. Supervisors. It is the responsibility of DEA's supervisors, officers, and officials, in addition to their duties and responsibilities as employees of this agency, to:

1. Set and maintain high standards of personal conduct as an example to employees. Supervisory personnel will be held to a higher standard of conduct govern their status as managers. Failure to act in response to a situation that a supervisor was or should have been aware may subject the supervisor to disciplinary action or other appropriate measures.

2735.15 EMPLOYEE CONDUCT REQUIREMENTS

A. General

1. DEA personnel are prohibited from engaging in any criminal, infamous, dishonest, or notoriously disgraceful conduct or other conduct prejudicial to DEA, to DOJ, or to the Government of the United States. DEA personnel shall always conduct themselves in a professional manner and will follow applicable policy, directives, orders, and standards in their actions.

B. Relationships That May Cause a Conflict of Interest

1. Under 18 U.S.C. § 208 and 5 C.F.R. § 2635.402, an employee is prohibited from participating personally and substantially in an official capacity in any particular matter in which, to his or her knowledge, he or she or any persons whose interests are imputed to him or her, has a financial interest, if the particular matter will have a direct and predictable effect on that interest. In other words, an employee cannot participate in most official matters that may affect that employee's personal financial interests or those financial interests imputed to the employee.

   a. The following imputed financial interests would be treated the same as the employee's own financial interests: the employee's spouse, the employee's minor child, the employee's general partner, an organization or entity in which the employee serves as officer, director, trustee, general partner or employee; and a person with whom the employee is negotiating for or has an arrangement concerning prospective employment.

   b. Personal and substantial participation includes an employee participating through decision, approval, disapproval, recommendation, investigation or the rendering of advice in a particular matter.

   c. The term particular matter encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons, to include, but not limited to, a judicial or other proceeding, investigation, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or arrest.

2. Even where there is no actual violation of the criminal conflict of interest statute under Paragraph 1, above, employees must avoid participating in official matters that will raise an appearance of conflict under 5 C.F.R. § 2635.502. Under this regulation, where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his or her household, or an employee knows that a person with whom he or she has a covered relationship is, or represents a party, to a particular matter, the DEA employee should ask the following

question: Under the circumstances, would a reasonable person with knowledge of the relevant facts question the employee's impartiality if he or she participated in the matter? If the answer to the question is yes, then the employee should not participate in the matter unless he or she has informed the appropriate agency designee (Administrator or Chief Counsel) of the appearance problem and received authorization from the agency designee to participate in the matter. See 5 C.F.R. § 2635.502b for the definition of covered relationship.

. . . .

O. Misuse of Office and Coercion. DEA personnel will not:

1. Use his or her official position for private gain.

2. Coerce or give the appearance of coercing any person to provide financial benefit to himself/herself or to another person through the use of his or her office.

3. Use his or her official position to give preferential treatment to another individual.

. . . .

10. Glean or garner information not commonly available to the general public and use that information for nonofficial purposes.

11. Obstruct or attempt to obstruct an official investigation, inquiry, or other matter of official interest.

. . . .

13. Distribute or disclose information not commonly available to the general public for nonofficial purposes.

. . . .

Q. Unprofessional Conduct

1. Every DEA employee is responsible for behaving in a professional manner appropriate to the setting, and in a civil and courteous manner toward other DEA employees and the general public.

AA. Employee Candor and Truthfulness

DEA personnel will be frank and honest in the performance of their duties. DEA personnel will not create false documents or issue or utter false oral communications, provide false, misleading or inaccurate testimony, knowingly or negligently misrepresent facts, permit a known or suspected falsehood to continue unreported or unchallenged, or provide non-responsive answers to properly authorized officials such as supervisory personnel, prosecutors, or agency investigators.

18 U.S.C. § 207: Restrictions on former officers, employees, and elected officials of the executive and legislative branches.

18 U.S.C. § 207 contains the restrictions which may limit the activities of individuals after they leave Government service (or after they leave certain high-level positions). None of the statute's seven restrictions bar any individual from accepting employment with any private or public employer. Instead, they prohibit individuals from engaging in certain activities on behalf of persons or entities.

Two of the restrictions may affect any former "employee," regardless of rank or position. The restrictions bar a former employee from representing another person or entity by making a communication to or appearance before a Federal department, agency, or court concerning the same "particular matter involving specific parties" (e.g., the same contract or grant) with which the former employee was involved while serving the Government. If the matter was pending under the employee's official responsibility during the employee's last year of Government service, the bar lasts for two years. If the employee participated in the matter "personally and substantially," the bar is permanent.

18 U.S.C. § 208: Acts affecting a personal financial interest, provides in part:

> (a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—
> Shall be subject to the penalties set forth in section 216 of this title.
>
> (b) Subsection (a) shall not apply—
>
> (1) if the officer or employee first advises the Government official responsible for appointment to his or her position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee.

The Controlled Substances Act and DEA's b)(6); b)(7)(C)

The Controlled Substances Act (CSA) (United States Code Title 21 and Code of Federal Regulations Title 21) is the statutory framework through which the federal government regulates the lawful production, possession, and distribution of controlled substances. The CSA places various plants, drugs, and chemicals (such as narcotics, stimulants, depressants, hallucinogens, and anabolic steroids) into one of five schedules based on the substance's medical use, potential for abuse, and safety or dependence liability. Further, the CSA requires persons who handle controlled substances or listed chemicals (such as drug manufacturers, wholesale distributors, doctors, hospitals, pharmacies, and scientific researchers) to register with the DEA, which administers and enforces the CSA. Registrants must maintain detailed records of their respective controlled substance inventories, as well as establish

adequate security controls to minimize theft and diversion. Although the CSA sets forth criminal provisions for the unlawful manufacture, possession, and distribution of controlled substances, the CSA's non-criminal regulatory requirements set forth the compliance standards for those who legitimately produce, distribute, and dispense controlled substances.

DEA (b)(6); (b)(7)(C) Regulatory Authority Regarding the Production of Schedule I and Schedule II Controlled Substances

Each year the United States sets the Aggregate Production Quotas (APQ) for Schedule I and II controlled substances and the Annual Assessment of Needs (AAN) for the Combat Methamphetamine Epidemic Act (CMEA) List I chemicals (ephedrine, pseudoephedrine, and phenylpropanolamine) which determine the annual quantities of controlled substances and List I chemicals available for national medical, scientific, and industrial use. (b)(6); (b)(7)(C) establishes the yearly APQ, and authorizes quota amounts to various medical, scientific, and industrial entities. Throughout the year, (b)(6); (b)(7)(C) receives, evaluates, and decides on requests for organizational quota increases.

Only those persons registered by the DEA to manufacture Schedule I or II controlled substances, or to import or manufacture the List I chemicals ephedrine, pseudoephedrine, or phenylpropanolamine, including drug products containing those List I chemicals, may submit applications for quotas.

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

Under federal law, all businesses that import or export controlled substances must comply with regulatory requirements relating to drug security and recordkeeping. DEA is also obligated under international treaties to monitor the movement of illicit controlled substances across U.S. borders and to issue import and export permits for that movement. (b)(6); (b)(7)(C)

Approval Times for (b)(6); (b)(7)(C) Quota Applications Compared with Industry Average

(b)(6); (b)(7)(C) provided the OIG with procurement quota records for the period (b)(6); (b)(7)(C) through (b)(6); (b)(7)(C) The records reflect procurement quota requests made to DEA by pharmaceutical companies, pharmacies, and other business entities concerning drugs of the same type or class as drugs for which (b)(6); (b)(7)(C) submitted quota requests.

Subsequent to receipt of the records, the OIG calculated the number of days between submission of each request and the mailing of a response by DEA; the number of submissions for each business entity by calendar year; the number of approvals, denials and withdrawals for each business entity by calendar year; the average days to approval for each business entity by calendar year; and the actual days to approval that were less than 30, between 30 and 60, and greater than 60 for each submission and business entity by calendar year.

In addition, the OIG calculated the overall number of approved applications; the total number of days to approval; the average number of days to approval; and the number of denied and withdrawn applications for all business entities by calendar year.

