March 9, 2021

Ms. Lesley Field  
Acting Executive Chairperson  
Council of the Inspectors General on Integrity and Efficiency  
1717 H Street NW, Suite 825  
Washington, D.C. 20006

Dear Acting Executive Chairperson Field:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General. Pursuant to section 11(d)(8)(A) of the Inspector General Act of 1978, as amended (IG Act), the IC hereby forwards its findings and recommendation regarding Inspector General James Springs of the National Archives and Records Administration.

The IC also provided the attached report and recommendation to the CIGIE Chairperson, the Archivist of the United States, IG Springs, and the Congressional committees of jurisdiction, as required by section 11(d)(8)(A) of the IG Act.

Sincerely,

Kevin H. Winters  
Chairperson  
Integrity Committee

Enclosure
March 9, 2021

Ms. Allison Lerner
Chairperson
Council of the Inspectors General on Integrity and Efficiency
1717 H Street, N.W., Suite 825
Washington, D.C. 20006

Dear Chairperson Lerner:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General. Pursuant to section 11(d)(8)(A) of the Inspector General Act of 1978, as amended (IG Act), the IC hereby forwards its findings and recommendation regarding Inspector General James Springs of the National Archives and Records Administration.

The IC also provided its findings and recommendation to the CIGIE Executive Chairperson, the Archivist of the United States, IG Springs, and the Congressional committees of jurisdiction, as required by section 11(d)(8)(A) of the IG Act.

Sincerely,

(b) (6)

Kevin H. Winters
Chairperson
Integrity Committee

Enclosure

The Integrity Committee is composed of four Inspectors General and executives from the Federal Bureau of Investigation and the Office of Government Ethics. For more information, please visit https://www.iget.gov/cigie/committees/Integrity-committee.
March 9, 2021

The Honorable Gary C. Peters  The Honorable Rob Portman
Chairman  Ranking Member
Committee on Homeland Security and  Committee on Homeland Security and
Governmental Affairs  Government Affairs
340 Dirksen Senate Office Building  340 Dirksen Senate Office Building
Washington, DC 20510-6250  Washington, DC 20510-6250

The Honorable Carolyn Maloney  The Honorable James Comer
Chairwoman  Ranking Member
Committee on Oversight and Government  Committee on Oversight and Government
Reform  Reform
2471 Rayburn House Office Building  2471 Rayburn House Office Building
Washington, DC 20515-6143  Washington, DC 20515-6143

Dear Chairpersons and Ranking Members:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General. Pursuant to section 11(d)(8)(A) of the Inspector General Act of 1978, as amended (IG Act), the IC hereby forwards its findings and recommendation regarding Inspector General James Sprigs of the National Archives and Records Administration.

After thoroughly reviewing the evidence and IG Springs’ comments, the IC found by a preponderance of the evidence that IG Springs abused his authority and engaged in conduct that undermined the independence reasonably expected of an IG. Accordingly, the IC recommended appropriate disciplinary action.

The IC provided its findings recommendation to the CIGIE Executive Chairperson, the CIGIE Chairperson, the Archivist of the United States, and IG Springs, as required by section 11(d)(8)(A) of the IG Act.

Sincerely,

(b) (6)

Kevin H. Winters
Chairperson
Integrity Committee

Enclosure
March 9, 2021

Via Email
James Springs
Inspector General
National Archives and Records Administration

Integrity Committee Case 964 Report of Investigation

Dear Inspector General Springs:

The Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) is charged by statute to review and investigate allegations of misconduct made against an Inspector General (IG) or a designated official within an Office of Inspector General (OIG).

On October 25, 2018, the IC Chairperson initiated an investigation into allegations against you and engaged the General Services Administration OIG to conduct the investigation. After thoroughly reviewing the evidence and your comments, the IC found by a preponderance of the evidence that you abused your authority and engaged in conduct that undermined the independence reasonably expected of an IG. Accordingly, the IC recommended appropriate disciplinary action.

