



INVESTIGATIVE REPORT

Investigation into Travel & Other Improprieties in the Office of a Politically Appointed Official

FINAL REPORT 15-0444
SEPTEMBER 2016

U.S. Department of Commerce
Office of Inspector General
Office of Investigations

FOR PUBLIC RELEASE



Contents

Chapter 1: Executive Summary	1
I. Overview	1
II. Improprieties Associated with Political Appointee’s Official Travel	2
III. Political Appointee’s Impermissible Use of a Staff Member for Handling Certain Non-Official Business Matters	3
IV. Potentially Improper or Otherwise Questionable Office Renovation Expenditures	3
V. Recommendations	4
Chapter 2: Improprieties Associated with Political Appointee’s Official Travel.....	5
I. Applicable Legal Framework.....	5
II. Factual Background.....	6
A. Overview.....	6
B. Political Appointee’s Trip to Geneva	7
C. Factors Contributing to the Travel Problems Identified in the OIG’s Investigation ..	10
D. Post-Trip Per Diem Justification Memoranda	19
III. Analysis & Findings.....	21
A. Administrative Official	21
B. Assistant 1	22
C. Political Appointee.....	24
Chapter 3: Political Appointee’s Impermissible Use of a Staff Member for Handling Certain Non-Official Business Matters	26
I. Applicable Legal Framework.....	26
II. Factual Background.....	27
III. Analysis & Findings.....	29
Chapter 4: Potentially Improper or Otherwise Questionable Office Renovation Expenditures	32
I. Applicable Legal Framework.....	32
II. Factual Background.....	33
III. Analysis & Findings	36
Chapter 5: Recommendations	40
Appendix A: Comments.....	41

*COVER Detail of fisheries pediment,
U.S. Department of Commerce headquarters,
by sculptor James Earle Fraser, 1934*

Chapter 1: Executive Summary

I. Overview

In early 2015, a confidential complainant contacted the Office of Inspector General (OIG) alleging potential policy and regulatory violations taking place in the office of a high-ranking Political Appointee in an agency within the Department of Commerce.¹ Specifically, the complainant alleged that (1) Political Appointee may have been improperly seeking reimbursement at above-standard per diem rates for stays in premium hotel accommodations while on official travel; (2) Political Appointee's staff may have been inventing business reasons to accommodate some of Political Appointee's personal travel plans when responding to questions from Department oversight officials; and (3) Political Appointee had his office renovated at a cost that might exceed what is permitted by law.²

The evidence developed over the course of our inquiry established that a variety of problems arose in Political Appointee's office during his tenure with the Department, including:

- Political Appointee receiving unjustified reimbursements on multiple occasions for luxury hotel stays in violation of the Federal Travel Regulation and Department policy, and a member of his staff receiving questionable reimbursements for premium car service expenses associated with Political Appointee's trips;
- A member of Political Appointee's staff providing inaccurate or knowingly false information to Department officials in response to inquiries about Political Appointee's travel arrangements;
- Political Appointee's impermissible use of a staff member for handling non-official personal business; and
- Political Appointee's agency paying for potentially unauthorized or otherwise questionable expenditures related to the renovation of his office space.

This report presents the evidence developed during the OIG's investigation, along with our findings and recommendations.³

¹ The names of people referenced in this report are masked and masculine pronouns are used throughout to protect the privacy of these individuals.

² The complainant also alleged that Political Appointee may have been improperly obtaining business-class airline seating on certain official trips, but the OIG ultimately determined that this allegation was unfounded.

³ Prior to issuing the final version of this report, the OIG provided certain individuals, including Political Appointee, with an opportunity to review and comment on factual material appearing in the report upon which the OIG's analysis, findings, and recommendations are based. As noted in Appendix A, *infra*, the OIG received only a small number of comments from counsel for Political Appointee as a result of this process, and the OIG made only a few very slight revisions to the report in response to these comments.

II. Improprieties Associated with Political Appointee's Official Travel

The evidence established an array of problems arising from Political Appointee's official travel. Political Appointee's job duties required him to travel for official business approximately 20 times during his first year with the Department and he was reimbursed above the standard per diem rate without adequately documented justification on over 60% of these trips. These trips included stays at luxury hotels around the world that were chosen primarily on the basis of Political Appointee's personal preference, not mission necessity. In addition, at least a few of Political Appointee's reimbursements included costs incurred on days when Political Appointee was on personal travel. On one trip to Geneva, Switzerland, for example, Political Appointee was reimbursed at 150% of the standard per diem rate for his entire stay at a luxury hotel there, even though he was on personal travel with a member of his family for two weekend days of this trip and even though Political Appointee's family member chose the hotel where they stayed.⁴

Similarly, the evidence shows that one member of Political Appointee's staff regularly sought reimbursement for luxury car services used during Political Appointee's trips when it appears that less expensive transportation would have sufficed. For example, the evidence shows that the government paid for Political Appointee and his staff to ride in an SUV provided by a luxury hotel during a two-day trip to Boston, Massachusetts, at a cost of nearly \$1,800.

While the evidence indicates that Political Appointee told his staff he was willing to use his own personal funds to pay for any non-reimbursable costs associated with his hotel and other preferences while on official travel, Political Appointee received unwarranted per diem overages nonetheless. The evidence indicates that these unwarranted overages resulted from a combination of factors, including (1) the apparent emphasis that Political Appointee conveyed to his staff about securing premium hotel accommodations, (2) Political Appointee's reliance on a staff member untrained in federal travel rules for making hotel and other arrangements for his trips, (3) an incorrect understanding on the part of those preparing Political Appointee's travel paperwork that he was entitled to higher per diem rates due to the status of his position, and (4) poor paperwork oversight on the part of those with responsibility for reviewing Political Appointee's travel expenses.

The OIG's investigation also established that one member of Political Appointee's staff (Assistant 1) made incorrect or knowingly false statements on multiple occasions when questioned by Department oversight officials about the business justification for certain of Political Appointee's travel arrangements. For example, when questioned about Political Appointee's two days of personal travel in Geneva, Assistant 1 supplied the Department with information indicating that Political Appointee would be conducting official government business on those days, even though the evidence indicates that Assistant 1 knew this was not the case and even though Political Appointee himself planned to cover all expenses incurred on those days using his own personal funds.

⁴ Most travel destinations referenced in this report have been substituted with the names of other locales with similar market costs to provide additional privacy protection.

III. Political Appointee's Impermissible Use of a Staff Member for Handling Certain Non-Official Business Matters

The evidence gathered by the OIG also established that Political Appointee routinely requested that Assistant 1 handle an array of his personal matters during the course of official duties, in violation of federal regulations.

Examples of the personal matters Assistant 1 handled for Political Appointee include:

- Paying certain of Political Appointee's personal bills—such as Political Appointee's homeowners insurance premium and an auto insurance premium for one of Political Appointee's family members—using Political Appointee's personal credit card;
- Assisting Political Appointee with a personal membership application for an exclusive social club providing luxury amenities and services in various locations throughout the world; and
- Making sightseeing and other arrangements for Political Appointee's visiting family members.

In addition, the OIG identified several instances in which Assistant 1 invoked Political Appointee's title and position in connection with efforts to arrange certain personal events for him or his family in a manner that was inconsistent with governing regulations. For instance, Assistant 1 attempted to arrange a VIP tour of a private museum for some of Political Appointee's family members using Political Appointee's official title. Actions like this create an appearance that Political Appointee was seeking favorable treatment on the basis of his position within the government, which is impermissible under federal ethics regulations.

While there is insufficient evidence to conclude that Political Appointee was aware that Assistant 1 improperly invoked his government title and position, we found that Political Appointee should have taken steps to ensure that appearance issues like this would not arise.

IV. Potentially Improper or Otherwise Questionable Office Renovation Expenditures

Finally, evidence gathered during the OIG's investigation shows that, upon assuming his position within the Department, Political Appointee expressed dissatisfaction with the condition of his office suite and his agency spent more than \$50,000 in government funds making changes to the suite as a result. This amount was roughly ten times the \$5,000 stipend allotted by federal law for political appointees to renovate their offices. The evidence also shows that the total cost of all work done to Political Appointee's office suite was justified on the basis of being "routine maintenance" work, as opposed to renovation work, which allowed the Department to perform the work unhindered by the \$5,000 cap imposed by Congress. However, poor record keeping practices by the Department prevented the OIG from making a thorough assessment of the validity of classifying the work done to Political Appointee's suite as "routine maintenance," and the evidentiary record as a whole indicates that this classification may have been inappropriately stretched.

There is no evidence to suggest that Political Appointee or the Department's leadership knowingly permitted those overseeing the renovation work to spend more than the statutory limit. Nor is there any evidence to suggest that Political Appointee or senior Department officials would have authorized all the work carried out had they known the details of the actual cost involved. But given the fact that a congressional budget restriction was implicated by the decision to renovate Political Appointee's office space due to the status of his position, more care should have been taken to ensure compliance with that restriction.

V. Recommendations

At the conclusion of its investigation, prior to beginning work on this report, the OIG met with members of the Department's senior leadership and briefed them on several of our preliminary factual findings in this matter. At that time, we made no specific recommendations for the Department to consider.

Now, in light of the findings set forth herein, the OIG is recommending that the Department consider taking several actions, including:

- (1) Ensuring that any employee making travel arrangements or approving travel reimbursements for politically appointed officials receives training on governing travel regulations and policies;
- (2) Providing newly appointed political officials with guidance on (a) regulations and policies governing the use of subordinates for non-official business, (b) restrictions against the use of their title or position for personal gain or creating the appearance of such use, (c) key regulations and policies governing official travel, and (d) the advisability of monitoring renovation work done to their office suites to ensure the cost of such work does not contravene congressional budget restrictions;
- (3) Reviewing the renovations to Political Appointee's office suite to determine whether expenditures associated with those renovations exceeded the \$5,000 limit imposed by Congress and whether the expenditures therefore contravened the Anti-Deficiency Act; and
- (4) Implementing procedures requiring thorough documentation to support the categorization of any work performed on a politically appointed official's office suite as general or routine maintenance as opposed to renovation work subject to congressional budget restrictions.⁵

⁵ Because Political Appointee and Assistant 1 departed government service prior to the issuance of this report, the OIG is not recommending that the Department consider taking administrative action specifically related to these individuals.

Chapter 2: Improprieties Associated with Political Appointee's Official Travel

Evidence gathered by the OIG shows that Political Appointee's job duties took him on official travel approximately 20 times during his first year with the Department and that he was reimbursed above the standard per diem rate without adequately documented justification on over 60% of these trips. The evidence also shows that Political Appointee's staff took actions that resulted in other questionable travel reimbursements and that at least one member of his staff provided knowingly inaccurate or misleading information to Department oversight officials on several occasions.

I. Applicable Legal Framework

Department travel is governed by the Federal Travel Regulation (FTR), policies contained in the Department's Travel Handbook, and updates to those policies issued in "Travel Bulletins" by the Department's Travel Management Division. Pursuant to the FTR, an agency "may pay only those expenses essential to the transaction of official business" and may not pay for "excess costs resulting from circuitous routes, delays, or luxury accommodations or services unnecessary or unjustified in the performance of official business."⁶ Consistent with this requirement, Department policy requires that travel "must be conducted in the most effective and efficient manner possible and only when necessary to accomplish the mission of the Government," and it prohibits employees from using premium accommodations or obtaining unnecessary services at the government's expense.⁷ In addition, both the FTR and Department policy require that an employee "exercise the same care . . . that a prudent person would exercise if traveling on personal business" when incurring travel expenses.⁸

The FTR provides that federal employees who incur expenses for lodging, meals, and incidentals while on official travel are entitled to reimbursement up to a certain level set for the particular travel destination. The United States General Services Administration (GSA) establishes per diem reimbursement rates for hotel accommodations in locations throughout the United States, and the Department of State establishes reimbursement rates for lodging in foreign locales. These rates are adjusted annually based on survey data showing the average cost of accommodation in mid-range, or moderately priced hotels suitable for accomplishing federal business within a particular city or geographic area.⁹ The rates for a particular location are set higher during times of the year when hotels are expected to raise their prices due to increased demand.¹⁰

⁶ 41 C.F.R. §§ 301-2.2, 301-2.4.

⁷ Travel Mgmt. Div., U.S. Dep't of Commerce, *Department Travel Handbook* www.osec.doc.gov/ofm/OAP/TMD/Documents/Travel%20Handbook%20June%202008.pdf (last visited Aug. 24, 2016).

⁸ 41 C.F.R. § 301.2.3; *Department Travel Handbook*.

⁹ U.S. GSA, *Factors Influencing Lodging Rates*, www.gsa.gov/portal/content/101983 (last visited Aug. 24, 2016) and U.S. Dep't of State, *Per Diem Rates Current and Prior Year Rates* https://aoprals.state.gov/content.asp?content_id=184&menu_id=78 (last visited Aug. 24, 2016).