The review determined that the average number of days to approval for procurement quota requests submitted by (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) exceeded industry averages for the years for which data existed. The average number of days to approval for procurement quota requests submitted by (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) was less than the industry average for (b)(6); (b)(7)(C) and greater than the industry average for (b)(6); (b)(7)(C)

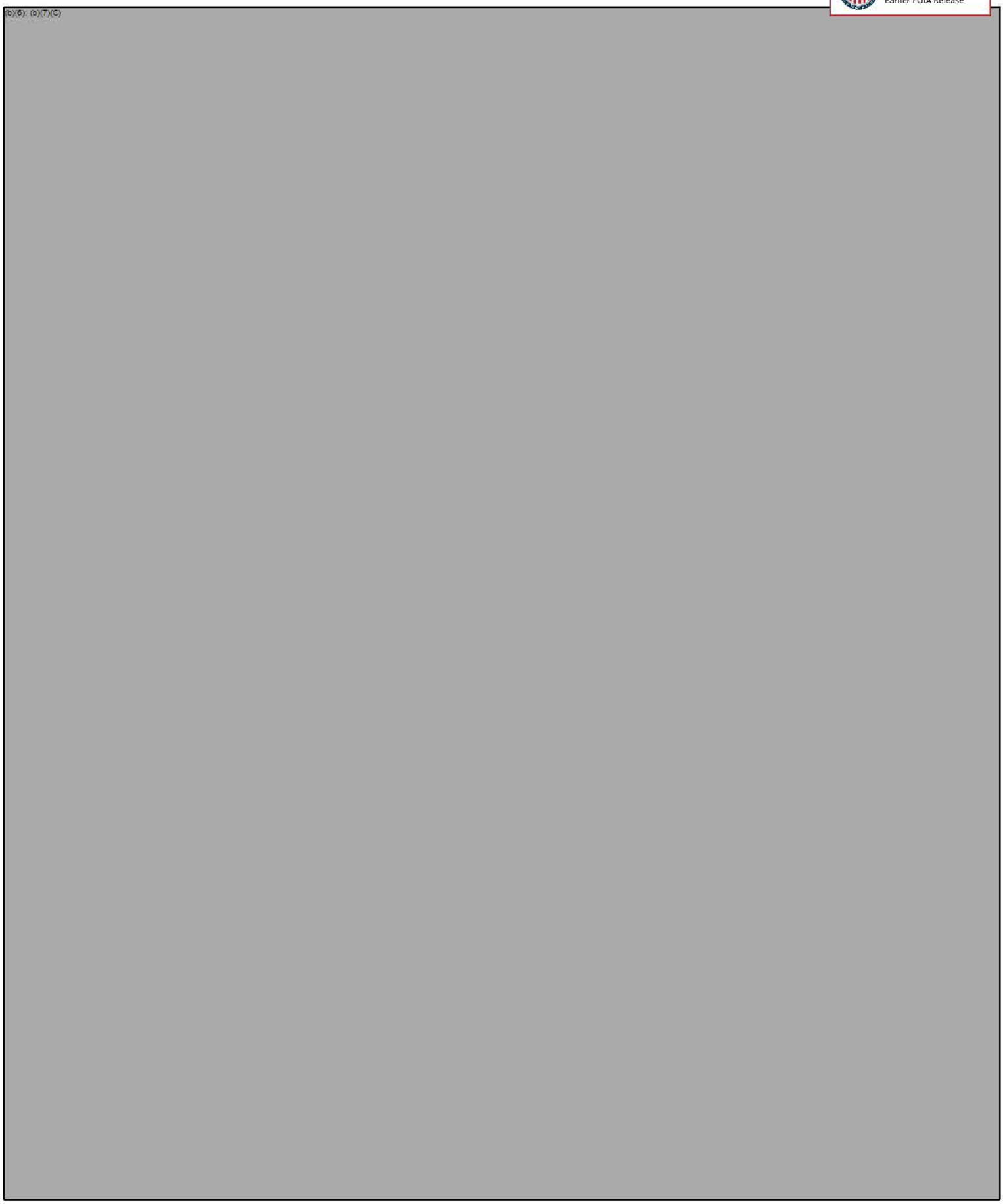
The OIG noted that the data included multiple examples of companies other than (b)(6); (b)(7)(C) that received approval for procurement quota requests that were significantly less than the industry average – in some cases for a small number of outlier requests, and in other cases for a more statistically substantial number of requests. The OIG did not investigate the circumstances behind these procurement quota requests for companies other than (b)(6); (b)(7)(C)

DEA (b)(6); (b)(7)(C) Alleged Preferential Treatment of (b)(6); (b)(7)(C)

Each of the three anonymous predicating letters received by the OIG alleged that (b)(6); (b)(7)(C) retired from his position (b)(6); (b)(7)(C), accepted a position with (b)(6); (b)(7)(C) (a DEA registrant), and by virtue of (b)(6); (b)(7)(C) position with (b)(6); (b)(7)(C) and his personal and professional relationships with senior (b)(6); (b)(7)(C) officials, (b)(6); (b)(7)(C) began receiving preferential treatment from (b)(6);

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

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



[redacted]

Statements and Examples Provided by [redacted] Staff That Allegedly Involved Providing Preferential Treatment to [redacted]

[redacted] told the OIG that after [redacted] retired from DEA, [redacted] would sometimes call [redacted], and sometimes members of their staff, to request that they expedite pending [redacted] requests for quota increases. [redacted] stated that each time [redacted] called her regarding a pending application for a quota increase, she would tell him, "it's under review. Or it's in the queue."

[redacted] told the OIG that "somebody representing the Front Office," usually [redacted] or another supervisor [redacted] identified [redacted] asked either her or [redacted] about the status of pending [redacted] requests for quota increases. [redacted] was an [redacted] but nonetheless involved himself in quota matters that were officially under the purview of [redacted] told the OIG that [redacted]

> "You know, they say, I understand [redacted] put in a request, what's the status. And I'd say, they just put it in yesterday, you know. Do you want us, and I'd always say, do you want us to expedite it, because if your order, you know, if you say to expedite we will and we'll note that. And sometimes they'd say, no, no, I'm just -- when I, you know, when we say we were documenting it, they would say, no, no, I'm just checking. Or I just want to make sure you have it. Or -- and then other times they might say, yes, you know, move it."

[redacted] estimated that she was instructed to expedite [redacted] quota applications "[h]alf a dozen times [or] more." She stated that the requests generally were for an expedited review of the applications, rather than an explicit instruction to approve them. However, she recalled one occasion when [redacted] directly asked [redacted] to grant [redacted] "more quota than they were warranted, based on the calculations."

[redacted] stated that these requests were unusual because other pharmaceutical companies would also inquire about their pending applications for quota increases, and would sometimes write letters to a Congressional Representative complaining about a delay in approval, but the [redacted] executive staff would often say, "I don't care if they're complaining. You know, we'll hold it."

[redacted] explained that these inquiries regarding [redacted] pending quota applications were done in person or over the telephone::

> "I think they just, they, they always told me, [redacted] they would say don't put stuff in emails. So they would call or they would, you know, come see me. [redacted] used to say, emails will be the death of us. That, he said that all the time. Don't put anything in emails. Don't email me. Don't put anything in emails."

[redacted] said that at one point [redacted] stopped requesting that she expedite [redacted] quota requests. [redacted]

[redacted]. [redacted] stated that [redacted] "would often call and say, what's the status? And I would say, are you asking on behalf of [redacted]? Because everybody...knew [redacted] and [redacted] were friends." [redacted]

[redacted] stated that DEA [redacted] staff were aware that [redacted] and [redacted] were personal friends with [redacted] from their shared assignment years prior [redacted] She explained, "So everybody knew [of this personal relationship]. Everybody knew this. So as soon as something came in [a request from [redacted] for a quota increase], I knew someone was going to call us and say, 'Can you move the, can you hurry this along.'" [redacted] added, "And then, you know, usually [redacted] would also call and say, can you expedite this."

[redacted] supplied the OIG with an email that she sent to her entire staff [redacted] with courtesy copies to [redacted] The email stated:

[redacted]

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

On (b)(6); (b)(7)(C) forwarded the email to (b)(6); (b)(7)(C) with a message stating, "[t]his is one of the (b)(6); (b)(7)(C) emails regarding the (b)(6); (b)(7)(C) directive that (b)(6); (b)(7)(C) staff NOT respond to companies regarding the quota letters, meeting requests, etc, but to forward them to (b)(6); (b)(7)(C) for response."

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

(b)(6); (b)(7)(C) stated that senior front office staff members (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) directed her or her subordinates to expedite the review of applications for quota increase from (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) had "special status." (b)(6); (b)(7)(C)

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

The OIG provided (b)(6); (b)(7)(C) with a database printout from DEA (b)(6); (b)(7)(C) Logbook/History which lists quota requests submitted by (b)(6); (b)(7)(C) and asked her to identify any approvals about which she had concerns. As described below, (b)(6); (b)(7)(C) identified several that involved either a reversal of a previous (b)(6); (b)(7)(C) denial decision or the expedited granting of approval.

