


SUBJECT		CASE NUMBER	
(b)(6); (b)(7)(C)		2019-003678	
OFFICE CONDUCTING INVESTIGATION		DOJ COMPONENT	
Fraud Detection Office		Federal Bureau of Investigation	
DISTRIBUTION		STATUS	
<input checked="" type="checkbox"/> Field Office FDO <input checked="" type="checkbox"/> AIGINV <input checked="" type="checkbox"/> Component FBI <input type="checkbox"/> USA <input type="checkbox"/> Other		<input type="checkbox"/> OPEN <input type="checkbox"/> OPEN PENDING PROSECUTION <input checked="" type="checkbox"/> CLOSED PREVIOUS REPORT SUBMITTED: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Date of Previous Report:	

SYNOPSIS

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Federal Bureau of Investigation (FBI) (b)(6); (b)(7)(C) alleging that (b)(6); (b)(7)(C) submitted a request for outside employment wherein (b)(6); (b)(7)(C) failed to disclose that his prospective employer was an (b)(6); (b)(7)(C) contractor, (b)(6); (b)(7)(C) who worked closely with and was overseen by (b)(6); (b)(7)(C). The request was made by (b)(6); (b)(7)(C) during the most recent lapse in appropriations from December 22, 2018 to January 25, 2019 (commonly referred to as the "government shutdown") at a time when (b)(6); (b)(7)(C) had been furloughed and was no longer receiving his regular paycheck. In doing so, (b)(6); (b)(7)(C) allegedly created a financial conflict of interest and made a false statement by submitting a misleading request form to the FBI. (b)(6); (b)(7)(C) supervisor at the time, then (b)(6); (b)(7)(C) Unit (b)(6); (b)(7)(C) Chief (b)(6); (b)(7)(C) was allegedly fully aware of the circumstances of (b)(6); (b)(7)(C) misleading request, approved it, and forwarded it for (b)(6); (b)(7)(C) executive approval. In doing so, (b)(6); (b)(7)(C) allegedly failed to fulfill his managerial duties as (b)(6); (b)(7)(C) supervisor and as an FBI senior manager and provided false information to (b)(6); (b)(7)(C) executives. When discussing the circumstances of (b)(6); (b)(7)(C) request with other (b)(6); (b)(7)(C) managers, (b)(6); (b)(7)(C) reportedly refused to have (b)(6); (b)(7)(C) amend the request form or consult with an FBI ethics official. The FBI reportedly canceled (b)(6); (b)(7)(C) request before he began working (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C)
 (b)(6); (b)(7)(C)
 The OIG investigation

DATE	July 16, 2020	SIGNATURE	(b)(6); (b)(7)(C)
PREPARED BY SPECIAL AGENT	(b)(6); (b)(7)(C)		
DATE	July 16, 2020	SIGNATURE	 Digitally signed by KENNETH DIEFFENBACH Date: 2020.07.16 15:17:40 -04'00'
APPROVED BY SPECIAL AGENT IN CHARGE	Ken Dieffenbach		

also substantiated that (b)(6); (b)(7)(C) violated the FBI Offense Codes (Section 2.1 and Section 5.2 *Dereliction of Supervisory Responsibilities*) by failing to exercise reasonable care in the execution of his supervisory duties when he knowingly approved (b)(6); (b)(7)(C) misleading request form and submitting it forward to other FBI officials for approval while failing to disclose (b)(6); (b)(7)(C) status as an (b)(6); (b)(7)(C) contractor.

The OIG reviewed (b)(6); (b)(7)(C) request for outside employment, which he submitted electronically to (b)(6); (b)(7)(C) who approved it and forwarded it. The form contained no information identifying (b)(6); (b)(7)(C) as an FBI contractor who performed work (b)(6); (b)(7)(C) where (b)(6); (b)(7)(C) worked. Although the FBI form does not ask if the prospective employer is an FBI or government contractor, it asks whether the prospective employer is “in any way affected by the performance or non-performance of your FBI duties.” (b)(6); (b)(7)(C) answered “No” to question B.10 on the form. Although the employer listed on the form, (b)(6); (b)(7)(C) did not perform work for the FBI, its owner was (b)(6); (b)(7)(C) an FBI contractor. (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) denied the allegations against them, stating that they saw no conflict of interest in the request. (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) noted that after (b)(6); (b)(7)(C) supervisors asked questions about the request (b)(6); (b)(7)(C) decided to withdraw his request before he actually performed any work for (b)(6); (b)(7)(C) company.

