United States Department of the Interior
OFFICE OF INSPECTOR GENERAL
Washington, DC 20240

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Memorandum

To: Secretary Kempthorne

From: Earl E. Devaney
Inspector General

Earl E Devaney

Subject: OIG Investigations of MMS Employees

This memorandum conveys the final results of three separate Office of Inspector General (OIG) investigations into allegations against more than a dozen current and former Minerals Management Service (MMS) employees. In the case of one former employee, Jimmy Mayberry, he has already pled guilty to a criminal charge. The cases against former employees, Greg Smith and Lucy Querques Dennet, were referred to the Public Integrity Section of the Department of Justice (DOJ). However, that office declined to prosecute. The remaining current employees await your discretion in imposing corrective administrative action. Others have escaped potential administrative action by departing from federal service, with the usual celebratory send-offs that allegedly highlighted the impeccable service these individuals had given to the Federal Government. Our reports belie this notion.

Collectively, our recent work in MMS has taken well over two years, involved countless OIG human resources and an expenditure of nearly $5.3 million of OIG funds. Two hundred thirty-three witnesses and subjects were interviewed, many of them multiple times, and roughly 470,000 pages of documents and e-mails were obtained and reviewed as part of these investigations.

I know you have shared my frustration with the length of time these investigations have taken, primarily due to the criminal nature of some of these allegations, protracted discussions with DOJ and the ultimate refusal of one major oil company – Chevron – to cooperate with our investigation. Since you have already taken assertive steps to replace key leadership and staff in the affected components of MMS, I am confident that you will now act quickly to take the appropriate administrative action to bring this disturbing chapter of MMS history to a close.

A Culture of Ethical Failure

The single-most serious problem our investigations revealed is a pervasive culture of exclusivity, exempt from the rules that govern all other employees of the Federal Government.

In the matter involving Ms. Dennet, Mr. Mayberry and Milton Dial, the results of this investigation paint a disturbing picture of three Senior Executives who were good friends, and who remained calculatedly ignorant of the rules governing post-employment restrictions, conflicts of interest and Federal Acquisition Regulations to ensure that two lucrative MMS contracts would be awarded to the company created by Mr. Mayberry – Federal Business Solutions – and later joined by Mr. Dial. Ms. Dennet manipulated the contracting process from the start. She worked directly with the contracting officer, personally participated on the evaluation team for both contracts, asked for an increase to the first contract amount, and had Mayberry prepare the justification for the contract increase. Ms. Dennet also appears to have shared with Mr. Mayberry the Key Qualification criteria upon which bidders would be judged, two weeks before bid proposals on the first contract were due.

In the other two cases, the results of our investigation reveal a program tasked with implementing a "business model" program. As such, Royalty in Kind (RIK) marketers donned a private sector approach to essentially everything they did. This included effectively opting themselves out of the Ethics in Government Act, both in practice, and, at one point, even explored doing so by policy or regulation.

Not only did those in RIK consider themselves special, they were treated as special by their management. For reasons that are not at all clear, the reporting hierarchy of RIK bypassed the one supervisor whose integrity remained intact throughout, Debra Gibbs-Tschudy, the Deputy Associate Director in Denver, where RIK is located. Rather, RIK was reporting directly to Associate Director Dennet, who was located some 1500 miles away in Washington, DC, and to whom the unbridled, unethical conduct of RIK employees was apparently invisible (although the Associate Director had been made aware of the plan by RIK to explore more formal exemption from the ethics rules.)

More specifically, we discovered that between 2002 and 2006, nearly 1/3 of the entire RIK staff socialized with, and received a wide array of gifts and gratuities from, oil and gas companies with whom RIK was conducting official business. While the dollar amount of gifts and gratuities was not enormous, these employees accepted gifts with prodigious frequency. In particular, two RIK marketers received combined gifts and gratuities on at least 135 occasions from four major oil and gas companies with whom they were doing business – a textbook example of improperly receiving gifts from prohibited sources. When confronted by our investigators, none of the employees involved displayed remorse.

We also discovered a culture of substance abuse and promiscuity in the RIK program – both within the program, including a supervisor, Greg Smith, who engaged in illegal drug use and had sexual relations with subordinates, and in consort with industry. Internally, several staff admitted to illegal drug use as well as illicit sexual encounters. Alcohol abuse appears to have been a problem when RIK staff socialized with industry. For example, two RIK staff accepted lodging from industry after industry events because they were too intoxicated to drive home or to their hotel. These same RIK marketers also engaged in brief sexual relationships with industry contacts. Sexual relationships with prohibited sources cannot, by definition, be arms-length.

Finally, we discovered that two of the RIK employees who accepted gifts also held inappropriate outside employment and failed to properly report the income they received from this work on their financial disclosure forms. Smith, in particular, deliberately secreted the true nature of his outside employment – he pitched oil and gas companies that did business with RIK to hire the outside consulting firm – to prevent revealing what would otherwise, at a minimum, be a clear conflict of interest.

Conclusion

As you know, I have gone on record to say that I believe that 99.9 percent of DOI employees are hard-working, ethical and well-intentioned. Unfortunately, from the cases highlighted here, the conduct of a few has cast a shadow on an entire bureau.

In summary, our investigation revealed a relatively small group of individuals wholly lacking in acceptance of or adherence to government ethical standards; management that through passive neglect, at best, or purposeful ignorance, at worst, was blind to easily discernible misconduct; and a program that had aggressive goals and admirable ideals, but was launched without the necessary internal controls in place to ensure conformity with one of its most important principles: "Maintain the highest ethical and professional standards." This must be corrected.

Recommendations

In conclusion, we offer the following Recommendations.

1. Take appropriate administrative corrective action.

Some very serious misconduct is identified in these reports. While the OIG generally does not take a position concerning what administrative corrective action might be appropriate in any given matter, in this instance there may be significant enough misconduct to warrant removal for some individuals. Given the unwillingness of some to acknowledge their conduct as improper, the subjects of our reports should be carefully considered for a life-time ban from working in the RIK program.

2. Develop an enhanced ethics program designed specifically for the RIK program.

Given the RIK culture, an enhanced ethics program must be designed for RIK, including, but not limited to, 1) an explicit prohibition against acceptance of any gifts or gratuities from industry, regardless of value; 2) a robust training program to include written certification by employees that they know and understand the ethics requirements by which they are bound; and 3) an augmented MMS Ethics Office.

3. Develop a clear, strict Code of Conduct for the RIK program.

A fundamental Code of Conduct with clear obligations, prohibitions, and consequences appears to be necessary to repair the culture of misconduct in the RIK program. This code should include a clear prohibition against outside employment with the oil and gas industry or consultants to that industry. Given the considerable financial responsibilities involved, MMS should also consider implementing a Random Drug Testing program specifically for RIK.

4. **Consider changing the reporting structure of RIK.**

   The management reporting structure of the RIK program must be seriously reconsidered. Given the challenges that will be faced in rebuilding this program, it seems imperative that RIK have management oversight in immediate proximity, not some 1,500 miles away in Washington, DC.

   If you have any questions, please do not hesitate to contact me at (202) 208-5745.

Attachments