The IC provided the attached findings and recommendations to the Archivist of the United States, the appropriate Congressional oversight committees, the CIGIE Executive Chairperson, and the CIGIE Chairperson, as required by section 11(d)(8)(A) of the IG Act.

Sincerely,

(b) (6)

Kevin H. Winters
Chairperson
Integrity Committee

Enclosure

The Integrity Committee is composed of four Inspectors General and executives from the Federal Bureau of Investigation and the Office of Government Ethics. For more Information, please visit https://www.ignet.gov/cigkeit/commies/integrity-committee
March 9, 2021

The Honorable David S. Ferriero  
Archivist of the United States  
National Archives and Records Administration

Re: Integrity Committee Case 964

Dear Mr. Ferriero:

This letter sets forth the findings, conclusions, and recommendations of the Integrity Committee (IC) of the Council of the Inspectors General on Integrity and Efficiency (CIGIE) with respect to allegations of misconduct against Inspector General (IG) James Springs, National Archives and Records Administration Office of Inspector General (NARA OIG). The IC is referring this matter to you for appropriate action.

The IC is charged by statute to receive, review, and refer for investigation allegations of wrongdoing made against an IG or a designated staff member within an OIG. To maintain public trust, Congress designated the IC to be the independent mechanism that ensures senior officials in the IG community “perform their duties with integrity and apply the same standards of conduct and accountability to themselves as they apply to the agencies that they audit and investigate.” The IC takes action on allegations of wrongdoing that involve abuse of authority in the exercise of official duties or while acting under color of office; substantial misconduct, such as gross mismanagement, gross waste of funds, or a substantial violation of law, rule, or regulation; or conduct that undermines the independence or integrity reasonably expected of such persons. Pursuant to that mandate, this report sets forth the IC’s findings of wrongdoing against IG James Springs, NARA OIG. The IC finds IG Springs abused his authority and engaged in conduct that undermines the independence or integrity reasonably expected of an IG.

Executive Summary

On July 31, 2018, the IC received an anonymous complaint alleging several acts of misconduct by IG Springs. In pertinent part, the complaint alleged that IG Springs misused official time and government property to conduct personal business as a tax preparer/consultant from his NARA OIG office during work hours; exhibited a lack of independence by working on the tax returns of one or more NARA employees, as well as by sharing restricted NARA OIG audit data with officials whose offices were undergoing audit reviews; leveraged his position as the official overseeing the financial statements audit contract to secure an offer of employment from the contractor and falsified his time sheets to conceal the amount of time that he

was absent from the office.

Pursuant to its procedures, the IC investigated the allegations with the assistance of the General Services Administration Office of Inspector General (GSA OIG). Specifically, GSA OIG was asked to determine whether:

1) IG Springs misused official time and government property by conducting personal business as a tax preparer/consultant/advisor or assisting others with their taxes from his NARA office during work hours.

2) IG Springs abused his authority by leveraging his position as the official overseeing the financial statements audit contract to secure an offer of employment from the contractor for (b) (6), (b) (7)(C).

3) IG abused his authority by falsifying his time sheets to conceal the amount of time he is not in the office.

4) IG Springs exhibited a lack of independence and integrity by (a) inappropriately sharing restricted audit data; or (b) advising on or working on the tax returns of one or more NARA employees.

To conduct this investigation, GSA OIG investigators reviewed relevant agency documents and interviewed 21 witnesses, including IG Springs. On January 24, 2020, GSA OIG produced its Report of Investigation to the IC and reported all allegations against IG Springs to be unsubstantiated. The IC concurred with GSA OIG’s conclusion that allegations 2, 3 and 4(a) were unsubstantiated. As to the remaining allegations, the IC made preliminary findings that the evidence set forth in the GSA OIG’s report demonstrated wrongdoing with respect to IG Springs’s use of official time and government property for outside activities and compensated positions and that IG Springs exhibited a lack of independence by advising on or working on the tax returns of one or more NARA employees. In accordance with section 11(d) of the IG Act, the IC provided IG Springs the opportunity to respond to the IC’s preliminary findings and the GSA OIG report, which were redacted to protect witness and complainant confidentiality.