¹⁰ U.S. GSA, *Factors Influencing Lodging Rates*, www.gsa.gov/portal/content/101983 (last visited Aug. 24, 2016).

The FTR permits travelers to be reimbursed for actual expenses incurred—even if in excess of the applicable per diem rate—in certain limited circumstances.¹¹ The maximum amount that a traveler may be reimbursed for actual expenses is limited to 300% of the applicable standard per diem rate.¹² Under Department policy, actual expense reimbursement may be authorized for travel only “when the locality per diem rate for lodging is insufficient for the travel assignment.”¹³ Specifically, actual lodging expenses may be authorized only if lodging is procured at a prearranged place such as a hotel where a meeting, conference, or training is being held; local costs have escalated due to special or unforeseen events; or mission necessity requires the traveler to procure superior lodging accommodations.¹⁴

It is Department policy that “[p]ersonal preference or convenience is never a condition for which actual lodging expense can be authorized,” and that actual expenses may be approved “only when in the best interest of the government.”¹⁵ Justification for the use of actual lodging expenses must be included on the “Travel Order” paperwork authorizing the Department employee to go on official travel, and must indicate the unusual circumstances at the travel destination preventing the employee from subsisting at the standard per diem rate set for that locale.¹⁶

II. Factual Background

A. Overview

For just over half of the trips where Political Appointee was reimbursed above the standard per diem rate, Political Appointee’s Travel Order approved him for reimbursement at 150% of per diem or higher without explanation as to why this was appropriate. For example, one Travel Order for a trip to Memphis, Tennessee, stated simply that the “[t]raveler is approved for 300% over [the] lodging rate” set by GSA for that locality at the time, which enabled Political Appointee to stay at a hotel that cost almost \$270 per night, which was more than 240% of the standard per diem rate.¹⁷

For the remaining trips, Political Appointee’s Travel Order did not authorize reimbursement above the standard per diem rate, but he was reimbursed above that rate anyway. For instance, Political Appointee stayed three times during his first year with the Department at Luxury Hotel A in New York City and was reimbursed without authorization for the full \$450 cost of his room on two of these trips, which amounted to almost 230% of per diem for that locality both times.¹⁸ Similarly, Political Appointee was reimbursed at more than 320% of per diem for a stay at the

¹¹ 41 C.F.R. § 301-11.300.

¹² 41 C.F.R. §§ 301-11.303, 301-11.305.

¹³ U.S. Dep’t of Commerce, *Travel Bulletin #03, FY12 (2012)* www.osec.doc.gov/ofm/OAP/TMD/Documents/Travel%20Bulletins/3_12.pdf (last visited Aug. 24, 2016).

¹⁴ *Travel Bulletin*.

¹⁵ *Travel Bulletin*.

¹⁶ *Travel Bulletin*.

¹⁷ Per-diem rate information referenced in the report is approximated to provide privacy protection.

¹⁸ The name of this hotel brand has been masked to provide privacy protection.

Luxury Hotel A located in San Diego, California, even though his Travel Order did not authorize this and the FTR prohibits any reimbursement above 300% of the standard per diem rate.

Towards the end of Political Appointee's first year with the Department, the Travel Management Division began to question the validity of his reimbursements at above-standard per diem rates and conducted an audit of his past travel. At the conclusion of this audit, the Travel Management Division requested that Political Appointee either provide the Department with adequate justification for his per diem overages or pay the Department back for any unjustifiable reimbursements. Political Appointee did pay a few of these overages back to the Department, but for ten of the reimbursements questioned by the Travel Management Division, Political Appointee's staff chose to submit memoranda justifying the amounts claimed. Several of these post-trip approval memoranda assert justifications for Political Appointee's per diem overages that are inconsistent with the evidence gathered by the OIG, if not outright false.

For example, Political Appointee's staff justified full reimbursement for one of his stays at Luxury Hotel A in New York by asserting that the elevated cost of his lodging was "due to limited availability of hotels in the New York City area due to several high-profile events . . . taking place at the same time during a holiday . . . result[ing] in extremely high occupancy of all hotels in New York and hotels raising rates." But the \$450 per night that Political Appointee paid for his room at Luxury Hotel A on this trip was the same rate he paid every other time he stayed there while on official travel, which is inconsistent with the assertion that "all hotels in New York" had "rais[ed their] rates" above normal prices. Moreover, a member of Political Appointee's staff traveling with him on this particular trip (Assistant 1) managed to find a room at a different hotel for \$265 per night, which undermines the notion that Political Appointee was required to stay at Luxury Hotel A at greater cost to the government "due to limited availability of hotels" in New York at that time. Finally, during his interview with the OIG, Political Appointee could think of no instance when business necessity, as opposed to personal preference, was what motivated him to stay at Luxury Hotel A during official travel to New York, which further discredits the justification given for the per diem overage on this trip.

B. Political Appointee's Trip to Geneva

One trip in particular illustrates several of the problems the OIG found concerning Political Appointee's travel arrangements and the justifications that his staff put forward for those arrangements. During his first year with the Department, Political Appointee would take a business trip to Geneva, Switzerland, for work events that started on a Monday morning. According to Political Appointee, he asked his staff to arrange his flight for this trip so that he would arrive in Geneva early Saturday morning, which would enable him to partake in personal travel there with a family member over the weekend. As part of this personal travel, Political Appointee arranged to meet friends for dinner on both Saturday and Sunday. Once these dinners were scheduled, Assistant 1 entered the two engagements on the official calendar he kept for Political Appointee. As a matter of standard practice, Assistant 1 entered official business engagements on this calendar in black text and personal engagements in purple text. During his OIG interview, Assistant 1 said he knew the people who would be attending these two dinners were personal friends of Political Appointee's and that Political Appointee's plans in Geneva over the weekend were personal in nature. Accordingly, Assistant 1 used purple text when entering both of these dinners on Political Appointee's calendar.

Lodging per diem in Geneva at the time of this trip was around \$340 per night, and a staff member accompanying Political Appointee on the trip found a hotel within this rate. By contrast, Political Appointee chose to stay at a luxury hotel that cost around \$1,150 per night, which the family member traveling with him had booked over a month before the trip took place. As he explained during his OIG interview, Political Appointee and his family member selected this hotel based purely on their personal preference, and he expected to pay any cost associated with this hotel choice above what government regulations permit. Political Appointee also said he had made his general willingness to pay for non-reimbursable hotel costs “[b]right and clear and unequivocal” to the staff members handling his travel arrangements.

When preparing the Travel Order for this trip, Assistant 1 included language copied from past paperwork authorizing Political Appointee to receive 150% of the standard per diem rate without any explanation as to why this was justified. Upon seeing this, the Travel Management Division asked Political Appointee’s staff why Political Appointee had been authorized to exceed the standard per diem rate. Specifically, one member of the Travel Management Division wrote the following message four days before Political Appointee departed for Geneva:

“I have noticed that [Political Appointee’s Travel Orders] always have his lodging over per diem. . . . I can’t imagine that hotel rates for every place he goes are over per diem.”

- Department Official

I have noticed . . . that [Political Appointee’s Travel Orders] always have his lodging over per diem. Our policy . . . states [that] going above the lodging per diem should only be used in unusual circumstances and personal preference is never a condition for using actuals for lodging. Minimizing the use of actuals is in the best interest of the government and[,] if used, there must be a justification on the [Travel Order]. I can’t imagine that hotel rates for every place he goes are over per diem.

In response to this inquiry, Assistant 1 replied by acknowledging that Political Appointee’s family member had made the hotel arrangements for this particular trip and by stating that Political Appointee was willing to cover any difference in cost if the hotel went over per diem. The Travel Management Division then requested that the approval for 150% of per diem be removed from the Travel Order, since Assistant 1 had claimed that Political Appointee was willing to pay for any per diem overages. Assistant 1 replied to this request by saying: “Please disregard what I said. I was confused about which overage was being discussed.”

In a separate response to the Travel Management Division’s inquiry, a senior administrative official in Political Appointee’s agency (Administrative Official) asserted that the language approving per diem overage had been included on Political Appointee’s Travel Order “just in case he goes over” the standard rate. A representative of the Travel Management Division noted in reply that this made no sense, as the cost of the hotel should be known prior to filling out the Travel Order, and including the language authorizing 150% of per diem would allow the traveler to stay at a more expensive hotel even if there was suitable lodging available at the standard per diem rate. In a later response, Administrative Official claimed that Political Appointee ordinarily stayed within per diem, but said the language approving him to exceed per diem was necessary to ensure reimbursement if lodging taxes caused the total cost of his hotel expense to go over the

standard rate. When the Travel Management Division explained that this was not an appropriate reason to include language authorizing per diem overages either, Administrative Official asked Assistant 1 to remove the language from the Travel Order for this trip, but the language was never removed.

Because Political Appointee's Travel Order indicated that the government would be paying for his hotel and other expenses over the weekend, the Travel Management Division also questioned why Political Appointee would be leaving for Geneva on Friday when all indications were that he had no official business there until Monday. In response, Assistant 1 told the Travel Management Division that Political Appointee was "flying out on Friday because he [would be] attending a dinner with key business stakeholders" in Geneva on Saturday evening.

Shortly after sending this response, Assistant 1 received an updated version of the official itinerary for Political Appointee's trip to Geneva, which noted "Personal Time" as the only entry appearing on the schedule for both Saturday and Sunday. This itinerary was consistent with the plans of both Political Appointee and the staff member accompanying him on the trip, both of whom would be partaking in personal travel over the weekend. The itinerary was also consistent with the official calendar entries that Assistant 1 himself had made regarding the trip up to that time, none of which showed government business taking place in Geneva until Monday.

Nevertheless, Assistant 1 sent another response to the Travel Management Division after receiving this itinerary that expanded on his claim that Political Appointee's weekend dinners were official government business. In this email, Assistant 1 provided additional detail about the Saturday dinner in a format that appeared to mimic an official itinerary, including a notation that the staff member traveling with Political Appointee would serve as an "advance" person for the dinner, even though this staff member would actually be in another European country visiting a friend at the time. Assistant 1 further claimed that Political Appointee would have "a work dinner" on Sunday evening as well, and went on to provide detail about that dinner in the same official-looking format. After sending this response, Assistant 1 circulated an updated version of Political Appointee's official calendar, this version listing Political Appointee's weekend dinners in black text, not in purple text as they had appeared in all previous versions of the calendar, thus making the dinners appear to be official government business.

Upon returning from this trip, Political Appointee signed and submitted paperwork claiming reimbursement for expenses he incurred while in Geneva. Political Appointee was ultimately reimbursed just over \$500 for each night he stayed there due to the 150% per diem authorization on his Travel Order. Although Political Appointee was clear during his OIG interview that he was on personal travel during the Saturday and Sunday preceding his Monday work events, Political Appointee received reimbursement for his hotel stay over the weekend in Geneva.

This trip was included in the Department's audit of Political Appointee's travel, and the Travel Management Division asked Political Appointee's staff to either provide a justification as to why the per diem overage in Geneva was proper or have him pay back the overage he received. Without consulting Political Appointee, his staff responded by submitting a memorandum stating that the 150% per diem authorization on Political Appointee's Travel Order was justified because of "the high cost of lodging" in Geneva and was "necessary due to schedule limitations." This justification does not withstand scrutiny when viewed in light of the evidence.

First, Political Appointee was clear during his OIG interview that he and the family member traveling with him picked the hotel where they stayed in Geneva based solely on personal preference, the availability of lodging at the standard per diem rate was not a factor in the selection of this hotel, and he expected to pay whatever amount could not be reimbursed under government regulations for that reason. Second, the record shows that Political Appointee's family member made reservations at this hotel over a month before the trip took place, which belies the notion that "schedule limitations" had anything to do with the hotel selection. Third, the staff member traveling with Political Appointee on this trip stayed at a different hotel that was within per diem, further establishing that the supposedly "high cost of lodging" in Geneva at the time was not a valid justification for exceeding the standard per diem rate.

Indeed, when shown this memorandum during his OIG interview, the staff member who accompanied Political Appointee to Geneva said the justification given in the memorandum "doesn't stand up," and that it was "inappropriate" for Political Appointee to have received a per diem overage on this trip. Likewise, Political Appointee said the justification given in the memorandum was "in error," and that he did not choose his lodging in Geneva because of any limitation on hotel availability at standard per diem rates.