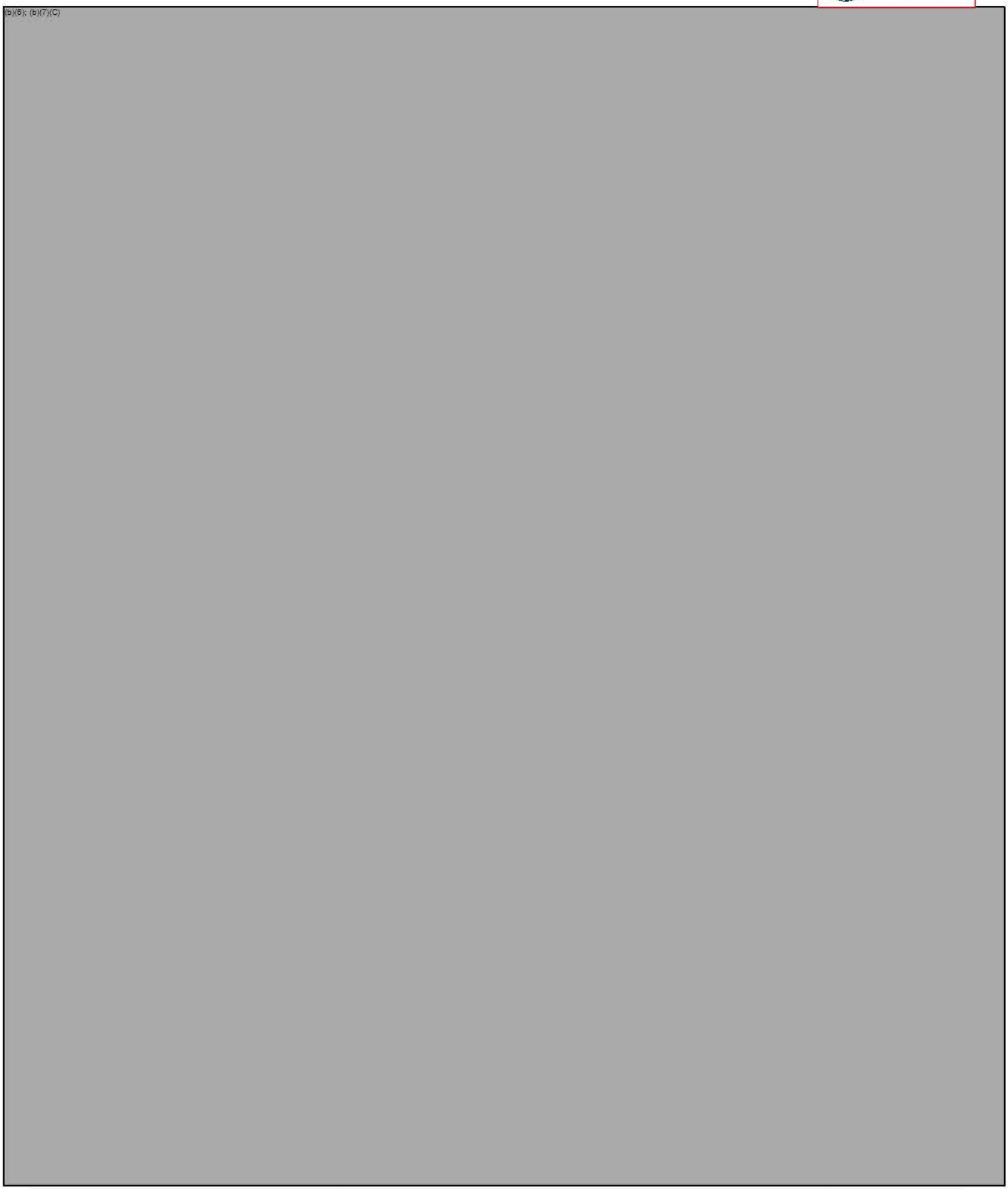
(b)(6); (b)(7)(C) stated to the OIG that she believed that (b)(6) showed preferential treatment to (b)(6); (b)(7)(C) by "asking us to move things quicker than we normally would for everybody." (b)(6); (b)(7)(C) stated, (b)(6); (b)(7)(C) was the one that contacted me or contacted (b)(6); (b)(7)(C) and told us to move stuff. You know, expedite it. (b)(6); (b)(7)(C) In each instance, the application would have been approved anyway, but as (b)(6); (b)(7)(C) stated, "they just wanted to move up to the head of the line." When asked whether they asked her to expedite pending applications for companies other than (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) replied, "only with a really good reason, and it was more so about a specific product than a company."

(b)(6); (b)(7)(C) stated to the OIG that he was previously assigned to the (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) stated he overheard a conversation between (b)(6) and (b)(6); (b)(7)(C) which took place in (b)(6); (b)(7)(C) According to (b)(6); (b)(7)(C) (b)(6) was banging his fist on (b)(6); (b)(7)(C) desk saying, (b)(6); (b)(7)(C) wants this." (b)(6); (b)(7)(C) said that the conversation became very loud and that "..(b)(6); (b)(7)(C) was holding her ground well." (b)(6); (b)(7)(C) told the OIG that (b)(6); (b)(7)(C) told (b)(6); (b)(7)("The request was denied because the numbers didn't support the quantity of the request." (b)(6); (b)(7)(C) subsequently approached (b)(6); (b)(7)(C) after (b)(6) left. (b)(6); (b)(7)(C) told him that the request was for a quota increase from (b)(6); (b)(7)(C) . (b)(6); (b)(7)(C) told the OIG that this was the first he had heard of (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) said he asked [redacted] if (b)(6); (b)(7)(C) was the company where retired (b)(6); (b)(7)(C) had gone to work and (b)(6); (b)(7)(C) confirmed that it was. (b)(6); (b)(7)(C) was unable to identify the date of the incident.

(b)(6); (b)(7)(C) stated that approximately two or three weeks after this incident, he was exiting his pod to get a cup of coffee when he encountered (b)(6); (b)(7)(C) (b)(6) was looking for (b)(6); (b)(7)(C) and he asked (b)(6); (b)(7)(C) if he knew where she was. (b)(6); (b)(7)(C) replied that he did not know where she was, then he proceeded to the area where the coffee pot was to get a cup of coffee. According to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) (b)(6) and (b)(6); (b)(7)(C) followed (b)(6); (b)(7)(C) over to this area and entered (b)(6); (b)(7)(C) office. As (b)(6); (b)(7)(C) was getting his coffee, he overheard (b)(6) say to (b)(6); (b)(7)(C) "We want this (b)(6); (b)(7)(C) quota request hand-walked through [the quota section process] and we want it done right now." (b)(6); (b)(7)(C) said that he finished getting his cup of coffee and returned to his pod. (b)(6); (b)(7)(C) had no further information regarding this incident.

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

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



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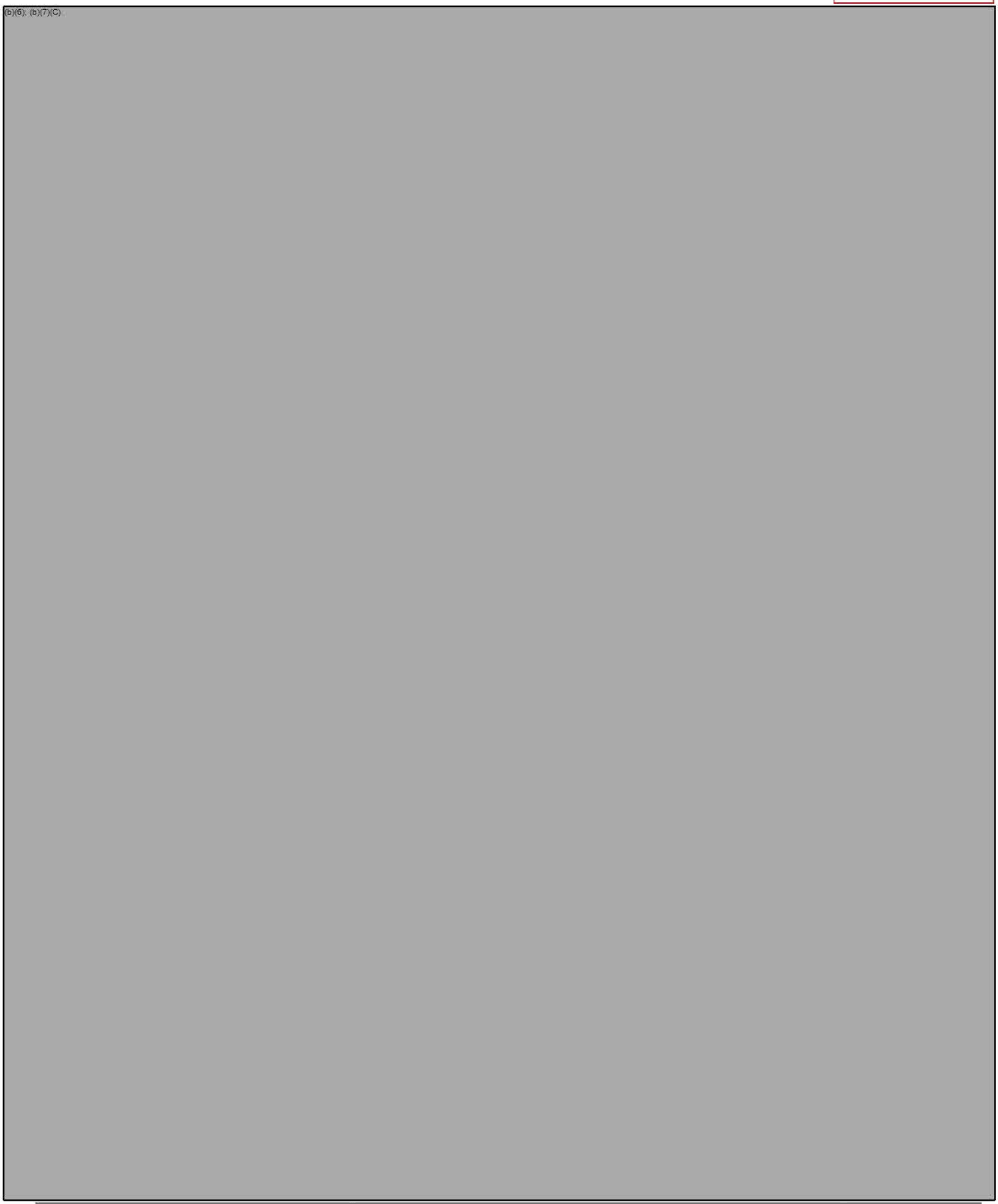