The DOJ Public Integrity Section declined to open an investigation regarding the allegations against (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) retired from the FBI while the OIG investigation was on-going.

The OIG has completed its investigation and is providing this report to the FBI for its review.

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)

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

(then Unit Chief)

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

DETAILS OF THE INVESTIGATION

Predication

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Federal Bureau of Investigation (FBI) [REDACTED] alleging that [REDACTED] submitted a request for outside employment wherein [REDACTED] failed to disclose that his prospective employer was an [REDACTED] contractor, [REDACTED] who worked closely with and was overseen by [REDACTED]. The request was made by [REDACTED] during the most recent lapse in appropriations from December 22, 2018 to January 25, 2019 (commonly referred to as the “government shutdown”) at a time when [REDACTED] had been furloughed and was no longer receiving his regular paycheck. In doing so, [REDACTED] allegedly created a financial conflict of interest and made a false statement by submitting a misleading request form to the FBI. [REDACTED] supervisor at the time, then [REDACTED] Unit [REDACTED] Chief [REDACTED] was allegedly fully aware of the circumstances of [REDACTED] misleading request, approved it, and forwarded it for [REDACTED] executive approval. In doing so, [REDACTED] allegedly failed to fulfill his managerial duties as [REDACTED] supervisor and as an FBI senior manager and provided false information to [REDACTED] executives. When discussing the circumstances of [REDACTED] request with other [REDACTED] managers, [REDACTED] reportedly refused to have [REDACTED] amend the request form or consult with an FBI ethics official. The FBI reportedly canceled [REDACTED] request before he began working [REDACTED]

Investigative Process

The OIG’s investigative efforts consisted of:

Interviews of the following FBI personnel:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED] then [REDACTED] Unit Chief [REDACTED]

Interviews of the following FBI contractors:

- [REDACTED]
- [REDACTED]

The OIG reviewed official FBI email and text messages for [REDACTED]

[REDACTED]

The following federal ethics law and regulations were determined to be relevant in investigating and assessing the alleged actions of (b)(6); (b)(7)(C)

- 18 U.S.C. § 208 (Acts affecting a personal financial interest) prohibits an Executive Branch employee from participating officially, personally and substantially in any particular matter in which, to his knowledge, he, or a person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest, if the particular matter will have a direct and predicable effect on that interest. The employee may obtain a waiver to participate if he makes full disclosure of the circumstances to the government official responsible for his appointment and receives in advance a *written determination* from the official that the employee's financial interest will not likely affect the integrity of service the Government receives from the employee.
- 5 C.F.R. § 2640.103 (2) defines "personal and substantial participation" as follows: "To participate 'personally' means to participate directly. . . . To participate 'substantially' means that the employee's involvement is of significance to the matter. Participation may be substantial even though it is not determinative of the outcome of a particular matter."
- 5 C.F.R. § 2635.702 (Use of public office for private gain) An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations.

Relatedly, the following FBI conduct guidelines and policies were also determined to be relevant in investigating and assessing the alleged actions of (b)(6); (b)(7)(C)

- FBI Ethics and Integrity Program Policy Directive and Policy Guide, dated February 2, 2018, states the following:
 - The Assistant Director (AD), Office of Integrity and Compliance (OIC), serves as the FBI Deputy Designated Ethics Official, and is cited as the FBI's "*agency designee*" for all ethics matters. The OIC AD and all delegated representatives are responsible for managing and administering the FBI ethics program, including the provision of any written ethics waivers required by FBI employees pursuant to federal ethics statutes or regulations.
 - Each FBI employee is responsible for maintaining "a sufficiently thorough knowledge" of ethical requirements in order to identify potential ethics issues as they arise and comply with all applicable ethics laws and regulations. Employees are also responsible for adhering to the FBI Code of Conduct, including compliance with all applicable standards of ethical conduct, and are accountable for any "willful or culpably negligent failure to do so."

- Section 4.5.2.5 *Interpretation and Waiver Guidance Concerning 18 U.S.C. § 208* provides that the statute is intended to protect governmental processes from actual and apparent conflicts of interest and allows for individual waivers, in writing, from the statute's disqualification provision. Such waivers "are not favored" in FBI policy and are "seldom granted."
- Section 4.8 *Employment and Activities Outside the FBI* reinforces federal regulatory requirements that an employee seeking employment outside of the FBI obtain a written waiver or authorization from the *agency designee* prior to participating in any matter that would cause a reasonable person to question the employee's impartiality.
- The FBI Offense Codes and Penalty Guidelines contains the following prohibitions:
 - Section 2.1 *False/Misleading Information – Employment/Security Documents* prohibits "knowingly providing false or misleading information in an employment-related or security-related document; or signing or attesting to the truthfulness of information provided in an employment-related or security-related document in reckless disregard of the accuracy or completeness of pertinent information contained therein."
 - Section 5.2 *Dereliction of Supervisory Responsibilities* prohibits a supervisor from "failing to exercise reasonable care in the execution of his duties or responsibilities, disregarding his duties or responsibilities, or significantly deviating from the appropriate methods of supervision."