C. Factors Contributing to the Travel Problems Identified in the OIG's Investigation

The evidence regarding Political Appointee's trip to Geneva illustrates several factors at the root of the travel-related problems identified by the OIG's investigation. These factors include: (1) an erroneous belief on the part of key staff members organizing and approving Political Appointee's travel arrangements that Political Appointee was entitled to higher per diem rates by virtue of his position; (2) an understanding on the part of Political Appointee's staff members that Political Appointee expected to stay in lodging of a higher quality than standard per diem rates would cover; (3) inadequate oversight on the part of those with responsibility for reviewing and approving travel paperwork within Political Appointee's agency; and (4) an apparent willingness on the part of at least one of Political Appointee's staff members to invent or embellish business justifications to accommodate Political Appointee's personal plans.

1. Elevated Per Diem Rates Based on Political Appointee's Status

One factor contributing to the problems identified by the OIG was an incorrect understanding within Political Appointee's office that high-ranking officials are entitled to greater per diem reimbursement than ordinary employees.

Responsibility for making Political Appointee's travel arrangements and preparing travel paperwork in his office was split between one member of Political Appointee's staff and Assistant 1, who assumed primary responsibility for choosing Political Appointee's hotel accommodations early in Political Appointee's first year with the Department. Assistant 1 told the OIG that he received no training to prepare him for his role in handling Political Appointee's travel arrangements and said he relied on wording contained in forms approved for previous trips when he filled out paperwork for Political Appointee's travel. Assistant 1 and other witnesses told the OIG that the forms he used as templates for Political Appointee's Travel Orders contained wording authorizing 150% of per diem, which indicated that this was standard practice. Indeed, Assistant 1 told the OIG that he recalled being told when he first started that

Political Appointee was entitled to up to 300% of per diem for his lodging expenses merely by virtue of his high-ranking position. Assistant 1 said he relied on others who reviewed and approved Political Appointee's Travel Orders to tell him if he was doing something incorrect, including the other staff member involved in handling travel paperwork for Political Appointee (Assistant 2) and Administrative Official, who routinely approved Political Appointee's Travel Orders and was regarded as highly knowledgeable about the rules governing official travel.

Assistant 2 told the OIG that he had responsibility for preparing travel paperwork for Political Appointee's trips at the beginning of his tenure, including his Travel Orders and the vouchers Political Appointee submitted to the Department for reimbursement of his travel expenses. Assistant 2 said that Assistant 1 had responsibility for choosing Political Appointee's hotel accommodations and noted that he typically chose "the best hotels" that cost more than standard per diem rates would cover. Like Assistant 1, Assistant 2 told the OIG that it was his understanding that Political Appointee was entitled to up to 300% of standard per diem rates for his lodging expenses due to his high-ranking position. When the OIG asked how he reached this understanding, Assistant 2 said that Administrative Official told him people in Political Appointee's position are entitled to higher per diem rates than ordinary employees. Assistant 2 also said that Administrative Official had provided him with particular wording to use on some of Political Appointee's Travel Orders to authorize him for 150% or more of the standard per diem rate.

During his first interview with the OIG, Administrative Official acknowledged that he was regarded within Political Appointee's office as a "go-to person" for travel-related expertise. Administrative Official also confirmed that he was the person at the agency ordinarily responsible for approving Political Appointee's Travel Orders and vouchers. Administrative Official initially asserted that official travel is handled the same for all agency personnel regardless of an employee's position, but recognized in a later interview that it had in fact been standard practice within the agency to authorize politically appointed officials to receive higher per diem rates due to their status.

The agency had "always used [language authorizing] 150% or even 300% [of per diem] when senior officials travel and it was never questioned in the past."

- Administrative Official

Documentary evidence collected by the OIG also corroborates witness testimony that Administrative Official told members of Political Appointee's staff that Political Appointee was entitled to higher per diem rates because of his position. For example, Administrative Official expressed frustration in an email to a member of Political Appointee's staff about the level of scrutiny the Travel Management Division had been applying to Political Appointee's lodging expenses, noting that their agency had "always used [language authorizing] 150% or even 300% [of per diem] when senior officials travel and it was never questioned in the past." Similarly, Administrative Official alluded in another email to a distinction between per diem authorizations based on rank within the agency by saying, "300% is rarely used and it's for senior management only."

2. An Emphasis on Premium Lodging & Other Services

Another factor contributing to the travel problems in Political Appointee's office was the degree of emphasis placed on securing high-quality lodging and other services for Political Appointee.

During his interview with the OIG, Political Appointee acknowledged that he may have expressed a preference to his staff about staying in a "superior form of accommodation" while on official travel, although he believed he had done so only rarely. Regardless of how often Political Appointee may have expressed a preference for staying in high-quality lodging, the evidence indicates that this preference was well understood by his staff.

One member of Political Appointee's staff familiar with travel preparation for Political Appointee's trips told the OIG that Political Appointee "clearly likes nice hotels[;] [w]e all know that." This staff member also recalled Political Appointee making jokes with Assistant 1 about having to stay in "crappy hotels."

Assistant 1, who had primary responsibility for making hotel arrangements for Political Appointee's trips, told the OIG that he understood Political Appointee had a preference for "nice" hotels, and recalled instances of Political Appointee being unhappy when he could not stay in luxury accommodations during official travel. As an example, Assistant 1 told the OIG about Political Appointee's negative reaction to his hotel stay on one particular trip to Atlanta, Georgia, early in Political Appointee's tenure with the Department, saying "he did not like" the accommodations selected for this trip and "was not pleased especially" with the service there. Political Appointee himself called this hotel stay in Atlanta "the single worst lodging experience" he had while with the Department, said the hotel was "lousy," and acknowledged that he conveyed his dissatisfaction about the hotel to "anybody who would listen," including his staff, in what were probably "hyperbolic and colorful" terms. Although Assistant 1 did not make the lodging arrangements for Political Appointee's trip to Atlanta, he told the OIG that Political Appointee had been displeased with him on other occasions for making hotel arrangements that did not meet his standards.

Assistant 1 told the OIG that Political Appointee's potentially negative reaction to staying at a lower quality hotel was one of the factors he considered when making lodging arrangements for Political Appointee's trips. Indeed, Assistant 1 acknowledged that he felt "pressure" to pick a hotel to Political Appointee's liking "even if [it] was over the per diem [rate]." As an example, Assistant 1 referenced how he went about choosing Political Appointee's hotel for the trip to Memphis that resulted in Political Appointee being reimbursed at more than 240% of the standard per diem rate. For this trip, Assistant 1 asked the Department's travel contractor to provide him a list of hotel options in the Memphis area. The travel contractor responded by sending a list of hotels by email, noting that the list included rooms "at the government per diem [rate]" for that area "or up to 300%" of that rate. There were 19 hotels on this list, nine of which offered available rooms below the standard per diem rate, with the most expensive of these being a Super 8 at a maximum cost of around \$100 per night. Assistant 1 told the OIG that when he received this list, he "immediately crossed off [all the hotels] from the Super 8 below." One of the hotels below the Super 8 was a Red Roof Inn offering rooms at a maximum cost of around \$70 per night. When asked what Political Appointee's reaction would have been had Assistant 1 chosen the Red Roof Inn for this trip, Assistant 1 said that Political Appointee would have been

“very unhappy,” would have been “mad,” and that he might have tried to “blame [this selection] on someone else” to avoid Political Appointee being upset with him.

The lengths to which Assistant 1 would go to ensure that Political Appointee experienced a superior hotel stay was also apparent from other evidence gathered by the OIG. In reviewing email collected during the investigation, the OIG noted that Assistant 1 would reach out and make contact with management at the hotel where Political Appointee would be staying prior to several of his trips. As Assistant 1 told the OIG, he did this because Political Appointee “liked having management there when [he] checked in to say [‘]hello, welcome, thanks for staying with us.[’]” The OIG also noted that in making contact such as this, it was not uncommon for Assistant 1 to reference details about Political Appointee’s high-ranking position within the Department of Commerce.

Prior to one trip to the Middle East, for example, Assistant 1 wrote the following to a manager of one of the two Luxury Hotel A locations where he and Political Appointee would be staying:

We are very excited to be staying with you and have heard fantastic things about both of the hotels we will be staying at. In our first nine months, we have stayed with you in [four different locations throughout the world], and the [Political Appointee’s official title] lived in [another location] for 3 months [once]. Needless to say, we are big fans (and super lucky!). I will be in touch shortly[] if we need anything out of the ordinary, however we travel pretty lightly and are supported quite heavily by our staff. . . .

“There is a reason the [Political Appointee’s official title] chooses to stay at [Luxury Hotel A] no matter where around the world we find ourselves.”

This contact with hotel management continued both during and after the trip took place. For example, in an email to another manager sent at the conclusion of this trip to the Middle East, Assistant 1 wrote:

I am heading back to [D.C.] now and wanted to thank you for your incredible hospitality. There is a reason the [Political Appointee’s official title] chooses to stay at [Luxury Hotel A] no matter where around the world we find ourselves. Your staff is fantastic. The food at [one restaurant in the hotel] was great. The Shiska [*sic*] was very[,] very nice at [a bar in the hotel]. The rooms are incredibly well done and tasteful . . . and the hot tub isn’t that bad either! I sincerely hope that our paths will cross again in the future, which I suspect will be sooner than later as our visits to [the country] increase in frequency.

- Assistant 1

One email sent by Assistant 1 during this trip indicates that the emphasis on premium hotel service during Political Appointee’s travel could take the form of criticism sent to management as well:

We are very happy to be staying with you this week. The rooms are fantastic and [we] truly appreciate the warm welcome you gave the [Political Appointee’s official title] and me. We are big [Luxury Hotel A] fans, as you know. We [h]ad a drink on the roof before dinner. The setting is spectacular. Unfortunately, when I ordered my second drink, they refilled my old glass with a shot of bourbon and my old orange peel and my old ice, which is really disappointing. Just thought you should know, as I am sure you are working out the kinks opening the new hotel.

“We are big [Luxury Hotel A] fans, as you know. . . . Unfortunately, when I ordered my second drink, they refilled my old glass with a shot of bourbon and my old orange peel and my old ice, which is really disappointing.”

- Assistant 1

When the OIG asked Assistant 1 about this particular message, he said he “did not want to send that email,” but had been “told to send [it].” Assistant 1 added that he was not someone who cared about things like getting a new glass for a second round of drinks, noted that he was willing to drink from “plastic bottles,” and said he had no idea a person might expect a new glass in a situation like that prior to this trip. When the OIG asked Assistant 1 who told him to send the email, he asserted that he could not recall, but noted there were only three people on this particular trip; himself, Political Appointee, and another member of Political Appointee’s staff. When pressed on the subject, Assistant 1 said he did not think the other staff member would have told him to send the email because he was not someone who cared about things like this either. Assistant 1 also noted that Political Appointee was someone who was “very particular about cocktails.” When the OIG asked Political Appointee about this email, he said that he had been unaware of it prior to the OIG bringing it to his attention and that he did not suggest or instruct that Assistant 1 should send the email. Nevertheless, Political Appointee said, “to go to a [Luxury Hotel A] bar and have what happened [there] is unacceptable” from his point of view.

The emphasis on luxury during Political Appointee’s official travel seemed to manifest itself outside of hotel accommodations as well. In reviewing the documentary evidence in this case, the OIG noted that Assistant 1 frequently arranged for “UberBLACK” (Uber’s luxury car service) or other premium ground transportation services to convey Political Appointee and those accompanying him on his trips, as opposed to using regular Uber service, taxis, or other options that would have been less costly to the government.

Political Appointee told the OIG during his interview that he had never expressed a preference to his staff about what kind of ground transportation to arrange for him on official travel, and said it would not matter to him whether he was in a “Toyota or a Lexus” so long as he was not required to ride in cramped quarters. When asked about ground transportation during his interview, Assistant 1 said time constraints and the ability to work while in vehicles was often behind what kind of car he selected during Political Appointee’s travel.

Regardless of what actually drove the selection of vehicles on Political Appointee's trips, some of the costs associated with ground transportation on these trips are striking. On a one-day trip to San Diego, California, for example, Assistant 1 arranged to have a private car service provided by the Luxury Hotel A there escort Political Appointee and his staff around the city at a cost of \$650. On a two-day trip to Boston, Massachusetts, Assistant 1 arranged for an SUV provided through another luxury hotel by a car service company at a cost of nearly \$1,800. And in connection with a three-day trip to another U.S. city, Assistant 1 received reimbursement for a \$118.77 ride in an UberBLACK car from Washington, D.C., to Dulles Airport; a \$74.00 ride in an UberBLACK car from the destination airport to Political Appointee's hotel; \$334.74 in charges for six rides in Uber SUV vehicles; and \$478.23 for a ride provided by a private car service going from the hotel to just one other destination before arriving back at the airport.

3. Poor Paperwork Oversight

A third factor causing travel-related problems in Political Appointee's office was ineffective oversight by those with responsibility for reviewing and approving documents related to Political Appointee's trips.