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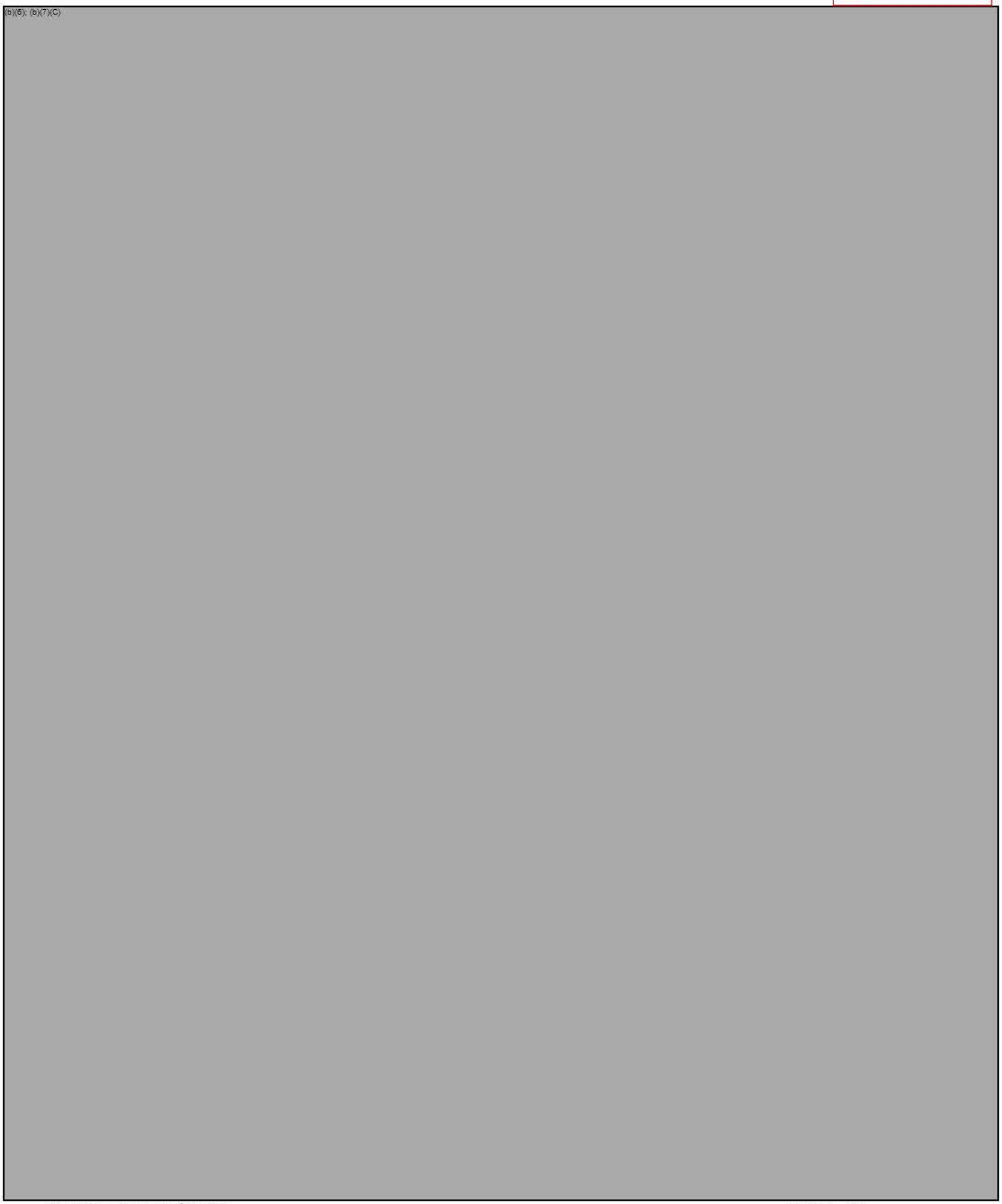


According to (b)(6); (b)(7)(C) subsequent to her telephone conversation with (b)(6); (b)(7)(C) (b)(6) came into her office with a folder containing a second request from (b)(6); (b)(7)(C) for the quota increase. The resubmission contained no new data to support the request, therefore it was denied for the same reasons as the first. The file contained an unsigned denial letter that (b)(6); (b)(7)(C) staff had prepared for (b)(6); (b)(7)(C) signature. (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) appearance to discuss a quota issue with her was unusual (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) According to (b)(6); (b)(7)(C) (b)(6) told her, "You know, they (b)(6); (b)(7)(C) didn't get what they're asking for [the quota increase]." (b)(6); (b)(7)(C) said (b)(6) referenced the unsigned letter denying (b)(6); (b)(7)(C) request. (b)(6); (b)(7)(C) said she told (b)(6); (b)(7)(C) "Well, we, you know, my staff did the analysis and..." the request was insufficient. She said she further told (b)(6); (b)(7)(C) "There's no data there [to support the quota increase request]." (b)(6); (b)(7)(C) told the OIG, "And

he [redacted] just [sat] there... [redacted] sat in my office and he said, you know, 'we need a, they need quota.' And I said, 'I need data to support. I, what do you want me to do?' And he was like, 'give them the quota', and he said, '[give them] what they asked for. Figure it out.'" According to the [redacted] she told [redacted] "I can't do anything that's not scientifically accurate, because whoever comes behind me is going to look, you know, and say, how did that number appear when there's no data there. [redacted] said [redacted] replied, "...that's fine. He's like, 'They need quota. Just give them something.'"

[redacted] told the OIG that, following the meeting with [redacted] she reconfigured the analysis so that a quota increase could be authorized. She stated, "I looked at the equations. I looked at the analysis. And I changed a couple of factors in there... in terms of their batch records. Here's some manufacturer and loss, if you do this, then here." [redacted] then personally drafted a letter for [redacted] signature approving the request, and gave the letter to [redacted] She did not involve her staff in drafting the letter, because, as she stated to the OIG, "...I felt that was inappropriate." [redacted] further told the OIG that she felt "ordered" by [redacted] to make the change to [redacted] quota request. [redacted]

[redacted] said that, contemporaneous with these events, she reported this encounter with [redacted] to her supervisor, [redacted] who directed [redacted] to document the incident. [redacted] said she documented this incident by making a notation in the DEA database and by sending herself an email in which she detailed her encounter with [redacted] The OIG reviewed the email that [redacted] sent to herself, which stated:

> "This morning [redacted] had a meeting with [redacted] to discuss issues with [redacted] quota [redacted] After showing [redacted] all the data that we received and reviewed to support DEA's determination, he stated that [redacted] was going to contact his Congressman [redacted] regarding possibly lawsuits to his company and thus to DEA for failing to provide "adequate" quota. I reiterated that [redacted] data did not support [redacted] claim and [redacted]
>
> To prevent the [redacted] threat from occurring DEA would need to [redacted] He stated that [redacted] would prefer to grant the request now and move any other issues to [redacted] and rectify at that point. I demonstrated that the online system would not allow [redacted] to change [redacted] quota without a new application in the system. He stated that he would contact [redacted] ASAP for this to occur. I stated that [redacted] would support [redacted] policy decision in this matter."

The OIG reviewed the entry in the DEA database made by [redacted], which reads [redacted] *Requested by [redacted] to grant [redacted]. The DEA database has an additional entry for this request that reads, "fast-tracked ASAP per [redacted]

[redacted] told the OIG that he was the [redacted] staff member assigned to this [redacted] quota increase request. [redacted] reviewed the documentation concerning the request for quota increase, including the DEA Form 250, which he described as "the actual request." [redacted] referred to the "remarks section" in the DEA Form 250, [redacted]

[redacted] used the information in the supporting documentation [redacted] concerning the quota request.

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

The OIG found that (b)(6); (b)(7)(C) reliance on (b)(6); (b)(7)(C) data rather than (b)(6); (b)(7)(C) data, while not (b)(6); (b)(7)(C) customary practice according to (b)(6); (b)(7)(C), is not prohibited by law or by DEA policy, and that there was no evidence that any data used to justify the ultimate approval was altered or falsified. The OIG did, however, find that the initial denial of the request for quota increase was reversed at (b)(6); direction, which was motivated in part by inappropriate access of former DEA employees now working for (b)(6); (b)(7)(C) (specifically (b)(6); (b)(7)(C) to then-current DEA employee (b)(6); .

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

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

Attempts by (b)(6); (b)(7)(C) ***in*** (b)(6); (b)(7)(C) ***to Expedite*** (b)(6); (b)(7)(C) ***Requests***

The OIG interviewed (b)(6); (b)(7)(C), who told the OIG that (b)(6); (b)(7)(C)

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

z

(b)(6); (b)(7)(C) In (b)(6); (b)(7)(C) received a telephone call from (b)(6); (b)(7)(C) knew (b)(6); (b)(7)(C) as a former (b)(6); (b)(7)(C) According to (b)(6); (b)(7)(C) identified himself to (b)(6); (b)(7)(C) and then asked (b)(6); (b)(7)(C) if he recalled that (b)(6); (b)(7)(C) was responsible for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) was taken aback by (b)(6); (b)(7)(C) opening remark and believed that this was a peculiar way in which to begin a conversation. (b)(6); (b)(7)(C) said he corrected (b)(6); (b)(7)(C) stating that (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and asked (b)(6); (b)(7)(C) why he was calling.