After thoroughly reviewing the evidence and IG Springs’s comments, the IC finds by a preponderance of the evidence that IG Springs abused his authority and engaged in conduct that undermined the independence reasonably expected of an IG. In pertinent part, the IC finds that IG Springs improperly used his government office, time, and equipment to perform private tax preparation services for which, on at least one occasion, he accepted compensation from a NARA employee.

4 On August 6, 2019, the IC expanded the scope of the investigation to include allegations of retaliation because two witnesses alleged that, after they participated in the IC’s investigation, IG Springs harassed them and created a hostile work environment. The GSA OIG found these allegations to be unsubstantiated and the IC concurs.

5 “Abuse of authority” means an arbitrary or capricious exercise of power by a federal official or employee that adversely affects the rights of any person or that results in personal gain or advantage to her/him or to preferred other persons. There is no de minimis standard for abuse of authority. ICP&P, Appendix A.
The IC also concurs in the additional findings of GSA OIG and finds by a preponderance of the evidence that IG Springs wrongfully used Government property for his outside employment as a compensated church Treasurer and did so during work hours when he should have been fulfilling his duties as NARA’s IG.6 This included using his government email account because, according to IG Springs, he did not have a private account.

Findings and Conclusions of the Integrity Committee

I. IG Springs abused his authority by engaging in multiple personal business endeavors from his NARA office and by using government equipment for his personal business endeavors during work hours.

The IC finds IG Springs abused his authority by using government equipment and resources to engage in personal tax services for NARA employees and others from his NARA office during work hours. IG Springs also used his government office and equipment to conduct work as a church Treasurer, for which he was compensated.7

IG Springs denied having a tax preparation “business,” and the GSA OIG did not find evidence of one. However, IG Springs admitted to providing de facto tax services by assisting others with their taxes, answering tax-related questions over the phone while at work, and working on other people’s taxes at the office while on his own time and during his lunch break.8 IG Springs also admitted he used government property and resources when he provided this tax assistance to others. For example, IG Springs told GSA OIG investigators that he stored tax-related documents in a locked cabinet or desk drawer in his NARA OIG office, used his NARA telephone to answer tax-related questions, used the NARA OIG copier to make copies of tax documents, and used the NARA OIG shredder to destroy tax documents he no longer needed to render assistance.9 IG Springs admitted that these activities often occurred during the workday.

Such blending of personal and professional activities in the workplace demonstrates an insensitivity to the duty to separate official and personal activities, including those from which IG Springs benefited financially. Under the basic principle that “public service is a public trust,” each employee has a duty to respect and adhere to the principles of ethical conduct and to place that duty above private gain.10 IG Springs’s conduct made it difficult to maintain accountability for the use of his time; as a result, even if IG Springs only spent “5 to 20 minutes per day” on his tax services, it was an abuse of his authority to repeatedly conduct his tax services while his

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6 While the U.S. General Services Administration Office of Inspector General (GSA OIG) did not substantiate any of the allegations it was charged to investigate by the IC, its investigation found that IG Springs violated NARA policy by using government property to conduct business for his outside compensated position as the Treasurer of St. Paul Church in Forestville, Maryland. GSA OIG Report of Investigation (ROI) at 11. GSA OIG also found that while IG Springs disclosed this position in financial disclosure forms, he did not obtain prior written approval as required by NARA policy. GSA OIG ROI at 12.
7 GSA OIG found no violation of 5 CFR § 2635.705 or § 2635.704 based on the theory of de minimis or personal use under NARA policy. The IC concurs there is insufficient evidence to support a finding that IG Springs violated these provisions of the CFR; however, the IC makes its determinations in accordance with section 11(d) of the IG Act and the ICP&P and finds IG Springs’s actions constituted an abuse of his authority. ICP&P, section 7.A.
8 GSA OIG ROI, Exhibit O.
9 Id.
10 5 CFR § 2635.101(a).
duties as IG were interrupted or during the business day when he should have been so engaged.\textsuperscript{11}