During the first year of Political Appointee's tenure with the Department, Administrative Official—a subordinate of Political Appointee—signed as the “authorizing officer” on all but five of Political Appointee's Travel Orders, including all but one Travel Order authorizing Political Appointee to receive more than 100% of per diem. Administrative Official also signed as the “approving officer” on every one of the vouchers that Political Appointee submitted to the Department for reimbursement of his travel expenses, including every voucher claiming reimbursement for hotel expenses in excess of standard per diem rates.

Administrative Official told the OIG that when he saw language requesting more than 100% of per diem on Political Appointee's Travel Orders or when he received one of Political Appointee's vouchers seeking reimbursement for hotel costs above 100% of per diem, he assumed that meant Political Appointee's staff could not find a hotel within the standard per diem rate and signed his approval based on that assumption. Administrative Official said he relies on the employees who prepare Travel Orders to ensure that they are in compliance with travel regulations and policies and that he is too busy to check whether suitable hotels might actually be available within the standard per diem rate.

Administrative Official provided a good illustration of his willingness to rely on assumptions when approving travel paperwork during his last interview with the OIG. During that interview, the OIG showed Administrative Official the voucher he signed approving reimbursement for one of Political Appointee's \$450 stays at Luxury Hotel A in New York and a voucher he signed on the very same day approving reimbursement for Assistant 1's \$265 stay at a different hotel during the same trip. When the OIG asked whether the different cost of these hotel rooms would cause Administrative Official to question the necessity of Political Appointee's stay at Luxury Hotel A, Administrative Official said: “I can only assume that [Political Appointee] needed to be closer to the event, so maybe that's why [the assistant] booked [Political Appointee] there, and [then] found himself a cheaper hotel . . . that's how I look at that.”

While Administrative Official was the person who signed Political Appointee's Travel Orders and vouchers, his Travel Orders were reviewed by another office within the agency as well.

Although close to half of Political Appointee's first 19 Travel Orders authorized him for more than 100% of per diem without explanation, the OIG saw evidence of only one instance when any representative of this office questioned the necessity of such authorization. In that case, Administrative Official provided the office with an explanation for the authorization in a one-sentence email saying: "[Political Appointee] is requesting actual expense of 150% . . . because of the high cost of lodging in [three locations in the Middle East]. . . ." But as the testimony of Assistant 1 and Political Appointee made clear, the high cost of lodging on this trip to the Middle East was actually due to Political Appointee choosing a "new" and "chic" hotel in one location based on the recommendation of a family member and friends, and choosing Luxury Hotel A for his stay in the other two locations based partly on the recommendation of someone who was able to facilitate a warm welcome for him from the management of these hotels. When the OIG asked the employee who received Administrative Official's email whether he considered its wording to be sufficient justification for the per diem overage that resulted, he said he would want a more fulsome explanation for the overage now based on changes his office had implemented in recent months, but could not say whether he would have sought more information at the time the explanation was given. When the OIG interviewed the head of this office, he said his assumption would be that someone had looked for hotels within the per diem rate and found none if he saw wording authorizing a per diem overage because of "the high cost of lodging" in a particular area, but recognized that his group could do more to spot check such authorizations and to demand greater specificity. This witness also pointed out that the employees in his office were not ideally positioned to say "no, boss, sorry," in the face of representations from Political Appointee's staff that a higher per diem authorization was necessary, given that they all worked as subordinates to Political Appointee.

With regard to Political Appointee himself, the evidence shows that he did not prepare his own travel documents, but he did sign each of the vouchers submitted to the Department for reimbursement of his travel expenses, thereby certifying that the information in those vouchers was "true and correct to the best of [his] knowledge and belief." There is nothing in the evidentiary record to suggest that Political Appointee knew he was submitting claims for unwarranted per diem overages, but he should have realized that some of the vouchers he submitted contained claims for reimbursement of hotel and other expenses incurred while he was on personal travel. For example, the voucher Political Appointee submitted for his trip to Geneva claimed reimbursement for expenses incurred during the personal weekend he spent there with a member of his family. Similarly, the evidentiary record shows that Political Appointee submitted a voucher associated with a trip he took to South America containing a claim for reimbursement for expenses incurred during another personal weekend with this same family member.

The evidence does not indicate that Political Appointee knowingly made these claims for reimbursement. Indeed, Political Appointee stated during his interview that he had no idea he had claimed reimbursement for his weekend in Geneva, that he intended to pay all costs incurred over the weekend because he was on personal travel, and that he believed he had done so. Moreover, when the Department questioned the reimbursement for his personal weekend in South America, Political Appointee promptly paid back the money he received for expenses incurred on those days. Still, it remains apparent that Political Appointee did not review his claims for reimbursement with sufficient attention to detail in every instance, particularly when those trips involved personal travel and luxury accommodations.

4. Embellishment of Official Travel Schedules to Accommodate Personal Plans

Yet another cause of the problems identified by the OIG during its review was Assistant 1's apparent willingness to embellish Political Appointee's official travel schedule to accommodate Political Appointee's personal plans.

Several witnesses with whom the OIG spoke expressed skepticism about the candor of Political Appointee's staff when answering valid questions about the business necessity of some of Political Appointee's travel arrangements. Assistant 1's attempt to characterize Political Appointee's personal weekend in Geneva as official government business indicates that this skepticism was well-founded, and this was not the only instance identified by the OIG of Assistant 1 providing answers to travel inquiries that do not align with the facts.

Prior to departing for his trip to the Middle East, Political Appointee's staff arranged to have him leave from New York, as opposed to his duty station in Washington, D.C., which would ordinarily be required under applicable travel regulations and policy. As part of this change, Assistant 1 wrote an email to the Department's travel contractor two weeks before the trip requesting a train ticket to New York for Political Appointee on the Sunday before his departure, saying Political Appointee's business in New York "constitute[d] official travel."

Shortly after making this request, Assistant 1 circulated an updated version of Political Appointee's calendar to another member of Political Appointee's staff. This calendar showed only two appointments in New York on the day Political Appointee was scheduled to fly to the Middle East: a dental appointment, which had appeared on the previous version of the calendar, and a meeting related to something Political Appointee owned, which was not on the previous calendar. Assistant 1 used purple text when he added both of these engagements to Political Appointee's calendar, indicating that he correctly understood them to be personal in nature.

When the Travel Management Division learned that Political Appointee had rearranged his itinerary to depart from New York, one of its representatives sent the following email to Assistant 1:

I understand [Political Appointee] is going on an overseas trip to the Middle East. . . . His original flights had him leaving/returning to Washington (his duty station), and [] the total round trip cost to the government was \$10,797. Now I understand he would rather leave from New York and the cost to the government for him to leave from [a New York City area airport versus] Washington, returning to Washington is \$13,678.44. I also understand that the government is paying for him to go to New York on Sunday . . . on AMTRAK at a cost of \$246.19. The total cost of his trip leaving from Newark and returning to Washington, including AMTRAK costs, is \$13,924.63. That is \$3,127.39 more expensive to the government for [Political Appointee] to leave from New York. What is the justification for [Political Appointee] to travel from an alternate location? Can you provide me with a copy of his itinerary for this trip?

In response to this message, Assistant 1 wrote that Political Appointee “does not prefer to leave from New York, but now has meetings that require him to be in New York” on the morning of his flight to the Middle East. Assistant 1 also agreed to send a copy of Political Appointee’s official itinerary when it was completed.

Less than 15 minutes after Assistant 1 told the Travel Management Division that Political Appointee was “require[d]” to be in New York on the morning before his flight to the Middle East, he wrote an email to the president of an organization located in New York attempting to set up an official meeting for Political Appointee on that morning. The president of this organization responded two days later by saying that no meeting on that morning was possible with either him or the organization’s chairman.

Another two days later, Political Appointee’s staff issued a “travel justification” memorandum to the Department explaining the official purpose of Political Appointee’s trip to New York and the Middle East. According to Assistant 1 and other witnesses, the content of this memorandum was most likely provided by Assistant 1. The memorandum listed only two meetings justifying Political Appointee’s travel to New York; one with the chairman of the organization that had already declined Assistant 1’s request for a meeting, and another with the CEO of a second organization that had not yet responded to a meeting request.

Three days later, Assistant 1 sent an email to the Travel Management Division attaching the official itinerary for Political Appointee’s trip that it had requested a week earlier. This itinerary listed the same two meetings in New York that appeared on Political Appointee’s travel justification memorandum, even though there is no evidence to suggest that either meeting had any realistic chance of taking place as of the time Assistant 1 sent his email. Later the same day, an assistant to the CEO of the second organization listed in the travel justification memorandum wrote to Assistant 1 apologizing for not responding sooner to a call he had made three days before and asking whether Political Appointee’s only availability for a meeting with the CEO was on the morning of his trip to the Middle East. When Assistant 1 confirmed that Political Appointee was available for a meeting only that morning, the CEO’s assistant responded by saying he would not know for sure if such a meeting was possible until the CEO returned to the office. Later that day, Political Appointee’s meeting with this second organization was finally arranged.

When the OIG presented this timeline during his interview, Assistant 1 explained that he attempted to arrange business meetings for Political Appointee in New York because this is what Political Appointee would have expected him to do, but he acknowledged

Political Appointee “now has meetings that require him to be in New York.”

- Assistant 1

that the reason Political Appointee planned to be in New York in the first place were his personal plans. During his interview, Political Appointee confirmed that he would have expected Assistant 1 to schedule business meetings for him in New York to take advantage of the fact that he would be there and make efficient use of his time. But, Political Appointee said, there was nothing on his schedule that required him to be in New York prior to departing for the Middle East, and he did not instruct Assistant 1 to tell the Department that the reason he was going to New York was for official business.

D. Post-Trip Per Diem Justification Memoranda

Perhaps the most troubling manifestation of the problems the OIG identified during this investigation were the post-trip justification memoranda drafted by Political Appointee's staff when the Department asked Political Appointee to pay back the questionable per diem overages he received or provide sufficient grounds to support them.

The evidentiary record shows that Political Appointee made it known to his staff that he was willing to pay for any cost over what government reimbursement rates would cover when he chose to stay at a hotel of his liking. The record also shows that Political Appointee was not involved in the decision making about what per diem overages he would pay back in response to the Department's travel audit. It is therefore unclear why Political Appointee's staff chose to offer justifications for several of the overages that are not supported by the facts, given Political Appointee's professed willingness to pay for hotel costs that standard per diem rates do not cover.

Each of the ten post-trip per diem justification memoranda was written under Administrative Official's name and it was Administrative Official who signed each of these documents. Administrative Official told the OIG that, even though he was the person who signed the memoranda, he did not write them. Administrative Official said that it was Assistant 1 who wrote the memoranda after consulting with the Department's Travel Management Division. According to Administrative Official, Assistant 1 told him that the Travel Management Division said the problems associated with Political Appointee's per diem overages would be fixed if Assistant 1 typed up these memoranda and had Administrative Official sign them. Because he believed the Department had instructed Assistant 1 to type these memoranda, Administrative Official said, he did not check the content of these documents for accuracy before signing them. Indeed, Administrative Official said, he "[p]robably [did] not" even read any of the memoranda before signing them.

When presented with the fact that he signed a memorandum justifying Political Appointee's per diem overage in Geneva due to the "high cost of lodging" there and "schedule limitations," even though Administrative Official knew when he signed that the real reason for the overage was that a member of Political Appointee's family had chosen the hotel for this trip, Administrative Official said he would not have signed this document had he reviewed it carefully. But, Administrative Official said, he may have been busy at the time he signed the post-trip justification memoranda and he did not focus on their content as he should have.

According to Assistant 1, he was the person who typed the post-trip justification memoranda, but the content of these documents was decided upon collectively by him, Administrative Official, and another member of Political Appointee's staff. Assistant 1 described the process of responding to the Department's inquiries as follows: Assistant 1 looked at paperwork associated with each of the trips the Department had questioned, he then met with Administrative Official and the other staff member to discuss the results of his review and decide whether there was sufficient justification for the overages, Administrative Official gave him guidance on what language should be used for the justifications they had agreed on, Assistant 1 typed the memoranda, and Administrative Official signed the documents. Assistant 1 recalled Administrative Official having questions about the wording in a few of the memoranda he typed

but could not recall the third staff member having any such questions. Assistant 1 said he provided Administrative Official with some of the documents he had reviewed to answer his questions.

The third staff member involved in this process told the OIG that responding to the Department's inquiries about per diem overages was "[Assistant 1's] project" and that Assistant 1 was the person who would most likely have written the post-trip justification memoranda. This staff member said he likely reviewed some but not all of the memoranda before they were submitted to the Department and said he did not generally provide input as to whether a justification should be written for any particular per diem overage.