According to (b)(6); (b)(7)(C) said that he was now with (b)(6); (b)(7)(C) and that he had a problem. (b)(6); (b)(7)(C) described a critical situation in which (b)(6); (b)(7)(C) had submitted several requests for (b)(6); (b)(7)(C) and he requested that (b)(6); (b)(7)(C) expedite the requests because (b)(6); (b)(7)(C) was experiencing an emergency shortage of the requested drug. (b)(6); (b)(7)(C) said that, in response to (b)(6); (b)(7)(C) phone call, he checked with (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) about the status of the (b)(6); (b)(7)(C) requests. (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) told him that the (b)(6); (b)(7)(C) requests had been received via fax, but had not been officially submitted through the online procedure. (b)(6); (b)(7)(C) said he told (b)(6); (b)(7)(C) not to expedite the requests unless he (b)(6); (b)(7)(C) told her to do so. (b)(6); (b)(7)(C) said that he

proceeded to the [redacted] and spoke to [redacted] who queried database records and told him that there did not exist an emergency or shortage regarding the drug for which [redacted] and [redacted] were seeking permits. [redacted] said he then told [redacted] to handle the requests through the normal procedure.

[redacted] told the OIG that he subsequently learned that [redacted] also contacted his [redacted] in an effort to have the permits expedited. [redacted] said he told [redacted] that no emergency or shortage existed and she agreed with [redacted] decision not to expedite the [redacted] permits. [redacted] said he then reconfirmed with [redacted] that the permits were not to be expedited.

[redacted] told the OIG that he received a telephone call from [redacted] on [redacted] at which time [redacted] informed him that he was submitting permit applications that should have been submitted earlier, but were not for reasons that [redacted] was attempting to ascertain. [redacted] told [redacted] "we need them approved." [redacted] responded, "well, send them in..." [redacted] recalled that [redacted] told him, "I don't want you to think that I'm trying to influence your decision," to which [redacted] responded, "no you're not. Don't concern yourself with that."

Later that day, [redacted] called [redacted] about a request for an export permit [redacted] The next morning, [redacted] received an email from [redacted] stating that he received a voice mail the prior day from [redacted] stating that he used an incorrect form to request the export permit, and therefore it could not be processed. [redacted] responded to [redacted] that his request would be processed as soon as he provided the proper form.

[redacted] told the OIG that he subsequently learned that [redacted] had contacted [redacted] of his staff on [redacted] by email regarding this request. According to [redacted] had forwarded to [redacted] a copy of [redacted] initial email response, and followed this with a telephone call to [redacted] during which [redacted] requested that [redacted] permit request be expedited "according to our [redacted] conversation." This came to [redacted] attention when [redacted] reported [redacted] email to [redacted] asked [redacted] to look at the exchange.

[redacted] told the OIG that he found this action by [redacted] to be upsetting and he directed [redacted] not to expedite [redacted] permits. [redacted] responded to [redacted] with an email message dated [redacted] at 2:54 PM, with a copy to [redacted] and to [redacted] admonishing [redacted] for contacting a member of his staff directly in an attempt to have [redacted] request expedited. In the email message, [redacted] referred to the incident as a "miscommunication." [redacted] informed the OIG that he did so because he was "being polite."

At 3:01 PM on [redacted] responded to [redacted] email. He asked whether the second permit would be done by [redacted] and stated that date was [redacted] "deadline for retention process for FDA." [redacted] responded that he needed to review the file, and suggested that [redacted] and he discuss the matter after he had done so.

[redacted] told the OIG that sometime during the summer of [redacted] told him that [redacted] was contacting [redacted] to determine the status of [redacted] permit requests from [redacted] [redacted] stated, [redacted] comes to me saying, [redacted] getting a call from [redacted] to, to see what we can do to process these [redacted] permits." [redacted] told the OIG that he personally directed [redacted] not to expedite any [redacted] permits unless directed to do so by [redacted] However, he did not ask [redacted] any questions about instructions she received from [redacted] concerning [redacted] [redacted] stated that he verified through database checks that [redacted] permit requests going forward were not given preferential treatment based on their position in the queue.

According to (b)(6); (b)(7)(C) sometime after he told (b)(6); (b)(7)(C) not to expedite (b)(6); (b)(7)(C) permit requests, (b)(6); (b)(7)(C) called him directly and said, "I'm calling on behalf of (b)(6); (b)(7)(C) who used to be your DEA (b)(6); (b)(7)(C) said he admonished (b)(6); (b)(7)(C) about invoking (b)(6); (b)(7)(C) name in his attempt to expedite (b)(6); (b)(7)(C) matters and (b)(6); (b)(7)(C) hung up the phone.

In (b)(6); (b)(7)(C) said he learned that (b)(6) had retired from DEA and had gone to work for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) said that members of his staff told him that (b)(6) called (b)(6); (b)(7)(C) in an attempt to determine how many permit requests (b)(6); (b)(7)(C) had pending with DEA, and further requested copies of all pending requests. (b)(6); (b)(7)(C) told (b)(6); (b)(7)(C) that (b)(6) should know the answer to that question, because all DEA registrants were required to keep copies of applications they made to DEA. (b)(6); (b)(7)(C) asked (b)(6); (b)(7)(C) why (b)(6) was calling and not (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) old him that she understood that (b)(6); (b)(7)(C) was no longer with (b)(6); (b)(7)(C) possibly because he failed to keep proper records. (b)(6); (b)(7)(C) said he reported (b)(6); (b)(7)(C) contact with (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) stated that (b)(6); (b)(7)(C) (b)(6) and (b)(6); (b)(7)(C) therefore (b)(6) felt comfortable contacting her directly. (b)(6); (b)(7)(C) approached (b)(6); (b)(7)(C) concerning (b)(6); (b)(7)(C) contacts with (b)(6); (b)(7)(C) then later reported to (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) told her, "he's (b)(6); (b)(7)(C) not supposed to do that," and mentioned something about bringing it up with (b)(6); (b)(7)(C) did not know what, if anything, (b)(6); (b)(7)(C) did after that. Shortly thereafter, (b)(6) called (b)(6); (b)(7)(C) directly again; she was not in the office, so (b)(6) left a voice mail for her. When (b)(6); (b)(7)(C) learned of this, she called (b)(6) and advised him that he was not to directly contact (b)(6); (b)(7)(C) or any other subordinate in her section. According to (b)(6); (b)(7)(C) (b)(6) denied to (b)(6); (b)(7)(C) that he had done so.

Thereafter, according to (b)(6); (b)(7)(C) (b)(6) discontinued calling (b)(6); (b)(7)(C) about the pending applications, but he did contact (b)(6); (b)(7)(C) who then approached (b)(6); (b)(7)(C) for the information on behalf of (b)(6); (b)(7)(C) Due to the fact that (b)(6) did not know which applications were pending, (b)(6); (b)(7)(C) resubmitted some duplicate requests, then (b)(6) contacted (b)(6); (b)(7)(C) and asked for the status of the requests and whether they could be expedited. (b)(6); (b)(7)(C) understood that (b)(6); (b)(7)(C), following her conversation with (b)(6); (b)(7)(C) approached (b)(6); (b)(7)(C) about the status of the requests and about having them expedited. (b)(6); (b)(7)(C) told (b)(6); (b)(7)(C) to speak to (b)(6); (b)(7)(C) However, according to (b)(6); (b)(7)(C) instead approached (b)(6); (b)(7)(C) who was in the process of (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) understood that (b)(6); (b)(7)(C) advised (b)(6); (b)(7)(C) not to make any further inquiries on behalf of (b)(6) or (b)(6); (b)(7)(C)

When asked whether he was aware of any instances in which (b)(6); (b)(7)(C) succeeded in gaining preferential treatment from the (b)(6); (b)(7)(C) stated that he had no firsthand information that occurred.

During her interview with the OIG, (b)(6); (b)(7)(C) stated that she recalled instances when (b)(6) and (b)(6); (b)(7)(C) contacted her and inquired about the status of (b)(6); (b)(7)(C) permit requests, and in some cases directed her to expedite them. (b)(6); (b)(7)(C) told the OIG that she saved no documentation or emails concerning those requests. At one point (b)(6) contacted her and asked who (b)(6); (b)(7)(C) needed to speak to in order to inquire regarding pending (b)(6); (b)(7)(C) permit requests. (b)(6); (b)(7)(C) stated, "I sent an email to (b)(6); (b)(7)(C) saying, please have (b)(6); (b)(7)(C) call (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and here's the phone number. For further information, we're researching issues regarding permit pending, pending permit items. This is after (b)(6); (b)(7)(C) has, has gone -- no, he's still here. And he's asking who they need to contact to follow up on permits. And that's when (b)(6) is still with DEA, because he left in (b)(6); (b)(7)(C) After (b)(6) began working at (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) told her to call (b)(6) at (b)(6); (b)(7)(C) sometime in late (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) was interviewed by the OIG regarding these matters. The OIG asked (b)(6); (b)(7)(C) about several (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) permit requests from (b)(6); (b)(7)(C) that appeared to have been expedited. (b)(6); (b)(7)(C) acknowledged that she might have expedited these requests but could not recall at whose request she did so. (b)(6); (b)(7)(C) told the OIG that she

assumed it was based on a request from [redacted] because he was [redacted] point of contact at the time. [redacted] stated that after [redacted] as a member of [redacted] staff, contacted her via email or telephone requesting that she expedite [redacted] permits, but [redacted] refused. She had no recollection of [redacted] asking her, or anyone else, to expedite [redacted] applications when [redacted] was still employed by DEA.

