

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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December 10, 2015

The Honorable Beth F. Cobert
Acting Director
U.S. Office of Personnel Management
1900 E Street NW
Washington, D.C. 20415-1000

Dear Ms. Cobert:

I write once again to augment my concerns that Ms. Donna Seymour, Chief Information Officer for the Office of Personnel Management, is unfit to perform the significant duties for which she is responsible. I have expressed my concerns on multiple occasions and do so again in light of Inspector General (IG) Patrick McFarland's recent Special Review on OPM's \$20 million contract award for identity monitoring and protection services for the 4.2 million initial victims of the OPM data breach, which was managed by Ms. Seymour.¹

On at least five separate occasions, I have expressed my lack of confidence in Ms. Seymour's management of the Office of Chief Information Officer (OCIO). On June 26, 2015, I wrote to President Obama that I lost confidence in Ms. Seymour's ability to perform her duties because, despite repeated warnings from the IG, she failed to prevent breaches of personally-identifiable information. Her failure put more than 22 million federal employees and other individuals at risk, and weakened our national security.

On August 6, 2015, I also wrote to you about the IG's concerns related to his office's interactions with the OCIO. The IG advised the Committee that Ms. Seymour and her staff interfered with, and thus hindered, the IG's work. The IG further advised that the OCIO repeatedly provided his staff with inaccurate or misleading information.²

¹ According to documents obtained by the Committee, Ms. Seymour was a primary participant in the development of this contract opportunity, the evaluation, and ultimately she was designated as the Contracting Officer's Representative (COR) for this contract.

² Letter from Hon. Patrick E. McFarland, Inspector General, Office of Personnel Mgmt., to Hon. Jason Chaffetz, Chairman, and Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight and Gov't Reform (Aug. 3, 2015), attaching "SERIOUS CONCERNS REGARDING THE OFFICE OF THE CHIEF INFORMATION OFFICER" (Jul. 22, 2015).

On September 14, 2015, I expressed frustration that OPM generally disagreed with IG recommendations related to OPM's Infrastructure Improvement Project.³ Then, on September 23, 2015, after OPM announced that an additional 4.5 million fingerprints were stolen in the OPM breach, I said "OPM keeps getting it wrong. . . . OPM's IT management team is not up to the task. They have bungled this every step of the way."⁴ Finally, on November 10, 2015, I expressed support for your nomination and strongly urged you to remove Ms. Seymour and replace her with a qualified CIO who can protect the critical information housed at OPM.⁵

Now the IG has released another troubling report. On December 2, 2015, the IG presented to you the results of a Special Review on the \$20 million contract to provide credit monitoring and identity protection services to the initial 4.2 million victims of the OPM data breach.⁶ During the Committee's June 24, 2015 hearing on the OPM data breach, Members expressed concern about the amount of time available to contractors to submit proposals (less than thirty-six hours) and the haste with which the contract was awarded (approximately five days after it was announced) and subsequently asked the IG to undertake this review.⁷

The IG's Special Review determined "that in order to meet the OCIO's June 8, 2015, requirements due date, the contracting officer failed to comply with FAR requirements and OPM policies and procedures in awarding the Winvale contract" and then the IG identified five areas of noncompliance.⁸ For example, the IG reported that the contracting officer did not obtain cost estimates for the requirements from the OCIO "because meeting the OCIO's Requirements due date took precedence."⁹ Because the contracting officer did not have the benefit of a cost estimate, the OCIO chose the wrong contracting vehicle—a blanket purchase agreement (which is appropriate for certain commercial procurements up to \$6.5 million). As more breach victims were identified the costs increased and the June 2, 2015 order made under the contract exceeded the \$6.5 million cap—with an order in the amount of \$7.79 million.¹⁰ The IG also found an "unreliable contract file" and was not able to obtain a complete history of this contract action because such documents were not prepared until after the award was made.¹¹ The IG concluded

³ Statement of Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform (Sept. 14, 2015), available at <https://oversight.house.gov/release/chaffetz-statement-on-opm-infrastructure-improvement-project/> (last accessed Dec. 8, 2015).

⁴ Statement of Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform (Sept. 23, 2015), available at <https://oversight.house.gov/release/chaffetz-statement-opms-breached-fingerprints/> (last accessed Dec. 8, 2015).

⁵ Statement of Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform (Nov. 10, 2015), available at <https://oversight.house.gov/release/chaffetz-responds-nomination-beth-cobert-opm-director/> (last accessed Dec. 8, 2015).

⁶ U.S. Office of Personnel Management, Office of the Inspector General, *Special Review of OPM's Award of a Credit Monitoring and Identity Theft Services Contract to Winvale Group LLC and its subcontractor, CSI Identity*, 4K-RS-00-16-024 (Dec. 2, 2014) [IG Special Review].

⁷ *OPM Data Breach Part II: Hearing Before the H. Comm. On Oversight and Gov't Reform*, 114th Cong. (June 24, 2015). The contract was announced May 28, 2015. Then, interested contractors were given less than thirty-six hours to prepare and submit a proposal. The contract award was made June 2, 2015.

⁸ IG Special Review at 3.

⁹ *Id.* at 6.

¹⁰ *Id.* at 8.