The justification given "doesn't stand up" and it was "inappropriate" for Political Appointee to have received a per diem overage.

- Witness

When responding to the OIG's questions about the memorandum justifying Political Appointee's per diem overage in Geneva, this staff member acknowledged that the justification given for the trip was not valid, that "it doesn't stand up," and that it was "inappropriate" for Political Appointee to have received a per diem overage on the trip.

When the OIG asked Assistant 1 about the Geneva post-trip justification memorandum, he said he would not have come up with the content of the memorandum by himself. Assistant 1 could not say who specifically told him what to write for this justification, but said it would have been either Administrative Official or the other staff member involved in handling the Department's inquiries about Political Appointee's per diem overages. As for the particular wording of this memorandum, Assistant 1 agreed that it was inaccurate to say that "the high cost of lodging" in Geneva caused Political Appointee's per diem overage on this trip, given that Political Appointee's family member had chosen the hotel where they stayed. And while he was aware that "schedule limitations" had nothing to do with the per diem overage for this trip either, Assistant 1 reiterated that he relied on input from either Administrative Official or the other staff member when including this particular wording in the justification.

The OIG also asked Assistant 1 about two memoranda written to justify full reimbursement for stays at Luxury Hotel A in New York. The first memorandum justified Political Appointee's reimbursement on the basis that hotel taxes had caused the per diem overage. Assistant 1 acknowledged that he typed this memorandum, but he could not recall how he came to the understanding that taxes caused this particular overage. When the OIG pointed out that per diem in New York at the time of this trip was around \$200, that the base cost for Political Appointee's room independent of any taxes was \$450, and that taxes therefore could not possibly account for the overage Political Appointee received, Assistant 1 agreed that Political Appointee should not have been reimbursed for the full cost of his room in this instance.

The second memorandum was the one asserting that Political Appointee was justified in staying at Luxury Hotel A because of "limited availability of hotels" in New York at the time due to several events taking place there, which purportedly caused "extremely high occupancy of all hotels in New York and hotels raising rates." Assistant 1 acknowledged that he drafted this memorandum as well, and that he was the person who supplied the specific reasons given for the overage on this trip. The OIG asked whether Assistant 1 thought the justification given in this memorandum appeared inaccurate after presenting him with the evidence showing that Political

Appointee paid the same \$450 rate he always received at this hotel and that Assistant 1 stayed at a different hotel that cost only \$265 per night on this trip. Assistant 1 ultimately responded to this inquiry by saying, “I don’t know how to answer the question.”

Because it appears that Assistant 1 played a key role in responding to the Department’s audit of Political Appointee’s travel, the OIG offered him the opportunity to locate and provide any evidence he had that would support the questionable language used in any of the post-trip justification memoranda discussed during his interview, but no such evidence materialized.

III. Analysis & Findings

The evidence gathered by the OIG establishes that multiple regulatory and policy violations occurred in connection with Political Appointee’s official travel during his first year with the Department, and several people share responsibility for these violations.

The evidence establishes that Political Appointee was regularly reimbursed for hotel stays above the standard per diem rate without adequate justification on his Travel Order, as required by the FTR and Department policy. The evidence gathered by the OIG also shows that Political Appointee’s personal preference was the primary reason for many of these overages, which is not a valid basis for reimbursement above standard per diem levels under applicable regulations and policy. The evidence shows further that certain members of Political Appointee’s staff provided incorrect or knowingly misleading justifications for Political Appointee’s per diem overages in several instances, which calls into question whether any of the above-standard reimbursements he received were appropriate. Finally, the evidence shows that one member of Political Appointee’s staff provided inaccurate responses on multiple occasions to valid inquiries from Department officials with responsibility for ensuring regulatory and policy compliance.

Political Appointee himself shares responsibility for the irregularities associated with his official travel, as it was ultimately up to him to ensure that the culture of his office would encourage his staff to prioritize compliance with government travel regulations and Department policies over accommodation of his personal preferences when making his trip arrangements. However, actions taken by several employees in Political Appointee’s agency combined to produce these irregularities, with Administrative Official and Assistant 1 sharing the largest portion of responsibility for the breakdowns that occurred.

A. Administrative Official

The evidence shows that Administrative Official contributed to the travel problems that the OIG identified by informing others with responsibility for Political Appointee’s travel arrangements that he was entitled to higher per diem rates due to his status at the agency, and by acting in accordance with that incorrect understanding when approving Political Appointee’s Travel Orders and claims for reimbursement. There is nothing in the FTR or Department policy that creates a distinction amongst government employees based on status when it comes to per diem rates, and Administrative Official should have known this given his responsibility within the agency for ensuring that travel regulations and policies are followed.

Administrative Official also failed to exercise sufficient oversight of Political Appointee’s travel paperwork in his role as the “authorizing official” for Political Appointee’s Travel Orders and his role as “approving official” for Political Appointee’s reimbursement vouchers. The OIG acknowledges that Administrative Official was placed in a difficult situation when acting in these capacities, given his subordinate status to Political Appointee. Nevertheless, by signing Political Appointee’s travel paperwork in these roles, Administrative Official had a responsibility to ensure that Political Appointee’s travel was in accordance with the FTR and Department policy, and careful review of this paperwork should have made it clear to Administrative Official that Political Appointee was not entitled to many of the per diem overages he received. Rather than relying on assumptions about Political Appointee’s travel arrangements to satisfy him that Political Appointee’s paperwork was in order, it was incumbent on Administrative Official to question these arrangements to a greater degree given the information available to him and his responsibilities within the agency.

Finally, Administrative Official failed to exercise appropriate judgment when assisting Political Appointee’s staff with preparing responses to the Travel Management Division’s inquiries about Political Appointee’s per diem overages. Whether Administrative Official was an active participant in formulating the content of the post-trip justification memoranda addressing the Travel Management Division’s inquiries (as Assistant 1 claimed) or whether he merely signed these memoranda without reading them (as Administrative Official himself told the OIG), Administrative Official should have taken greater care to ensure that the responses to the Travel Management Division were accurate.

Administrative Official signed each of the memoranda justifying per diem overages on Political Appointee’s trips and the evidence gathered by the OIG indicates that—at a minimum—about half of these justifications are inaccurate, if not outright false. Furthermore, the record shows that Administrative Official should certainly have known at the time he signed the memorandum justifying Political Appointee’s per diem overage in Geneva that the document’s contents were untrue. If nothing else, Administrative Official’s willingness to sign the justification memorandum for this trip alone shows poor judgment on his part.

The evidentiary record as a whole does not indicate that Administrative Official knowingly permitted the regulatory and policy violations that the OIG identified. For example, one witness knowledgeable about Administrative Official’s travel oversight role described him as “very ethical” and said he does not like to see taxpayer dollars wasted. Another witness said Administrative Official was “very. . . rule-oriented” and “not the type of person who can be . . . leaned upon to do something . . . improper.” Moreover, the OIG found Administrative Official to be cooperative and candid during three separate interviews. Instead, the evidence indicates that Administrative Official could benefit from additional training on the requirements of the FTR and Department travel policy, as well as greater clarification about his role and responsibilities when signing official travel paperwork.

B. Assistant 1

Assistant 1 contributed to the travel problems the OIG identified in multiple ways, including by filling out Travel Orders for four of Political Appointee’s trips that included language authorizing him to receive more than 100% of per diem without adequate justification. Assistant

1 also repeatedly chose hotels for Political Appointee's trips on the basis of Political Appointee's personal preference, not mission necessity, while knowing that Political Appointee would be reimbursed at above-standard per diem rates for these hotels, which the FTR and Department policy do not permit. Similarly, Assistant 1 regularly sought reimbursement for ground transportation used during Political Appointee's trips that was more costly to the government than the facts show to be warranted. Given that the FTR prohibits the use of "luxury . . . services unnecessary or unjustified in the performance of official business," this practice appears impermissible.

Assistant 1 was new to government service when he took on responsibility for making Political Appointee's hotel and other travel arrangements, and the evidence shows that he was not given any training to prepare him for this role. The evidence also indicates that Assistant 1 received guidance from career employees at Political Appointee's agency who were supposedly knowledgeable about applicable travel rules and who led him to believe that Political Appointee was entitled to higher per diem rates than others due to his status. In addition, Administrative Official consistently approved the per diem overages Political Appointee claimed, as well as the reimbursements claimed for premium car services used on Political Appointee's trips, apparently without ever questioning the necessity of such charges.

Nonetheless, Assistant 1 had ample reason to educate himself about travel regulations and policies given the job duties he took on, especially once the Travel Management Division began questioning the propriety of some of Political Appointee's travel arrangements. Indeed, Assistant 1 himself said during his last interview with the OIG that, if he could do one thing differently after looking back on all the travel issues that arose in Political Appointee's office, he "would not have relied on other people" so much for guidance on how to comply with travel regulations and rules.

Moreover, inadequate training is not an excuse for Assistant 1's lack of candor in some of his dealings with the Travel Management Division and other departmental officials. Assistant 1 telling the Travel Management Division that Political Appointee's personal weekend plans in Geneva constituted official government business when they did not, and likewise telling the Department that Political Appointee was required to be in New York prior to his trip to the Middle East when there was no official business obligating him to be there stand out in this regard. So, too, does Assistant 1's key role in preparing the inaccurate and misleading memoranda that Political Appointee's staff submitted to the Department to justify Political Appointee's unnecessary per diem overages.

One witness knowledgeable about Assistant 1's role in Political Appointee's office told the OIG that any inaccurate or misleading information he may have provided to the Travel Management Division could be attributable to his relatively junior status in the office coupled with an eagerness to do a good job for Political Appointee, and perhaps by a lack of familiarity with the reasons underlying some of the questions he was expected to answer. Assistant 1 himself said that when Political Appointee told him what he wanted his travel plans to look like on a given trip, he felt it was up to him to "figure out how to make [the trip] happen," and he also believed that Political Appointee expected him to "figure it out" when problems arose with one of his trips, including questions from the Travel Management Division that might put the trip plans in jeopardy. In addition, Assistant 1 recalled feeling "pressure" on occasion to ensure the

government would be paying for trips Political Appointee took that involved both personal and official business.

Regardless of the reasons behind the responses Assistant 1 gave to some of the Travel Management Division's inquiries, it seems clear that several of the problems identified by the OIG during its investigation could have been mitigated or even avoided altogether had Assistant 1 been consistently forthright about Political Appointee's travel plans.

C. Political Appointee

Finally, the evidence indicates that Political Appointee himself bears responsibility for the circumstances that led to the travel-related problems in his office.

Political Appointee was cooperative and forthcoming in responding to the OIG's inquiries, and he seemed credible when testifying that he provided clear instruction to his staff that he was willing to pay for any portion of his travel expenses that was not legitimately reimbursable under government regulations, policy, and rules. Indeed, as he acknowledged during his interview, Political Appointee is not a person lacking the means to pay for luxury accommodations or other premium services out of his own funds, and it does not seem plausible that he would purposefully take action intended to obtain questionable travel reimbursements for that reason. Further, more than one witness told the OIG that Political Appointee's staff screened him away from the details of his travel arrangements, including the questions raised about those arrangements by the Travel Management Division, so that he would not have to occupy himself with such matters as opposed to focusing on his core job duties.

But being screened from the details of his travel arrangements did not relieve Political Appointee of the obligation he had to review attentively each of the vouchers he submitted for reimbursement of his travel expenses. Had he done so, he could have prevented the impermissible reimbursements he received for personal travel expenses incurred during weekends like those he spent with a family member in Geneva and South America.

Moreover, it was Political Appointee's evidently strong preference for luxury accommodations and his decision to rely on Assistant 1 for making lodging and other arrangements for his trips that ultimately led to so many of the problems identified in this investigation. This is especially so given that Assistant 1 had no familiarity with the rules governing official travel when he assumed this responsibility and Political Appointee apparently did not encourage or require him to seek out such training.

Of perhaps greater significance, the evidence taken as a whole indicates that Assistant 1 did not feel completely welcome to bring issues raised by the Travel Management Division to Political Appointee's attention for guidance on how to resolve them. Instead, the record as a whole indicates that Assistant 1 believed Political Appointee would expect him to "figure it out" when problems with his travel arose.

For instance, Assistant 1 said he did not consult Political Appointee when addressing the Travel Management Division's audit of Political Appointee's per diem overages because he believed Political Appointee "[did]n't want to hear about" the details of this audit, as this was "just going to make [him] angry." And when asked whether he thought Political Appointee might have been

upset with him if he had to pay back more of the per diem overages that the Department had questioned, as opposed to only those few overages that his staff agreed he should pay, Assistant 1 said, “I don’t know.”