[redacted] told the OIG that in early [redacted] said she learned from [redacted] that [redacted] was contacting her concerning [redacted] permit requests. [redacted] told [redacted] that she should not attempt to answer [redacted] questions because [redacted] had not trained [redacted] concerning [redacted] permits; she had only trained [redacted] concerning [redacted] permits. Also [redacted] felt that it was inappropriate for [redacted] to contact [redacted] directly for information based on their prior relationship working together at DEA. [redacted] stated, "[b]ecause you worked with a person, you can't give them preferential treatment. That's the way I looked at it." [redacted] stated that she instructed [redacted] not to expedite [redacted] permit requests, stating, "I just recall telling her, you can't do that.." [redacted] told the OIG that she had no information suggesting that [redacted] ever did, in fact, expedite such requests.

During a second interview with the OIG, [redacted] denied having any specific recollection of [redacted] asking her to expedite [redacted] applications when he was employed at [redacted] despite statements she made during her initial OIG interview five months previously. [redacted] stated, "it's very possible that he's asked for things to be pushed forward, which is customary from different registrants... Honestly, I don't know if he did or didn't. If I said that, I'm not sure why I said that." Furthermore, she did not recall ever telling [redacted] that [redacted] asked either her or [redacted] to expedite applications, nor did she recall [redacted] instructing them not to do so. She did recall advising [redacted] that [redacted] had contacted [redacted] but her concern was that [redacted] was not trained on [redacted] permits, and she felt it was improper for [redacted] to contact [redacted] about matters outside of her purview simply because she was his [redacted] at DEA. Asked again whether [redacted] sought preferential treatment from [redacted], she stated, "I don't think that he was seeking preferential treatment from me, because he really didn't know me like that." However, she added that she could not recall with certainty.

[redacted]

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

(b)(6); (b)(7)(C) stated that when she first reported to (b)(6); (b)(7)(C) had recently retired from DEA and had begun his new position with (b)(6); (b)(7)(C) one month prior. (b)(6); (b)(7)(C) was aware that (b)(6); (b)(7)(C) and (b)(6) all knew each other and had worked together in (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)

When pressed by the OIG about a specific incident in which it was alleged the DEA management attempted to influence the quota request process, said, acknowledged that she was aware that had taken a position with and that the OIG reportedly had testimony that directed personnel to expedite or fast-track quota increase requests. Regarding directing staff to expedite or fast-track quota increase requests, told the OIG, "that could possibly be true." then said, "I mean, I wouldn't be surprised by that." When asked if ever directed her to expedite a quota increase request from or in any way provide what could be viewed as preferential treatment to stated that it was possible he did so some time but she could not recall a specific instance.

was asked if she recalled any instance or anything that reflected negatively on or with respect to the allegations in this matter and she responded, "Well, I wouldn't be -- I mean. Yes. had the advantage of being able to go to the front office." said that could call and/or because of their prior relationship. However, she also stated that she was unaware of an instance in which actually did that. When asked if anything was expedited at anybody's direction in because of being friends with she replied, "I mean, no one ever said that." denied having any direct knowledge of any benefit that was given because of position and his personal relationship with and but added, "Direct knowledge? No. I mean, assumptions -- impressions, yeah." She stated, "I mean, put it this way. None of the three or ever came up to me and said, 'hey, calling and you have to do your part' or whatever. I mean, no one's ever said that to me."

Interview of (b)(6); (b)(7)(C)

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

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

(b)(6); (b)(7)(C) reported a time when employees came to him with concerns about (b)(6) directing them to adjust a quota for (b)(6); (b)(7)(C) Specifically he said, "the quota unit had come down to me and said one time...I want to say this was 2013....That he (b)(6); (b)(7)(C) had, had them, talked to them (b)(6); (b)(7)(C) on adjusting a quota. And I...did not review that quota." (b)(6); (b)(7)(C) was not sure if (b)(6); (b)(7)(C) came to him to lodge this complaint or if it was just (b)(6); (b)(7)(C) According to (b)(6); (b)(7)(C) complained about how (b)(6) had them change a quota based on his review. (b)(6); (b)(7)(C) told the OIG that he questioned (b)(6) about (b)(6); (b)(7)(C) allegation. He said that (b)(6) admitted he directed them to adjust the figures concerning the (b)(6); (b)(7)(C) quota request. (b)(6); (b)(7)(C) further stated that he did not think he was obligated to take (b)(6); (b)(7)(C) complaint to (b)(6); (b)(7)(C) stating he thought it was just (b)(6); (b)(7)(C) "complaining," even though (b)(6); (b)(7)(C) admission to (b)(6); (b)(7)(C) substantiated (b)(6); (b)(7)(C) allegation.

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

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

(b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) Do Not Agree to OIG Interviews

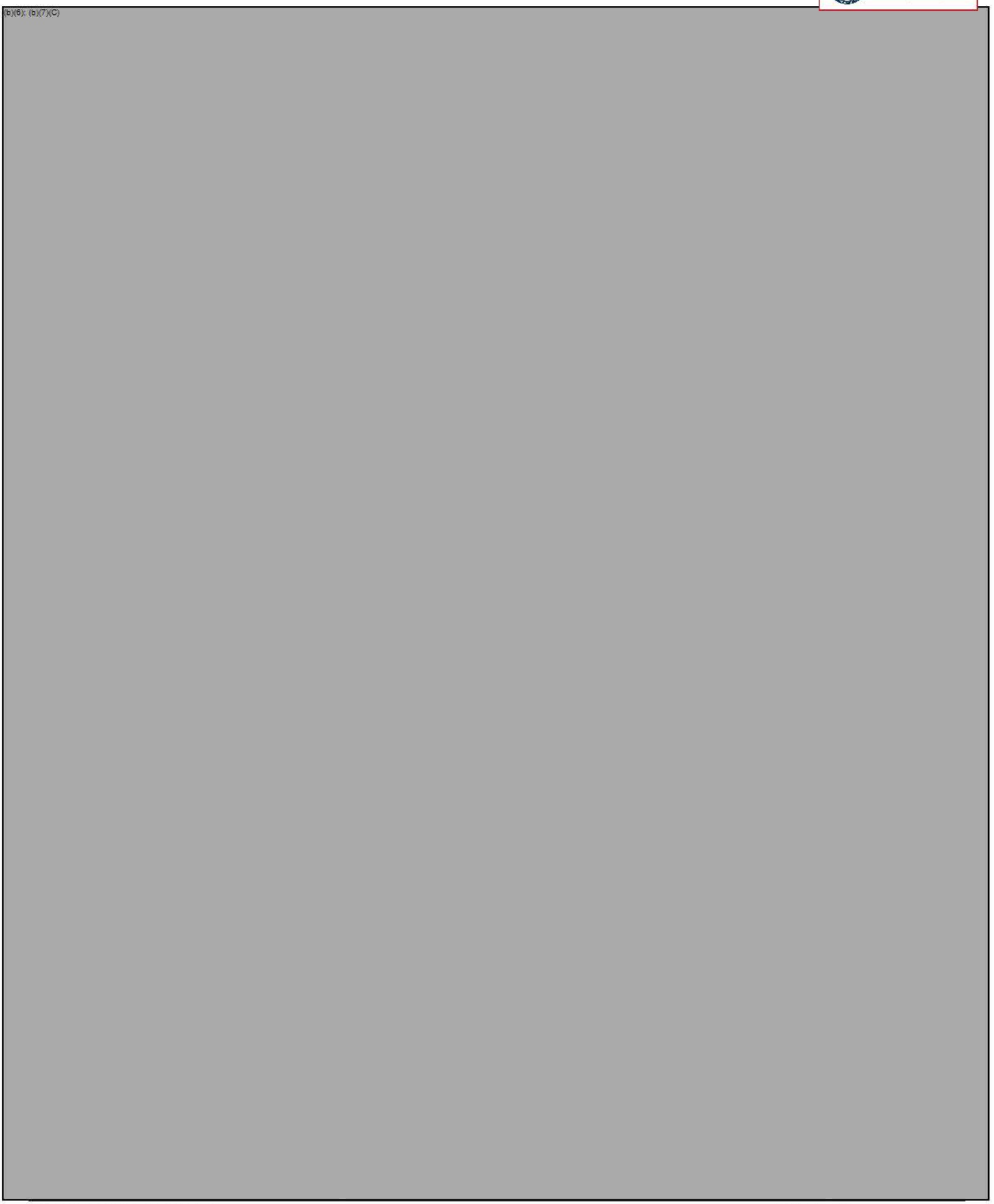
(b)(6) and (b)(6); (b)(7)(C) declined the OIG's request for interviews. Both were no longer DEA employees when contacted for interview. The OIG has the authority to compel testimony from current Department employees upon informing them that their statements will not be used to incriminate them in a criminal proceeding. However, the OIG does not have the authority to compel or subpoena testimony from former Department employees, including those who retired or resigned during the course of an OIG investigation.