¹¹ *Id.* at 9.

that while they were unable to determine whether these noncompliance issues would have resulted in a different contractor, “it is evident that significant deficiencies existed in [OPM’s Office of Procurement Operations] management of the contract award process.”¹²

The IG’s Special Review follows a June 17, 2015 IG Flash Audit Alert for an IT contract to update OPM’s network infrastructure.¹³ The Flash Audit Alert, which identified several concerns about the contract process and management, is also being managed by Ms. Seymour.¹⁴ OPM is in the process of developing a new network infrastructure environment to strengthen and improve security capabilities. Ms. Seymour testified before the Committee that this project began after a March 2014 cyber incident.¹⁵ In June 2014, OPM awarded a sole source contract for this multi-phased project.¹⁶

First, the IG Flash Audit Alert questioned using a sole source contract for all four phases of this network infrastructure improvement project, but the IG acknowledged immediate action was needed for the first phase (Tactical). The four phases of this multi-phase project are Tactical (improving the existing security environment), Shell (creating a new data center and IT architecture), Migration (migrating all OPM systems to the new architecture), and Cleanup (decommissioning existing hardware and systems). Ms. Seymour testified that “we only contracted for the first two pieces” of this multi-phased project.¹⁷ Based on review of the contract Statement of Work, this contract outlines in detail the contractor’s role in each of the four phases of this project, which brings into question the accuracy of Ms. Seymour’s statement that the contract was only awarded for the first two phases.¹⁸

Second, the IG identified schedule risks as a concern, particularly with respect to the Migration phase of the project. Based on the Committee’s review of contract documents, the contractor also identified schedule risk as a concern, and stated, “the duration of the current period of performance is insufficient to accomplish a complete migration into Shell.” The contractor also cited, in particular challenges with applications requiring modernization, including the Federal Investigative Services and Retirement Services.¹⁹

Finally, the IG Flash Audit Alert questioned whether OPM would have the resources necessary to complete the Migration phase, which the IG deemed to be expensive and complex. According to documents reviewed by the Committee, the contractor identified funding for the

¹² *Id.* at 10.

¹³ U.S. Office of Personnel Mgmt. Office of the Inspector Gen., *Flash Audit Alert – U.S. Office of Personnel Management’s Infrastructure Improvement Project* (June 17, 2015) (Report No. 4A-CI-00-15-055).

¹⁴ Imperatis Definitized Contract at 50 (on file with Committee).

¹⁵ *OPM Data Breach: Hearing Before the H. Comm. On Oversight and Gov’t Reform*, 114th Cong. (June 16, 2015) (testimony of Donna Seymour, Chief Information Officer, Office of Personnel Mgmt.).

¹⁶ IG Flash Audit Alert at 5; Imperatis Letter Contract at 2 (June 16, 2014); Definitized Contract at 41 (Jan. 15, 2015) (on file with Committee). The June 2014 contract was initially valued at \$18 million, but when the contract was definitized in January 2015 the value of the contract was estimated at over \$61 million.

¹⁷ *OPM Data Breach Part II: Hearing Before the H. Comm. On Oversight and Gov’t Reform*, 114th Cong. (June 24, 2015) (testimony of Donna Seymour, Chief Information Officer, Office of Personnel Management).

¹⁸ Imperatis Definitized Contract Statement of Work at 77-81 (Jan. 15, 2015) (on file with Committee).

¹⁹ Imperatis Proposal Vol. I Statement of Work and Technical at 219 (Nov. 12, 2014) (on file with Committee).

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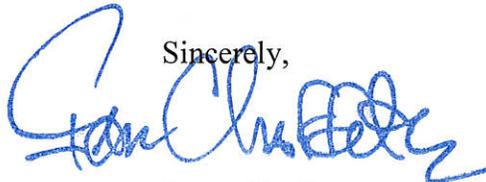
Shell phase as an area of high risk in February 2015—before even reaching the Migration phase. Ms. Seymour was designated in the contractors' weekly tracking report as the individual with responsibility to mitigate this high risk area by "realign[ing] resources."²⁰

After the IG released the Flash Audit Alert, he followed up with an Interim Status Report on OPM's Responses to this Alert on September 3, 2015.²¹ The IG's Interim Status Report reiterated the recommendations made in the original Flash Audit Alert and reported to you that it was apparent that OPM generally disagreed with the IG's recommendations. The IG pointed out that OPM has still "not yet determined the full scope and overall costs of the Project" and without completing a Major IT Business Case proposal for the Project, the IG believes "there is a high risk of project failure."²² Further, the IG said the sole source award for all four phases and the original justification for making such an award "violates federal acquisition regulations."²³

The Inspector General Act of 1978, as amended, makes clear the role of the IG is to ensure the effective administration of the agency and its programs. It is troubling that yet another IG report has found that Ms. Seymour failed to effectively fulfill her duties. Further, the results of the Committee's ongoing investigation have validated the IG's initial concerns related to OPM network infrastructure improvement project. The record is clear that six months after the American people first learned about OPM's spectacular failure at securing sensitive personal information, change is needed in the Office of the Chief Information Officer.

As Chairman of the House Committee on Oversight and Government Reform, the Committee of jurisdiction for OPM, I again urge the immediate removal of Ms. Seymour from her position. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Member

Enclosure

²⁰ Imperatis Weekly Report 2/23/2015-2/27/2015 at 658 (on file with Committee).

²¹ U.S. Office of Personnel Mgmt. Office of the Inspector Gen., *Interim Status Report on OPM's Responses to the Flash Audit Alert – U.S. Office of Personnel Management's Infrastructure Improvement Project* (Sept. 3, 2015) (Report No. 4A-CI-00-15-055).

²² *Id.* at 2, 5.

²³ *Id.* at 7.