Indeed, when Political Appointee himself described his recollection of Assistant 1 telling him he had to pay back certain per diem overages in response to the Travel Management Division’s audit, he said he “rolled [his] eyes[,] probably because [he] thought [Assistant 1] was making an excuse” for a mistake he had made. Political Appointee also said he was willing to pay the amount Assistant 1 told him he should without question because it was relatively small, but said if the amount had been much larger he might have expressed some measure of dissatisfaction.

Testimony such as this indicates that Political Appointee could have done more to create an environment in his office that would have better facilitated full compliance with governing travel regulations and policies. Had Assistant 1 truly felt comfortable approaching Political Appointee to work through various issues raised by the Travel Management Division, it seems unlikely that his staff would have drafted the post-trip memorandum justifying the per diem overage Political Appointee received in Geneva, for example, given Political Appointee’s awareness that he chose the hotel for that trip on the basis of personal preference, his expectation that he would pay for any costs beyond what government per diem rates allow, and his recognition that the contents of that memorandum were “in error.”

Simply put, the evidence viewed as a whole indicates that Political Appointee could have done more to ensure his staff felt empowered to err on the side of full compliance with the regulations, policy, and rules governing official travel, given that he was the person most responsible for establishing the culture of his office.

Chapter 3: Political Appointee’s Impermissible Use of a Staff Member for Handling Certain Non-Official Business Matters

The evidence gathered by the OIG established that (1) Political Appointee routinely requested that Assistant 1 handle an array of his personal matters during the course of official duties, in violation of federal regulations, and (2) Assistant 1 occasionally made use of Political Appointee’s title and position in an inappropriate manner when handling certain of these matters.

I. Applicable Legal Framework

Federal ethics regulations prohibit government employees from encouraging, directing, coercing, or requesting subordinates to use official time to perform activities other than those “required in the performance of official duties or authorized in accordance with law or regulation.”¹⁹ The governing regulatory section, 5 C.F.R. § 2635.705(b), provides an illustrative example, stating that a federal employee may not “ask his secretary to type his personal correspondence during duty hours.”²⁰ The section notes, however, that subordinates are permitted to perform personal tasks or other non-official duties for superiors during non-duty hours, so long as the arrangement is voluntary and the superior pays adequate compensation to the subordinate out of personal funds.²¹

Federal ethics regulations also prohibit government employees from using their public office for their own private gain.²² Similarly, these regulations prohibit government employees from directly or indirectly soliciting or accepting a gift given because of their official position; that is, an employee may not solicit or accept a gift that would not have been solicited, offered, or given had the employee not held the status, authority, or duties associated with the employee’s government position.²³ A “gift” is defined broadly to include any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.²⁴

Additionally, the ethics regulations state that all federal employees:

[S]hall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in [federal regulations]. Whether particular circumstances create an appearance that the law or these

¹⁹ 5 C.F.R. § 2635.705(b).

²⁰ 5 C.F.R. § 2635.705(b), Example Note.

²¹ 5 C.F.R. § 2635.302(a)-(b).

²² 5 C.F.R. § 2635.702.

²³ 5 C.F.R. §§ 2635.202(a)(2), 2635.203(e).

²⁴ 5 C.F.R. § 2635.203(b).

standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.²⁵

II. Factual Background

The evidence gathered by the OIG shows that Political Appointee requested that Assistant 1 handle a variety of personal matters for him, including:

- Paying certain of Political Appointee’s personal bills using Political Appointee’s personal credit card. Examples of this include Assistant 1 paying Political Appointee’s homeowners insurance premium and an auto insurance premium for one of Political Appointee’s family members.
- Making personal travel arrangements for Political Appointee, including the booking of flight and train reservations using Political Appointee’s personal credit card to pay for these arrangements.
- Preparing typed lists of personal items for Political Appointee to pack for vacation and other trips.
- Updating and compiling a list of passwords for various personal accounts held by Political Appointee, including credit card, banking, home utility provider, and online retail accounts.
- Assisting Political Appointee with a personal membership application for an exclusive social club providing luxury amenities and services in various locations throughout the world.
- Assisting a member of Political Appointee’s family with inquiries about the family dental plan.
- Scheduling personal appointments for Political Appointee, such as appointments with his personal trainer and physician.
- Scheduling and sometimes accompanying Political Appointee to non-official meetings with business people and personal acquaintances.
- Making dinner reservations for Political Appointee unrelated to official government business.
- Making sightseeing and other arrangements for Political Appointee’s visiting family members.

Assistant 1 told the OIG that he was “happy” to handle tasks such as these “when time permits” because he believed this “help[ed] [Political Appointee] do his job better,” which he thought to be “one of [his] responsibilities” as Political Appointee’s assistant. Both Political Appointee and Assistant 1 confirmed that Political Appointee never paid Assistant 1 any sort of compensation

²⁵ 5 C.F.R. § 2635.101(b)(14).

for helping him with his personal affairs. Assistant 1 said the amount of time he spent helping Political Appointee with personal business varied by week; he might have done “close to nothing” to assist Political Appointee with personal business some weeks, but it was possible to spend up to “10 hours” handling such matters on other weeks. Even though Assistant 1 handled some of Political Appointee’s personal business during regular working hours, the evidence indicates that this did not interfere with Assistant 1’s ability to work at least 40 hours per week on official government business.

In Political Appointee’s estimation, the overall amount of time Assistant 1 spent helping him with personal business was “well below the de minimis level,” and he thought that “99.999 percent” of “senior people” in the Department had their assistants help them in a similar fashion. Political Appointee also said he viewed Assistant 1’s work on personal matters as being focused “[p]rimarily around scheduling,” and that this assistance had a beneficial “impact on [his] ability to perform [his own] professional duties.” But another witness familiar with Assistant 1’s role in Political Appointee’s office told the OIG that it was “common” for Assistant 1 to work on personal matters for Political Appointee, that there was “tension” when it came to Assistant 1’s roles supporting Political Appointee with official and personal matters, and that his impression was that Assistant 1’s job position was meant to be more focused on official agency duties than it actually was. Indeed, this witness told the OIG that he could recall “instances where [he] was worried about the extent of what was being done,” and this recollection was corroborated by documentary evidence gathered by the OIG. In an email sent soon after Assistant 1 began working for Political Appointee, this witness wrote the following to a colleague: “I think [Assistant 1] doesn’t want to look overwhelmed and complain, but seriously it’s a waste of his time to be doing [] stupid [stuff] like finding this bottle of alcohol, paying [Political Appointee’s] bills, etc. . . .”

- Witness

When reviewing the documentary evidence of Assistant 1 helping Political Appointee with various personal matters, the OIG noticed multiple instances of Assistant 1 invoking Political Appointee’s title or position in connection with efforts to arrange certain events for him. These emails were all sent from Assistant 1’s government email account over his signature block, which references Political Appointee’s official title.

For instance, in an attempt to arrange a tour of a private museum for some of Political Appointee’s family members, Assistant 1 wrote the following:

I am emailing on behalf of [Political Appointee’s official title and name] at the [U.S.] Department of Commerce. He has [some family members] coming to town . . . and has asked that I inquire about coming to visit the . . . museum. Do you offer any special tours outside of normal hours, or any VIP tours? Anything like that? We are not asking for anything free! The [Political Appointee’s official title] is happy to cover any costs depending on what you guys can do.

In another such email, Assistant 1 wrote the following to the general manager of a Washington, D.C., restaurant that typically requires several weeks' notice for weekend reservations:

I am writing on behalf of [Political Appointee's official title and name], who[] you met during one of his previous dinners. . . . The [Political Appointee's official title] has some guest[s] in town for dinner on Saturday . . . and would love to bring them down. . . . Would you be able to accommodate four people at 7:30 pm?

Assistant 1 managed to secure this reservation for Political Appointee only a few days in advance, but he later had to cancel it. When doing so, Assistant 1 said Political Appointee looked forward to dining at the restaurant soon, but could not this time because he had been asked to accompany a very prominent executive branch official on a short-notice trip, thereby invoking Political Appointee's status within the government again.

Similarly, Assistant 1 used his government email and signature block when sending the following message to the proprietor of another well-regarded D.C. restaurant:

I hope this email finds you well. I am writing on behalf of [Political Appointee's official title and name], who you met last time he dined with you. [Political Appointee] is hoping to come in on Tuesday . . . at or around 7 pm. I keep checking the website, but was wondering if you might be able to accommodate him? Thanks so much for any help you can provide.

Messages of this nature bear similarities to those instances referenced earlier in this report when Assistant 1 chose to highlight Political Appointee's title and position in communications with the staff of luxury hotels where Political Appointee stayed during official business travel.

III. Analysis & Findings

The evidence shows that Political Appointee's request for and acceptance of help from Assistant 1 on personal matters ran afoul of applicable regulations, and shows further that Assistant 1's references to Political Appointee's government position when handling certain of those matters was inconsistent with the regulations as well.

There is no dispute that Assistant 1 helped Political Appointee with non-official business on a regular basis at Political Appointee's request, which both Political Appointee and Assistant 1 acknowledged during their OIG interviews. While Political Appointee told the OIG that he believed the help Assistant 1 provided him with personal matters fell below what he would consider to be the "de minimis level," there is no "de minimis" exception to the prohibition set out in Section 705(b). Nor is there any basis to conclude that the kind of personal assistance Political Appointee received from Assistant 1 was in any way "required in the performance" of Assistant 1's "official duties" or otherwise "authorized in accordance with law." This is so even if Assistant 1 viewed helping Political Appointee with non-official business as one of his job "responsibilities" because this help allowed Political Appointee to be more efficient at his own job. Indeed, the example given in the note appended to Section 705(b), which points out that a federal employee may not ask his secretary to type his personal correspondence during duty hours, is instructive here. Similar to this example, much of the non-official help that Assistant 1

provided Political Appointee involved correspondence of a personal nature, including the handling of emails related to personal bill payments, the arrangement of personal appointments, and securing personal dinner reservations, to reiterate but a few examples. Although a subordinate handling a superior's personal correspondence may permit the latter to focus more on his or her own official duties, Section 705(b)'s example note makes it plain that this consideration is not relevant in assessing whether a violation of the ethics regulations has occurred.

Section 705(b) expressly prohibits federal employees from asking subordinates to work on non-governmental matters during "official time," and the record is clear that Assistant 1 did help Political Appointee with personal matters while in the office during what would be considered regular business hours. However, Assistant 1 also worked on personal matters for Political Appointee outside the office and outside what a typical government employee would consider "normal" business hours. But even this latter form of assistance ran afoul of the federal ethics regulations for two key reasons.

First, the official work Political Appointee and Assistant 1 did was of such a nature that it frequently needed to be conducted outside of what a typical government employee would consider "normal" business hours. Indeed, the evidentiary record indicates that it was common for Assistant 1 to perform official duties during early morning, late evening, weekend, or even holiday hours. Further, the record as a whole indicates that Assistant 1's general practice was to alternate seamlessly between assisting Political Appointee with official business and personal business when he handled such matters, thereby blurring the distinction of what was done on "official time" as opposed to strictly off-duty hours. As Political Appointee put it during his interview, he and Assistant 1 had a "seven-day-a-week" type of job, "there [was] no concept of 9 to 5," and it is therefore difficult to define "what government time [would] really mean[]" in such a job. In this regard, the facts of this case are such that all of the personal assistance that Political Appointee asked Assistant 1 to provide ought to be viewed as falling within the prohibition contemplated by Section 705(b), even the assistance provided outside of what would typically be considered normal government business hours.

Second, the personal help that Assistant 1 provided Political Appointee outside of what might be considered "official time" ran afoul of the ethics regulations for the additional reason that Political Appointee did not pay Assistant 1 for his services, which is an undisputed fact. This is so because as the example note appended to Section 705(b) points out, the ethics regulations prohibit federal employees from accepting "gifts" from subordinates, which would include the provision of personal assistance services such as those that Assistant 1 performed for Political Appointee here.²⁶

Assistant 1's use of Political Appointee's official title when attempting to schedule personal dinners and other reservations for him also created an appearance that Political Appointee was seeking favorable treatment based on his status within the government, which is impermissible under federal ethics regulations as well. "Special" or "VIP" museum tours, short-notice dinner reservations at a busy restaurant, or dinner reservations not available to others through a public website could all be construed as "gifts" under the federal ethics regulations, given how broadly

²⁶ 5 C.F.R. § 2635.705(b), Example Note.

that term is defined in Section 203 of the regulations. Accordingly, it would be improper under Section 202 of the ethics regulations for Political Appointee to “directly or indirectly[] solicit or accept” such gifts if offered “because of [his] official position” within the government. Similarly, favorable treatment from museums or restaurants could also be considered a “benefit” under the terms of Section 702(a), meaning it would be improper for Political Appointee to “use or permit the use of his Government position or title” to “induce” such treatment.