(b)(6); (b)(7)(C) **Created a Conflict of Interest and Submitted a Misleading Request for Outside Employment**

The OIG received information alleging that (b)(6); (b)(7)(C) created a financial conflict of interest by negotiating for and obtaining outside employment with (b)(6); (b)(7)(C) contractor (b)(6); (b)(7)(C) who worked closely with (b)(6); (b)(7)(C) and whom (b)(6); (b)(7)(C) oversaw. (b)(6); (b)(7)(C) also allegedly made a false statement by submitting a misleading FBI Form FD-331b (Professional Staff Employee Request to Engage in Outside Employment) that failed to disclose (b)(6); (b)(7)(C) status as an (b)(6); (b)(7)(C) contractor affected by (b)(6); (b)(7)(C) performance or non-performance of his FBI duties.

The OIG reviewed a copy of (b)(6); (b)(7)(C) request to engage in outside employment. (b)(6); (b)(7)(C) signed the request electronically (b)(6); (b)(7)(C) days into the lapse in appropriations. As filled out, the form lists his prospective employer (b)(6); (b)(7)(C). The form does not disclose that (b)(6); (b)(7)(C) is an (b)(6); (b)(7)(C) contractor who works for (b)(6); (b)(7)(C) or that (b)(6); (b)(7)(C) worked with (b)(6); (b)(7)(C) in any official capacity. The form does not ask if the prospective employer is a government contractor. (b)(6); (b)(7)(C)

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



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

The form was approved by then (b)(6); (b)(7)(C) Unit Chief (b)(6); (b)(7)(C) who wrote, "Due to federal shutdown, employee needs to supplement income." Per the document, (b)(6); (b)(7)(C) answered "No" to the following question on the form:

B.10: Is the proposed employer in any way affected by the performance or non-performance of your official FBI duties?

The FD-331b stipulated that any affirmative answer to its questions, including B.10, required an ethics consultation with the FBI Office of Integrity and Compliance. Using the FBI's Enterprise Process Automation System (EPAS), (b)(6); (b)(7)(C) routed the form electronically to (b)(6); (b)(7)(C) who approved it on (b)(6); (b)(7)(C) and routed it to (b)(6); (b)(7)(C), who also approved it and commented that he saw no conflicts.

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

(b)(6); (b)(7)(C) said the meeting between her and (b)(6); (b)(7)(C) to discuss her concerns about the request was eventually joined by (b)(6); (b)(7)(C) and occurred in (b)(6); (b)(7)(C) former office (b)(6); (b)(7)(C). Based on the discussion, (b)(6); (b)(7)(C) said he knew of the circumstances of (b)(6); (b)(7)(C) requested employment with (b)(6); (b)(7)(C) and did not think it created an actual or apparent conflict of interest for (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) recalled that neither (b)(6); (b)(7)(C) nor (b)(6); (b)(7)(C) said they saw the need for further review of the matter within the FBI. Both reasoned to (b)(6); (b)(7)(C) that no apparent conflict of interest would arise because no one working at FBI (b)(6); (b)(7)(C) would know about (b)(6); (b)(7)(C) outside employment with (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) recalled that neither (b)(6); (b)(7)(C) nor (b)(6); (b)(7)(C) made reference to any inaccuracies or falsehoods on (b)(6); (b)(7)(C) request form. She stated that neither (b)(6); (b)(7)(C) said they saw any need to mention on the form that (b)(6); (b)(7)(C) was an (b)(6); (b)(7)(C) contractor or that he worked with (b)(6); (b)(7)(C) on a daily basis.

The OIG interviewed (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) stated that (b)(6); (b)(7)(C) leadership rescinded (b)(6); (b)(7)(C) approved request after learning about (b)(6); (b)(7)(C) status as an (b)(6); (b)(7)(C) contractor. (b)(6); (b)(7)(C)

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



(b)(6); (b)(7)(C) knew that (b)(6); (b)(7)(C) proposed (b)(6); (b)(7)(C) work for (b)(6); (b)(7)(C) did not include any contracts related to the FBI. (b)(6); (b)(7)(C) felt that the information entered on (b)(6); (b)(7)(C) request form was misleading and of particular concern.