OIG's Conclusion

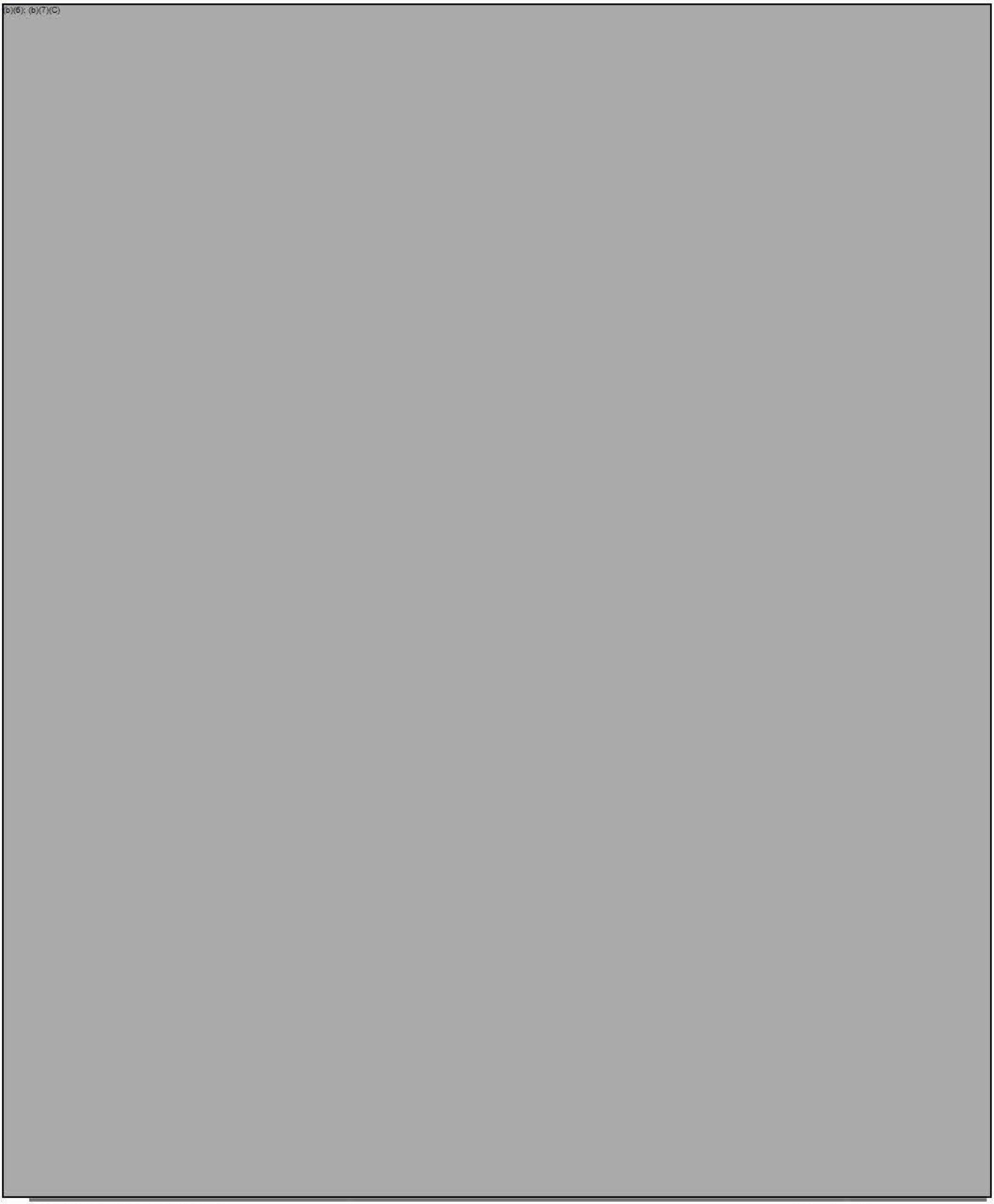
The OIG investigation determined that (b)(6) violated policies as set forth in the DEA Manual Chapter 27-2735. The OIG investigation found that (b)(6) misused his position, and therefore violated DEA Manual Section 2735.15 Misuse of Position and Coercion, by giving (b)(6); (b)(7)(C) preferential treatment and by pressuring and directing subordinates to do the same. Specifically, (b)(6); involvement in (b)(6); (b)(7)(C) in the reversal of a denial of a request by (b)(6); (b)(7)(C) for a request (b)(6); (b)(7)(C) deviated from standard procedure by essentially ordering the approval of the request, which prompted (b)(6); (b)(7)(C) to comply (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

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

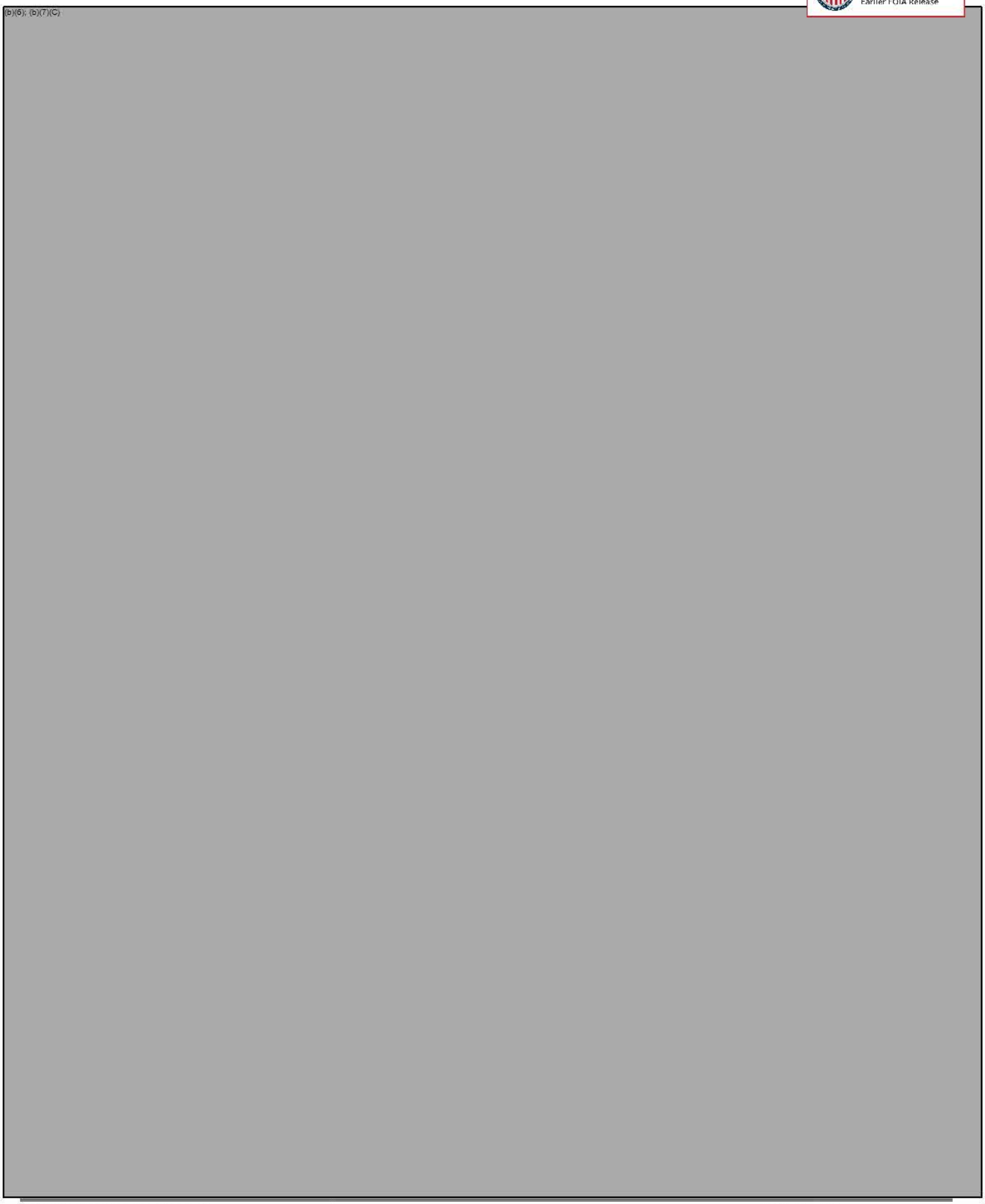
(b)(6); (b)(7)(C)