There is insufficient evidence to conclude that Political Appointee was aware that Assistant 1 made use of his government title and position when attempting to make personal arrangements for him. For this reason, there is insufficient evidence to make a finding that Political Appointee violated either Section 202 or Section 702(a) of the ethics regulations. Nonetheless, Section 101(b)(14), included in a list defining the “basic obligation of public service,” states that federal employees “shall endeavor to avoid any actions creating the appearance that they are violating . . . ethical standards,” and the facts of this case implicate this basic obligation.

“I am emailing on behalf of [Political Appointee’s official title and name] . . . , [d]o you offer . . . any VIP tours?”

- Assistant 1

In delegating responsibility for handling certain personal tasks to Assistant 1, it was incumbent on Political Appointee to ensure that Assistant 1 knew to carry out this responsibility in accordance with the same ethical standards that would be applicable had he performed such tasks himself, and the evidentiary record indicates that Political Appointee should have been better attuned to the appearance issues that might arise from Assistant 1’s handling of his personal business. When presented with Assistant 1’s email asking for a VIP museum tour for Political Appointee’s family while making several references to Political Appointee’s official position, Political Appointee told the OIG that he did not see this as an “abusive” use of his title. But had Political Appointee himself written to the museum stating he was “emailing [as Political Appointee’s official title and name] at the [U.S.] Department of Commerce” to inquire whether the museum offered “any special tours outside of normal hours, or any VIP tours,” there can be little question that this would present at least the appearance that Political Appointee was seeking favorable treatment on the basis of his position within the government. Political Appointee should have been able to recognize this, and he should have taken steps to ensure that Assistant 1 would not be making use of his official title in any such fashion when writing personal emails on his behalf. “[E]ndeavor[ing] to avoid any actions creating the appearance” of ethical violations ought to be viewed as requiring at least this much.

Chapter 4: Potentially Improper or Otherwise Questionable Office Renovation Expenditures

Finally, evidence gathered during the OIG's investigation shows that, upon assuming his position within the Department, Political Appointee expressed dissatisfaction with the condition of his office suite and his agency spent more than \$50,000 in government funds making changes to the suite as a result. This amount was roughly ten times the \$5,000 stipend allotted by federal law for political appointees to renovate their offices. The evidence also shows that the total cost of all work done to Political Appointee's office suite was justified on the basis of being "routine maintenance" work, as opposed to renovation work, which allowed the Department to perform the work unhindered by the \$5,000 cap imposed by Congress. However, poor record keeping practices by the Department prevented the OIG from making a thorough assessment of the validity of classifying the work done to Political Appointee's suite as "routine maintenance," and the evidentiary record as a whole indicates that this classification may have been inappropriately stretched.

I. Applicable Legal Framework

Restrictions pertaining to expenditures for the renovation of a political appointee's office suite are found in federal appropriations statutes as well as Department policy.

Section 710 of the Department of the Treasury Appropriations Act, 2014, and Section 710 of the Department of the Treasury Appropriations Act, 2015, contain identical language authorizing up to \$5,000 to political appointees to "furnish or redecorate the[ir] office . . . or to purchase furniture or make improvements for any such office" without advance notice to the House of Representatives and Senate Committees on Appropriations.²⁷ The statute defines "office" to include "the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual."²⁸

Department policy incorporates the \$5,000 limitation imposed by Congress, but this policy includes a carve-out for certain types of renovations done to the offices of political appointees. Specifically, Department policy states that:

The \$5,000 limit does not include work that is classified as repair or general maintenance, as determined by [the Department]. The proposed funds for furnishing or office refurbishment of the office for Political Appointees will be examined on a case-by-case basis. Requests shall be submitted to [the

²⁷ Department of the Treasury Appropriations Act, 2014, Pub. L. No. 113-76, Div. E, Tit. I, § 710, 128 Stat. 184, 232 (2014), Department of the Treasury Appropriations Act, 2015, Pub. L. No. 113-235, Div. E, Tit. I, 128 Stat. 2332, 2381 (2014).

²⁸ *Id.*

Department], and will be forwarded to [the Department’s Office of General Counsel] for review.²⁹

Exceeding the \$5,000 limit imposed by Congress implicates the Anti-Deficiency Act, which states that a federal agency may not “make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation.”³⁰ If a federal agency determines that a violation of the Anti-Deficiency Act has occurred, the head of that agency must report the violation and all relevant facts to the President, Congress, and the Comptroller General.³¹

II. Factual Background

Within weeks of being confirmed to his new position, Political Appointee visited his office suite in the Department’s Washington, D.C., headquarters for the first time. According to Political Appointee, the suite looked “awful” when he first saw it and he noted several issues, including chipping and peeling paint, stained carpet, a non-functioning toilet with urine in it, non-matching furniture, and some exposed wiring. Indeed, Political Appointee said, conditions in the suite were such that a member of his family “almost started to cry” upon viewing the space. Another witness who saw the office around this time agreed that it looked “a bit rough,” and said that there were several holes in the walls where pictures had once hung, worn carpet, flaking paint in places, damaged furniture, and some bathroom fixtures may not have worked properly. A third witness said the office’s walls were in “bad shape” and needed “refreshing,” a fourth thought the office looked “[p]retty beat up and run down,” and a fifth witness said Political Appointee’s office looked “filthy” at the time of his arrival.

However, other witnesses with whom the OIG spoke disagreed that Political Appointee’s office was in a state of disrepair at the beginning of his tenure. Administrative Official, who was responsible for preparing Political Appointee’s office space, told the OIG that he had the carpets shampooed, the curtains cleaned, and dusting done prior to Political Appointee’s arrival and he believed that the office was in acceptable condition. One other witness who worked in Political Appointee’s suite at the time said that it was “just a regular government office” when Political Appointee began his tenure with the Department, another witness recalled the office looking similar to the space occupied by a senior member of the agency’s leadership team, and yet another witness said the space looked like “a decent office” upon Political Appointee’s arrival. Likewise, a fifth witness familiar with the space noted that the Department’s headquarters is an older structure and said that Political Appointee’s office looked “just like anyplace else in [the] building” when he came on board.

²⁹ U.S. Dep’t of Commerce, *Space Standards, Guidelines, and Procedures*, available at www.osec.doc.gov/ofeq/Documents/OSBM/01-HCHB%20OFEQ%20Space%20Standards%20Guidelines%20Procedures_30June2014.pdf (2014), last visited (Aug. 18, 2016).

³⁰ 31 U.S.C. § 1341(a)(1)(A); *Federal Maritime Commission—Failure to Comply with Statutory Notification Requirement and the Antideficiency Act*, B-327432, available at <http://www.gao.gov/products/B-327432> (Comp. Gen. June 30, 2016)

³¹ 31 U.S.C. § 1351; *Federal Maritime Commission—Failure to Comply with Statutory Notification Requirement and the Antideficiency Act*, B-327432, available at www.gao.gov/products/B-327432 (Comp. Gen. June 30, 2016).

Regardless of what condition Political Appointee’s office suite was actually in when he assumed his new position, the evidence is clear that Political Appointee was not at all pleased with the space and made this known to “anyone in [his] vicinity,” as one witness put it. According to Political Appointee, he contacted a senior member of the Department soon after seeing his office and told this official that the space was “unacceptable,” that it was “a[n] [expletive] dump,” and said “[y]ou’ve got to fix it.” In response, this official agreed to tour the office with a member of his staff. This staff member recalled Political Appointee being “very animated” when the tour took place, saying things like, “[l]ook at this, look at this,” and referencing his family member becoming upset upon viewing the space. At the conclusion of this tour, the Department official instructed his staff member to coordinate with Political Appointee’s agency for purposes of making improvements to the space. Minutes later, the staff member sent an email to subordinates listing several items to address in Political Appointee’s office suite, concluding the message by telling its recipients that they should work to “exceed [Political Appointee’s] expectations for what he wants his office to look like” and to make the space “reflective of his new position.”

*The office is “a[n][expletive] dump”;
“[y]ou’ve got to fix it.”*

- Political Appointee

Within days, planning for the renovation of Political Appointee’s office suite began. The evidence indicates that Administrative Official and two other individuals—all of whom were subordinates of Political Appointee—were tasked with overseeing the project on behalf of Political Appointee’s agency, which would be paying for the work to be done. One of these individuals told the OIG that the objective of this group was to “make sure [Political Appointee] got what he needed.” A deputy to this individual, who was closely involved with the project, told the OIG that oversight of the renovation work proceeded in recognition of just how upset Political Appointee had been with the space. This witness said that the employees carrying out the renovation project wanted to keep the situation from “blowing up,” wanted to avoid concerns about the office’s condition being “elevated” to the Department’s leadership again, and hoped to avoid a future “edict” from the Department that they should do more to “make [Political Appointee] happy.” This witness similarly testified that certain agency employees overseeing the renovation project had concerns about the necessity of all the work that was done, but they facilitated the work because they concluded that they “had to keep [the] peace” with the Department’s leadership officials, including Political Appointee.

This testimony is borne out by documentary evidence gathered by the OIG. In one email sent shortly after Department officials toured Political Appointee’s office suite, Administrative Official emailed others who oversaw the renovation work a list of improvements that should be made, saying these improvements were necessary “since ‘we failed’ to prepare for [Political Appointee’s] arrival.” In a later email, another subordinate overseeing the renovations to Political Appointee’s office expressed concern about the pace of the work being done, saying: “I would hate for [Political Appointee] to return to his office . . . in disarray. You and I would have to retire early with very little pension.”

The evidence shows that upon completion of the renovation work several weeks later, the walls and radiators in Political Appointee’s office suite were repainted; new ceiling tiles were installed; three doors and transoms in the suite were refinished to improve their appearance and a brass kick plate was installed; two bathrooms in Political Appointee’s immediate office were

completely refurbished with new fixtures, lighting, and vanity pieces approved by a member of Political Appointee's family; new carpeting chosen by Political Appointee after consultation with an interior maintenance specialist for Luxury Hotel A was installed in his immediate office and throughout the suite; switches were rewired to reorder how lights came on within the suite to accommodate Political Appointee's preference; and a new 50-inch television was installed, then removed and reinstalled after making repairs to the wall so that the television could be repositioned at a different viewing angle, among other modifications. Using his own personal funds, Political Appointee also purchased new furniture and drapery for his immediate office within the suite, which he would donate to the Department at the end of his tenure.

During his testimony, Administrative Official described the changes made to Political Appointee's office suite as an "[o]verhaul," a "revamp," "over the top," and "unnecessary." Another witness familiar with the renovation work called the changes "over the top" as well and said he did not think all the changes were necessary. A third witness familiar with the details of the renovation effort described the changes made to Political Appointee's office suite as "overboard," while a fourth said the renovations made Political Appointee's office suite "stick out" from other areas of the building and were not the best use of agency funds.

The changes made to Political Appointee's office were an "overhaul," a "revamp," "over the top," and "unnecessary."

- Administrative Official

Political Appointee told the OIG that agency officials did not keep him apprised of the expense involved in renovating his office suite, and he said that Administrative Official actually informed him that all of the work was accomplished for less than his allotted \$5,000 congressional stipend. In fact, this stipend was used for the purchase and installation of new carpeting in Political Appointee's immediate office only and for the installation of new drapery there. Department officials carrying out the renovations deemed the remainder of the work done, including the installation of Political Appointee's chosen carpet throughout the rest of the office suite, as "routine maintenance," meaning none of this other work was subject to the \$5,000 limitation set by Congress. All told, Political Appointee's agency spent more than \$50,000 making improvements to his office suite.³²

When the OIG sought information about how the vast majority of work done on Political Appointee's suite came to be classified as "routine maintenance," one departmental official familiar with the work testified that this is essentially a "judgment call," and explained that a key factor in the determination is functionality. Specifically, this witness explained, the Department considers whether an item actually needs to be replaced for operational reasons; if it does, the work will qualify as maintenance, whereas if it does not, the work will be deemed non-essential improvement. Another witness stated that an additional factor is the history of work done in the

³² This \$50,000 figure does not include what the agency spent making renovations to a conference room located immediately adjacent to Political Appointee's office soon after the work on his suite was completed. The evidentiary record indicates that work on this conference room was carried out only after the Department's Office of General Counsel determined that the room was not part of Political Appointee's office suite and therefore not subject to the \$5,000 limit imposed by Congress. The record also indicates that only limited modifications were made to this conference room, including repainting work and installation of a carpet that was repurposed from a vacant agency office.

particular area under consideration. In other words, this witness said, when deciding whether to complete a modification request and how to classify the work contemplated, Department officials will review records of prior modifications completed in the same space to ascertain how recently money has been spent on that area and assess the expected wear on any materials incorporated there, all with the goal of “mak[ing] sure that we get the best value for the government.” Finally, the Department also evaluates when an area proposed for modification is scheduled for reconstruction as part of the ongoing building-wide “Herbert C. Hoover (HCHB) Renovation Project,” a nearly \$1 billion project designed to modernize the Department’s headquarters structure, which was originally built in 1932.³³ As one witness told the OIG, if a space is within “a couple of years” of its scheduled renovation under the building-wide project, the Department makes it “a policy not to do any alterations and improvements” in the area unless they are necessary for the protection of “life [or] safety.”