(b)(6); (b)(7)(C)
(b)(6); (b)(7)(C) In (b)(6); (b)(7)(C) told (b)(6); (b)(7)(C) during a section management meeting only that (b)(6); (b)(7)(C) had requested outside employment during the government shutdown that was underway at that time. (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) later discussed (b)(6); (b)(7)(C) request with (b)(6); (b)(7)(C) said that (b)(6); (b)(7)(C) not (b)(6); (b)(7)(C) subsequently reported to her and (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) proposed employer (b)(6); (b)(7)(C) was an (b)(6); (b)(7)(C) contractor working for (b)(6); (b)(7)(C). When (b)(6); (b)(7)(C) questioned (b)(6); (b)(7)(C) about (b)(6); (b)(7)(C) request, (b)(6); (b)(7)(C) perceived that (b)(6); (b)(7)(C) was fully aware of and had no ethical concerns about (b)(6); (b)(7)(C) request because the proposed (b)(6); (b)(7)(C) work was unrelated to the FBI contract with (b)(6); (b)(7)(C)

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



When the OIG read question "B.10" from [REDACTED] request form (see below) and asked for [REDACTED] response, [REDACTED] answered, "No." [REDACTED] noted that [REDACTED] prospective work for him was unrelated to the FBI. When asked [REDACTED] said he had no reason to believe that [REDACTED] had attempted to mislead the FBI regarding his prospective employment of [REDACTED]

When interviewed by the OIG, [REDACTED] stated that the reason he received the outside approval form in EPAS was more informational and that he did not speak to [REDACTED] before approving it. [REDACTED] stated that he did not know [REDACTED] or the contractor [REDACTED] was requesting to work for, [REDACTED] further stated that had he been aware of any potential conflict, he would have raised that matter to the FBI's Inspections Division.

[REDACTED]



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

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

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

(b)(6); (b)(7)(C) said he discussed (b)(6); (b)(7)(C) offer and the “parameters” of the proposed work with (b)(6); (b)(7)(C) prior to submitting his request form in EPAS. (b)(6); (b)(7)(C) only stated concerns at that time were whether the outside employment with (b)(6); (b)(7)(C) related to the FBI; involved the use of any FBI materials; and whether (b)(6); (b)(7)(C) would be paid comparably with other (b)(6); (b)(7)(C) employees. After (b)(6); (b)(7)(C) submitted his request form to (b)(6); (b)(7)(C) in EPAS, he and (b)(6); (b)(7)(C) reviewed it in (b)(6); (b)(7)(C) office, but did not discuss each question. (b)(6); (b)(7)(C) said “it



looked good” and asked (b)(6); (b)(7)(C) if he had any questions. (b)(6); (b)(7)(C) did not think there was “an [ethics] issue”

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

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

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

to (b)(6); (b)(7)(C) told him during the discussion that the form would be routed through him and then the (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) He and (b)(6); (b)(7)(C) did not discuss any actual or apparent conflicts of interest relative to

(b)(6); (b)(7)(C) request.

(b)(6); (b)(7)(C) recalled later discussing his request again with (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C) office while (b)(6); (b)(7)(C) was waiting for its approval. (b)(6); (b)(7)(C) did not recall that he or (b)(6); (b)(7)(C) made any statement suggesting that no apparent conflict of interest would exist because nobody at (b)(6); (b)(7)(C) would know that (b)(6); (b)(7)(C) worked for

(b)(6); (b)(7)(C) told (b)(6); (b)(7)(C) that (b)(6); (b)(7)(C) had “raised a flag” about (b)(6); (b)(7)(C) request (b)(6); (b)(7)(C)

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

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

(b)(6); (b)(7)(C) told the OIG that he could not explain why others within (b)(6); (b)(7)(C) had readily raised concerns about a conflict in his request to work for (b)(6); (b)(7)(C) while he (b)(6); (b)(7)(C) had no ethics concerns at all. (b)(6); (b)(7)(C) only reiterated that he and (b)(6); (b)(7)(C) did not see a conflict (b)(6); (b)(7)(C)

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

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

During his OIG interview, (b)(6); (b)(7)(C)

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

(b)(6); (b)(7)(C) acknowledged having received annual FBI and (b)(6); (b)(7)(C) ethics training related to conflicts of interest and outside employment since joining the FBI.