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



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



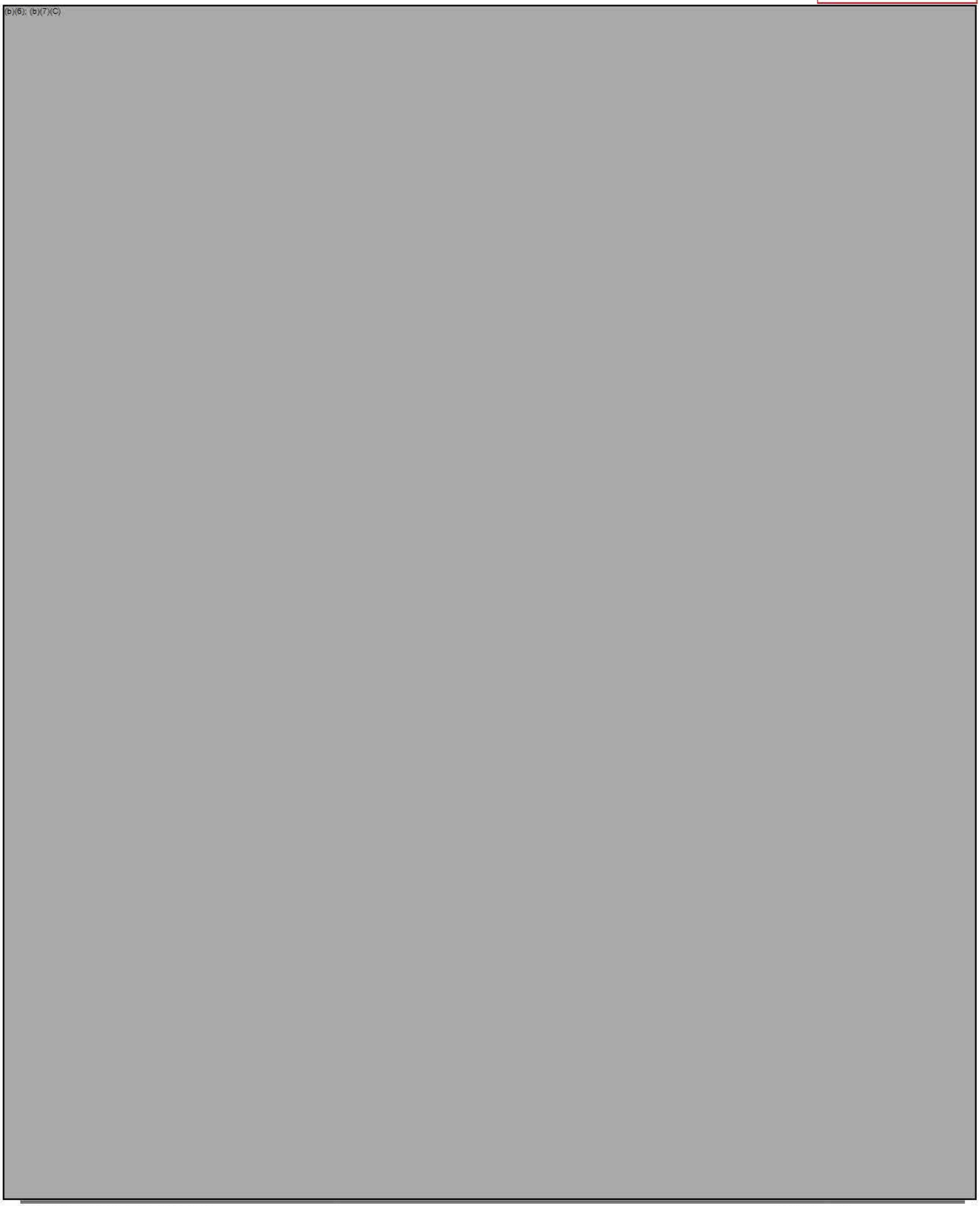
(b)(6); (b)(7)(C)

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

Lacked Candor

The anonymous letters alleged that (b)(6); (b)(7)(after using his DEA position (b)(6); (b)(7)(C) to direct that preferential treatment be provided to (b)(6); (b)(7)(C) retired from the DEA and accepted a position with (b)(6); (b)(7)(C)

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



[redacted]

[redacted] Meets with [redacted] Regarding his Impending Retirement

DEA Manual Section 2735.15.AA (Employee Candor and Truthfulness) states in part, "DEA personnel will not... provide non-responsive answers to properly authorized officials such as supervisory personnel, prosecutors, or agency investigators."

The OIG reviewed [redacted] DEA personnel file and determined that on [redacted] met with [redacted] OCC, concerning completing [redacted] exit interview in anticipation of his retirement from the DEA. [redacted] told the OIG that he met with [redacted] on that date to complete [redacted] DEA exit form. [redacted] said that he could not recall specifically whether [redacted] stated during their meeting that he had a post-DEA employment position. However [redacted] stated that based on his recollection generally of the communications he had had with [redacted] he had no indication that [redacted] had any post-employment prospects. In particular [redacted] stated that [redacted] did not mention that he had sent a resume to [redacted] or that there had been any communications with [redacted] or [redacted] about post-DEA employment of [redacted] by [redacted]

[redacted] provided the OIG with a copy of FORM DEA – 171a (12-13) – Employee Exit Clearance Record which was completed by [redacted] prior to his retirement from DEA. [redacted] identified the notation he made on page 2 of the form, under Other Activities, #9, Post - Employment Restrictions Waiver: (12/9/14 "No conflicts RD"). [redacted] said that he entered "No conflicts" in block #9 on [redacted] exit form based on the information and impression he had from [redacted] that [redacted] did not have any pending employment offers upon retiring from DEA. [redacted] said that if he knew [redacted] had been negotiating for employment with [redacted] [redacted] would have explored any potential conflicts concerning post-employment and documented them because that was a purpose of the meeting.

When the OIG asked [redacted] what guidance he would have provided to [redacted] had [redacted] informed him that he had been in communication with [redacted] about post-DEA employment during the 7 months prior to the [redacted] exit meeting, including a planned employment interview with [redacted] 2 days after the exit meeting, [redacted] said he would have expressed concern about whether [redacted] was participating personally and substantially in [redacted] matters. [redacted] said that he would have certainly explored whether the federal conflict of interest statutes (18 U.S.C. §§ 207, 208) applied and advised [redacted] regarding communications that were prohibited. [redacted] further stated that had he known that [redacted] was considering post-DEA employment with [redacted] he would have advised [redacted] to formally recuse himself from participating in any official matters involving [redacted]

[redacted] told the OIG that [redacted] attended a post-employment ethics briefing conducted by [redacted] in [redacted] told the OIG that during this briefing, [redacted] was provided with information, direction, and instruction relative to post-DEA employment. [redacted] provided the OIG with a Powerpoint presentation he drafted titled "Seeking & Post Employment Conflict of Interest Laws" that he presented during the [redacted] briefing. The presentation included a slide that was also provided to attendees in paper handout form titled "Seeking Employment – Summary," stating the following:

- Don't send a resume to, or discuss employment with, a prospective employer if...
- DEA has official dealings (e.g., contract investigation) with the prospective employer,
- The official dealings may affect the financial interests of the prospective employer, and
- You are currently working on, or supervising those official dealings involving that prospective employer.

In addition, all attendees were provided with a copy of United States Office of Government Ethics Memorandum DO-04-029, dated September 20, 2004, Subject: Seeking Employment. On page 5 of the memorandum, a section titled "Notification of Recusal" states the following:

"Employees comply with any recusal obligations under section 208 and subpart F by avoiding participation in any particular matter in which their prospective employer has a financial interest. Frequently, however, employees ask whether they must advise their supervisors or other agency personnel about their employment contacts and any resulting recusal obligations. OGE recognizes that this is a sensitive area and that many employees do not want to alert their supervisors unnecessarily or prematurely to a job search. At the same time, an agency has legitimate interests in regulating the flow of work among its employees and preventing situations that could result in actual or apparent conflicts of interest.

These questions are addressed in 5 C.F.R. § 2635.604(b). Under this provision, an employee who becomes aware of the need to recuse from a matter affecting a prospective employer 'should notify the person responsible for his assignment.' Id. (emphasis added). If the employee is responsible for his own assignments, he 'should take whatever steps are necessary to ensure that he does not participate in the matter.' Id. These provisions fall short of a mandatory notification duty, but they do point employees in the direction of common sense. As described in OGE Informal Advisory Letter 95 x 7: 'While there is no requirement that an employee notify a supervisor or other agency official of the need to be disqualified from assignments affecting a prospective employer, notification permits a supervisor to minimize any disruption of the agency's mission by arranging assignments accordingly. Moreover, an employee may, as a practical matter, have to explain his avoidance of certain duties.'"

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

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

In addition, the OIG found that (b)(6) lacked candor during his meeting with (b)(6); (b)(7)(C) in violation of DEA Manual Section 2735.15.AA, which states in part that "DEA personnel will not... provide non-responsive answers to properly authorized officials such as supervisory personnel, prosecutors, or agency investigators." On (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) interviewed (b)(6) while completing his Employee Exit Clearance Record. Although (b)(6) did not receive a formal offer of employment from (b)(6); (b)(7)(C) until 12 days later, at the time of his exit interview (b)(6) was aware that (b)(6); (b)(7)(C) had succeeded in creating a new position intended for him at (b)(6); (b)(7)(C) and that he would be interviewed for the position on (b)(6); (b)(7)(C) stated to the OIG that based on his recollection generally of the communications he had had with (b)(6); he had no indication that (b)(6) had any post-employment prospects. In particular, (b)(6); (b)(7)(C) stated that (b)(6) did not mention that he had sent a resume to (b)(6); (b)(7)(C) or that there had been any communications with (b)(6); (b)(7)(C) or (b)(6); (b)(7)(C) about post-DEA employment of (b)(6) by (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) provided the OIG with a copy of FORM DEA – 171a (12-13) – Employee Exit Clearance Record which was completed by (b)(6) with the assistance of (b)(6); (b)(7)(C) prior to his retirement from DEA. (b)(6); (b)(7)(C) identified the notation he made on page 2 of the form, under Other Activities, #9, Post - Employment Restrictions Waiver: (12/9/14 "No conflicts RD"). (b)(6); (b)(7)(C) said that he entered "No conflicts" in block #9 on (b)(6); exit form based on the information and impression he had from (b)(6) that (b)(6) did not have any pending employment offers upon retiring from DEA. (b)(6); (b)(7)(C) said that if he knew (b)(6) had been negotiating for employment with (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) would have explored any potential conflicts concerning post-employment and documented them because that was a purpose of the meeting. (b)(6); lack of candor thwarted the purpose of the meeting by impeding (b)(6); (b)(7)(C) ability to provide (b)(6) with the most effective counsel concerning his likely post retirement employment, and resulted in the completion of a FORM DEA – 171a (12-13) – Employee Exit Clearance Record by (b)(6); (b)(7)(C) in a manner that failed to reflect the advanced nature of (b)(6); application with (b)(6); (b)(7)(C)

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

This report is being provided to DEA for its information.