Witness testimony gathered by the OIG did not ultimately clarify how the determination was made to classify most of the work done to Political Appointee’s office suite as maintenance, and the available documentary evidence shed little light on this matter. The Department’s records of renovation requests and work completed to fulfill those requests have historically been kept in a document called a Form CD-410. The information contained in the Form CD-410 is provided by the agency requesting modification work and typically includes a brief description of the requested work, estimated and final costs for any work performed, the account charged for completion of the work, and related information. The Form CD-410 does not contain any information about whether requested modifications are deemed to be “routine maintenance” or non-essential improvement work, nor does the form evidence any analysis performed by Department officials regarding this distinction. The Department keeps Form CD-410 documents in folders related to the particular renovation work done for a particular area along with other documentation related to that work. In the case of renovation work done on Political Appointee’s office suite, Department officials created four folders corresponding to four sets of tasks completed as part of the overall project. The OIG’s review of these folders found that they contained basic documentation, including the relevant Form CD-410 documents, task orders, and invoices, but did not contain any information relevant to the decision to classify Political Appointee’s renovation work as “routine maintenance.”

III. Analysis & Findings

The evidence gathered by the OIG indicates that Political Appointee’s agency may have spent more on renovating his office than is permitted by law without the requisite notification being given to Congress. The evidence also indicates that wariness of upsetting Political Appointee and inadequate departmental record keeping requirements were key factors leading to this potentially unauthorized expenditure.

Witness testimony conflicted about the state of Political Appointee’s office when he commenced his tenure at the Department, with about half of the testimony indicating that the office needed

³³ Office of Building Renovation, U.S. Dep’t of Commerce, *Herbert C. Hoover (HCHB) Renovation Project*, available at www.osec.doc.gov/ofeq/OBR (last visited Aug. 24, 2016), and U.S. GSA, *Herbert Hoover Building (Commerce)*, available at www.gsa.gov/portal/ext/html/site/hb/category/25431/actionParameter/exploreByBuilding/buildingId/171 (last visited Aug. 24, 2016).

repair work and the other half indicating that the office was similar to other spaces located in the un-modernized portion of the Department's headquarters building. While the evidence supports the inference that some of the work done to Political Appointee's office might fairly be considered maintenance, meaning that work would not fall within the \$5,000 limit Congress imposes on renovations for politically appointed officials, not all of the work classified as "routine maintenance" in this case appears to meet a sensible definition of that term.

For example, the carpeting installed in Political Appointee's immediate office was deemed by Department officials to be subject to the \$5,000 limit imposed by Congress. The evidentiary record does not provide a definitive answer as to how this decision was reached, but it indicates that the reason for this decision was that the carpet chosen for Political Appointee's office was of a higher quality than might otherwise be necessary if functionality were the only consideration motivating its selection. One such indicator is that Political Appointee consulted with an interior maintenance specialist for Luxury Hotel A, a luxury hotel chain, before deciding on what carpet he wanted. But Department officials did not just install Political Appointee's chosen style of carpeting in his immediate office; they also installed this carpeting throughout the entire office suite for what the evidence indicates was an additional cost of around \$10,000. It is difficult to reconcile how this \$10,000 cost could be considered justifiable as a "routine maintenance" expense if the quality of the carpet used surpassed what was necessary from a functionality standpoint. Indeed, the record indicates that even some within Political Appointee's agency involved in overseeing the renovation work had doubts at the time about whether carpeting the entire office suite could be done within congressionally imposed limits, with one agency official questioning by email whether "doing the whole thing [was] quite outside the budget" allowed by Congress.

Similarly, the evidence indicates that Political Appointee's agency spent around \$3,100 for work including changes that do not seem like maintenance. This work appears to have included reconfiguring certain light switches so that the lights in Political Appointee's office would come on in a sequence he preferred. In addition, this work included reinstalling a recently installed 50-inch television, apparently so that the television would sit at a more comfortable viewing angle. The evidence indicates that the lights and the television in Political Appointee's office were functional before this work was done, and operational requirements do not appear to have been the reason for this work. Accordingly, it is difficult to reconcile how the full \$3,100 spent on this work could be justified as a "routine maintenance" expense.

In addition, the evidence indicates that Political Appointee's agency spent over \$1,800 to have three doors in Political Appointee's office suite stripped down, refinished, and stained to improve their appearance. The evidence further indicates that a brass kick plate was installed on one of the doors in Political Appointee's office suite for an additional cost. One departmental official familiar with this work told the OIG that this was done because the doors to Political Appointee's office suite looked "pretty beat" prior to being renovated, and this official said he felt the Department had to "make sure the doors look good." But the evidence as a whole indicates that the doors in Political Appointee's office suite functioned properly before they were altered. Similarly, at least two witnesses familiar with the renovation work told the OIG that the doors to the suite did not look "any worse than" or were "about the same" as any other door in the building before the renovations took place. As such, the Department's decision to classify the work done on Political Appointee's doors as "routine maintenance" appears questionable.

Finally, the evidence indicates that Political Appointee’s agency spent close to \$1,200 purchasing items that were installed in the two private bathrooms located in Political Appointee’s immediate office, including new vanity light fixtures, medicine cabinets, towel racks, pedestal sinks, and faucets. This cost did not include the additional amount required to perform demolition work in Political Appointee’s bathrooms and installation of these new items. While the evidence indicates that one of Political Appointee’s personal toilets may not have functioned properly and that a light fixture may not have been operational before renovation work took place, there is insufficient evidence to conclude that the other items in his two bathrooms were unserviceable. It is therefore difficult to understand how the complete refurbishment of Political Appointee’s bathrooms was deemed “routine maintenance.”

Simply put, while the evidentiary record indicates that there was a legitimate basis for the Department to perform some maintenance work in Political Appointee’s office suite at the time of his arrival, it also appears that many of the renovations made and deemed “routine maintenance” might instead have been classified as improvement work subject to the \$5,000 limitation imposed by Congress, and that the cost of these improvements may have significantly exceeded this limitation. Accordingly, the facts of this case implicate the Anti-Deficiency Act, which prohibits federal agencies from “mak[ing] or authoriz[ing] an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation.”³⁴

The OIG’s investigation indicates that several factors combined to cause the congressional limitation on political office expenditures potentially being exceeded in this case.

First, Department officials carrying out the renovation work in Political Appointee’s office space were able to classify most of the work done there as “routine maintenance” without being required to provide a detailed record supporting the justification or reasons for this classification. Department officials are supposed to play a role in enforcing the \$5,000 limit imposed by Congress when an agency requests renovation work that risks exceeding that limit. It is therefore highly questionable whether so much money would have been spent renovating Political Appointee’s office space had departmental officials been required to do things such as (1) take and maintain photographs of the various areas in the office supposedly needing repair work, (2) prepare written descriptions about how the functionality of various items in the office was supposedly impaired, or (3) provide written context about why particular work took place in light of any past renovation work carried out in that area and future work anticipated to take place there. This is especially so given that Political Appointee’s office space will be completely redone at some point within the next few years as part of the HCHB Renovation Project that is now underway throughout the Department’s headquarters.³⁵ Because none of the renovations that Political Appointee wanted done would remain in place for more than a few years, departmental officials should have been especially cautious about classifying any work carried out in his office suite as “routine maintenance.”

³⁴ 31 U.S.C. § 1341(a)(1)(A); *Federal Maritime Commission—Failure to Comply with Statutory Notification Requirement and the Antideficiency Act*, B-327432, available at www.gao.gov/products/B-327432 (Comp. Gen. June 30, 2016).

³⁵ Office of Building Renovation, U.S. Dep’t of Commerce, *Herbert C. Hoover (HCHB) Renovation Project*, available at www.osec.doc.gov/ofeq/OBR (last visited Aug. 24, 2016).

Second, the evidence shows that Political Appointee's own subordinates were in charge of monitoring costs associated with the renovation work done in Political Appointee's office. Moreover, Political Appointee's subordinates were aware that their superior was extremely dissatisfied with the condition of his office, that he had complained to the Department's senior leadership about his dissatisfaction, and that the Department had authorized him to have renovation work done as a result of his complaints. Under the circumstances, and given the inherent pressure that subordinates feel to achieve the desired outcome for their superiors, conditions were not optimal for keeping costs below the \$5,000 limit imposed by Congress.

Third, Political Appointee and the Department's leadership apparently did not emphasize to those overseeing the renovation work that special care should be taken to ensure that any work done fully complied with the \$5,000 limitation. There is no evidence to suggest that Political Appointee or the Department's leadership knowingly permitted those overseeing the renovation work to spend more than congressional budget limits permit. Nor is there any evidence to suggest that Political Appointee or senior Department officials would have authorized all the work carried out had they known the details of the actual cost involved. Nevertheless, as he acknowledged during his OIG interview, Political Appointee knew at the time he began his tenure with the Department that there was a congressionally imposed budget constraint on how much he could spend making improvements to his office. And yet, the evidentiary record indicates that the message Political Appointee conveyed to his subordinates was not that they should do what they can to improve his office space while staying strictly within the bounds of congressional limits. Instead, the record indicates that the message understood by Political Appointee's subordinates was that his office space was unacceptable to him and it was their job to make it more to his liking. Similarly, Department staff members carrying out the renovation work were apparently not told by their superiors that special care should be taken to respect the \$5,000 limitation imposed by Congress given that the work being done was for a politically appointed official. Instead, it appears that these individuals worked believing that their superiors wanted them to "exceed [Political Appointee's] expectations for what he wants his office to look like" and to make the space "reflective of his new position."

Because a congressional budget restriction was implicated by the decision to renovate Political Appointee's office space due to the status of his position, more care should have been taken by Political Appointee and other senior officials to set a tone that would better ensure compliance with that restriction. This is especially so given that Congress has not strictly prohibited politically appointed officials from spending more than \$5,000 on office renovations during the course of their tenure, but has required instead that notice be given if there is a need to spend more than this. If the full \$50,000 cost of Political Appointee's renovation work was truly necessary to make his office suitable for carrying out his job responsibilities, it would have been a better choice for Political Appointee's agency and the Department to notify Congress of that fact.

Chapter 5: Recommendations

In light of the findings set forth in this report, the OIG recommends that the Department consider taking the following actions:

1. Review the audit of Political Appointee's travel conducted by the Department's Travel Management Division to determine whether it adequately accounts for the problematic per diem overages identified by the OIG;
2. Ensure that any employee making travel arrangements or approving travel reimbursements for politically appointed officials receives training on the FTR and departmental travel polices, including Administrative Official;
3. Provide guidance to newly appointed political officials on (a) regulations and policies governing the use of subordinates for non-official business, (b) restrictions against the use of their title or position for personal gain or creating the appearance of such use, (c) key regulations and policies governing official travel, particularly regarding the necessity for adequately documented justification to support any per diem overages, and (d) the advisability of monitoring renovation work done to their office suites to ensure the cost of such work does not contravene congressional budget restrictions;
4. Review the renovations to Political Appointee's office suite to determine whether expenditures associated with those renovations exceeded the \$5,000 limit imposed by Congress and whether the expenditures therefore contravened the Anti-Deficiency Act;
5. Implement procedures requiring thorough documentation to support the categorization of any work performed on a politically appointed official's office suite as general or routine maintenance as opposed to renovation work subject to congressional budget restrictions; and
6. Take steps to make subordinates working for politically appointed officials feel empowered to report instances of potential regulatory, policy, or rule violations to their superiors or to the OIG.³⁶

³⁶ Because Political Appointee and Assistant 1 departed government service prior to the issuance of this report, the OIG is not recommending that the Department consider taking administrative action specifically related to these individuals.

Appendix A: Comments

Prior to issuing this report, the OIG offered Administrative Official, Assistant 1, and Political Appointee the opportunity to review and comment on the factual background sections of those chapters in the report in which the individual appears. Administrative Official declined the opportunity to either review or comment on any portion of the report. Counsel for Assistant 1 reviewed the factual background sections of Chapters 2 and 3 of the report and chose not to offer comments about either section. Counsel for Political Appointee reviewed the factual background sections of Chapters 2 through 4 of the report, orally provided a small number of comments regarding Chapter 2 only, and asked that the OIG consider these comments before finalizing the report. The OIG considered the comments provided by Political Appointee's counsel and made a few very slight revisions to the report as a result.