(b)(6); (b)(7)(C) stated that (b)(6); (b)(7)(C) was a (b)(6); (b)(7)(C) employee working for the FBI (b)(6); (b)(7)(C) when (b)(6); (b)(7)(C) recruited him to the FBI in (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) said he was certain that he and (b)(6); (b)(7)(C) did not discuss seeking an ethics opinion from FBI OGC regarding (b)(6); (b)(7)(C) prospective outside employment by (b)(6); (b)(7)(C) because they did not see a conflict of interest.

(b)(6); (b)(7)(C) recalled that (b)(6); (b)(7)(C) telephoned him around (b)(6); (b)(7)(C), and notified (b)(6); (b)(7)(C) of his desire to work part-time for (b)(6); (b)(7)(C) due to the government shutdown. (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) said he had no ethical reservations about (b)(6); (b)(7)(C) working for (b)(6); (b)(7)(C) because he knew that (b)(6); (b)(7)(C) work for (b)(6); (b)(7)(C) would be unrelated to the (b)(6); (b)(7)(C) contract and (b)(6); (b)(7)(C) official FBI duties. (b)(6); (b)(7)(C) reasoned further that, at that time, he saw no actual or apparent conflict of interest because (b)(6); (b)(7)(C) was not (b)(6); (b)(7)(C) supervisor and was neither (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) denied that (b)(6); (b)(7)(C) tried to mislead the FBI or conceal the fact that (b)(6); (b)(7)(C) was an (b)(6); (b)(7)(C) contractor working with (b)(6); (b)(7)(C). He said they simply did not think it was relevant at the time. (b)(6); (b)(7)(C) told the OIG that, in retrospect (b)(6); (b)(7)(C) should have obtained an ethics consultation regarding his request because it would have likely prevented the OIG investigation.

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



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

Approval of a Form he Knew to Contain Misleading Information

The OIG received information alleging that then (b)(6); (b)(7)(C) Unit Chief (b)(6); (b)(7)(C) failed to perform his official duties as (b)(6); (b)(7)(C) supervisor and a senior FBI manager, and lacked candor, by approving (b)(6); (b)(7)(C) misleading request for outside employment, while failing to include (b)(6); (b)(7)(C) status as (b)(6); (b)(7)(C) contractor, and forwarding the request to (b)(6); (b)(7)(C) for final approval.

When interviewed by the OIG, (b)(6); (b)(7)(C) denied that he had failed to perform his official duties as (b)(6); (b)(7)(C) then supervisor and a senior (b)(6); (b)(7)(C) manager by approving (b)(6); (b)(7)(C) request to work for (b)(6); (b)(7)(C) or failing to ensure that (b)(6); (b)(7)(C) had obtained an ethics opinion. (b)(6); (b)(7)(C) also denied lacking candor to FBI executive management regarding (b)(6); (b)(7)(C) request by intentionally forwarding (b)(6); (b)(7)(C) inaccurate request form to (b)(6); (b)(7)(C) executive management while failing to include (b)(6); (b)(7)(C) status as (b)(6); (b)(7)(C) contractor. (b)(6); (b)(7)(C) stated repeatedly that he saw no actual or apparent conflict of interest in (b)(6); (b)(7)(C) prospective outside employment by (b)(6); (b)(7)(C)

The OIG showed (b)(6); (b)(7)(C) a copy of (b)(6); (b)(7)(C) FD-331b obtained from (b)(6); (b)(7)(C) management and asked (b)(6); (b)(7)(C) if the form looked familiar to him as “the same one you approved.” (b)(6); (b)(7)(C) replied, “Yes.” Regarding question B.10 specifically, the OIG asked (b)(6); (b)(7)(C) if it caused him any concerns when he read it initially prior to approving the form. (b)(6); (b)(7)(C) replied, “It did” and “It did generate a little bit of hair on the back of the neck” because the question “gets at the root of government contracting ethics.” (b)(6); (b)(7)(C) said he did not question (b)(6); (b)(7)(C) further about the issue or hesitate to approve the form because he did not see a conflict of interest for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) explained further that he did not need to discuss any of the specific questions with (b)(6); (b)(7)(C) because he (b)(6); (b)(7)(C) already knew what (b)(6); (b)(7)(C) answers on the form should be. Nonetheless, (b)(6); (b)(7)(C) said (b)(6); (b)(7)(C) alone was

responsible for the answers on the form. He refused to accept any responsibility for the form's content, including the absence of any narrative comments identifying (b)(6); (b)(7)(C) as (b)(6); (b)(7)(C) contractor. When asked about the absence of any narrative comments identifying (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) gave three inconsistent reasons, stating "I missed it," "I didn't think there was an issue" and that he believed (b)(6); (b)(7)(C) would recognize (b)(6); (b)(7)(C) name as (b)(6); (b)(7)(C) contractor.

(b)(6); (b)(7)(C) acknowledged that he wrote and signed the narrative entries on (b)(6); (b)(7)(C) PAR wherein (b)(6); (b)(7)(C) articulated and credited (b)(6); (b)(7)(C) decision-making and oversight responsibilities in the (b)(6); (b)(7)(C) projects and in working with (b)(6); (b)(7)(C) contractors. (b)(6); (b)(7)(C) said his PAR comments for (b)(6); (b)(7)(C) were absolutely accurate and that (b)(6); (b)(7)(C) went "above and beyond" in performing his official duties. Nonetheless, (b)(6); (b)(7)(C) refused to acknowledge that (b)(6); (b)(7)(C) should have answered "Yes" on question B.10 or that he should have challenged (b)(6); (b)(7)(C) about answering "No" to the question. (b)(6); (b)(7)(C) emphasized that (b)(6); (b)(7)(C) had no supervisory authority over (b)(6); (b)(7)(C) and was not (b)(6); (b)(7)(C) on (b)(6); (b)(7)(C) contract. (b)(6); (b)(7)(C) added that anyone with ethics concerns about (b)(6); (b)(7)(C) request did not fully understand the nature of (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) official duties.

After learning of (b)(6); (b)(7)(C) desire to work for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) said he researched and printed the FBI Offense Codes and Penalty Guidelines and the FBI Office of Professional Responsibility quarterly misconduct reports for content related to outside employment, but he did not research any of the FBI's ethics policies. (b)(6); (b)(7)(C) said he thought he was making an informed decision in approving (b)(6); (b)(7)(C) request, but now felt that he should have maintained a broader perspective and sought an ethics opinion.

When interviewed by the OIG, (b)(6); (b)(7)(C) stated after (b)(6); (b)(7)(C) routed him the outside employment request form in EPAS he did not have any conversation with (b)(6); (b)(7)(C) about the form before (b)(6); (b)(7)(C) approved it, thus (b)(6); (b)(7)(C) made no statements to (b)(6); (b)(7)(C) about any potential conflicts. (b)(6); (b)(7)(C) told the OIG his review was more informational. (b)(6); (b)(7)(C) stated that had he been aware of any potential conflict, he would have raised that matter to the FBI's Inspections Division.

The DOJ Public Integrity Section declined to open an investigation regarding (b)(6); (b)(7)(C).

(b)(6); (b)(7)(C) retired from the FBI while the OIG investigation was on-going.

OIG's Conclusion

The OIG substantiated that (b)(6); (b)(7)(C) violated FBI Offense Codes and Penalty Guidelines Section 2.1 *False/Misleading Information – Employment/Security Documents* when he approved (b)(6); (b)(7)(C) FD-331b form knowing the relationship between (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C). (b)(6); (b)(7)(C) showed reckless disregard of the accuracy and completeness regarding the lack of pertinent information on the form by not questioning (b)(6); (b)(7)(C) on his answers to question B.10 that the proposed employer is in no way affected by the performance or non-performance of (b)(6); (b)(7)(C) FBI duties; (b)(6); (b)(7)(C) omission in taking the actions required by B.16: If you selected 'Yes' to any of the above questions, you must consult an OIC Ethics Attorney before proceeding; and finally by (b)(6); (b)(7)(C) failing to identify any "Other Details Relevant to This Request" on page 3 of the FD-331b.



Additionally, the OIG substantiated that (b)(6); (b)(7)(C) violated FBI Offense Codes *Section 5.2 Dereliction of Supervisory Responsibilities*, when he failed to exercise reasonable care in the execution of his supervisory duties and responsibilities by:

- (1) failing to recognize the conflict of interest, whether actual or apparent, created by (b)(6); (b)(7)(C) in his negotiation and request for outside employment with (b)(6); (b)(7)(C)
- (2) allowing (b)(6); (b)(7)(C) continued post-negotiation work on official matters affecting (b)(6); (b)(7)(C) without obtaining a written waiver from FBI OIG; and
- (3) failing to direct (b)(6); (b)(7)(C) to consult with an FBI ethics official despite having done so previously on a different issue.

The OIG has completed its investigation and is providing this report to FBI for its review.