In his comments to the draft report, IG Springs contests this finding, noting that none of the witnesses interviewed by GSA OIG stated he was unavailable for meetings or derelict in performing his duties and responsibilities as a result of performing tax services for someone.\textsuperscript{12} Additionally, IG Springs states his use of NARA office equipment, such as the telephone and copier, for tax assistance was limited and the analysis of his email and networks drive revealed a minimal number of tax-related documents.\textsuperscript{13} IG Springs told GSA OIG investigators that he did not think helping people by looking over their numbers or trying to figure out their deductions was "impacting what [he was] doing."\textsuperscript{14}

The IC finds these arguments to be unpersuasive. IG Springs admitted to providing \textit{de facto} tax services to others during his workday when he should have been engaged in the oversight of NARA. Of additional note, IG Springs informed investigators that when he became the NARA IG, he was cautioned by the NARA OIG General Counsel that he should refrain from preparing taxes or assisting with taxes for others.\textsuperscript{15} Nevertheless, IG Springs continued to be indifferent to the independence implications of performing tax work for agency staff and persisted in assisting NARA employees with tax matters and questions, to include accepting compensation from a NARA employee. Particularly troubling is that IG Springs’s office was auditing the NARA office in which that employee worked, which, as discussed below, could create an independence impairment and noncompliance with auditing standards.\textsuperscript{16}

GSA OIG’s investigation also identified other outside business activities conducted by IG Springs within the government workplace: specifically, his privately compensated position as Treasurer for the St. Paul Church in Forestville, Maryland. IG Springs confirmed he has been the Treasurer at St. Paul Church since approximately 2009 and receives an annual salary of $\text{________} for that position.\textsuperscript{17} The IC concurs with the GSA OIG’s findings that IG Springs misused government property and violated NARA policy by conducting business related to his outside compensated employment as Treasurer of St. Paul Church.\textsuperscript{18}

IG Springs admitted that he used office equipment in support of this outside employment—specifically, his NARA telephone, computer, email account, copier, and printer, and he used the same equipment to support the uncompensated work he did as church Deacon and as part of a

\textsuperscript{11} GSA OIG ROI, Exhibit O.
\textsuperscript{12} Enclosure (Encl.) 3 at 2.
\textsuperscript{13} \textit{Id.}
\textsuperscript{14} GSA OIG ROI, Exhibit O.
\textsuperscript{15} \textit{Id.}
\textsuperscript{16} Government Auditing Standards (GAGAS 2018), 3.18 states, “in all matters relating to the GAGAS engagement, auditors and audit organizations must be independent from an audited entity” and GAGAS 3.19 states, “auditors and audit organizations should avoid situations that could lead reasonable and informed third parties to conclude that the auditors and audit organizations are not independent.”
\textsuperscript{17} GSA OIG ROI, Exhibit O.
\textsuperscript{18} “Misuse or inappropriate personal use of NARA office and IT equipment and resources during work and non-work time includes...[u]sing NARA office equipment in support of any outside employment or business activity (e.g., consulting for pay, sales, or administration of business transactions, sale of goods or services, or the performance of other duties for a non-NARA employer) or for other commercial purposes...” NARA 802 (Use and Monitoring of NARA Office and Information Technology (IT) Equipment and Resources), para. 802.6.h.
financial outreach ministry. Additionally, IG Springs directed church members to call him on his NARA OIG desk phone if they could not reach him at home, and IG Springs stated he used his NARA OIG email account to perform his Treasurer duties because he did not have a personal email account. These actions amounted to a misuse of government property.

IG Springs contests this finding, asserting that he used NARA resources in accordance with NARA Policy 802.5, which specifically authorizes the limited personal use of office equipment, and resources. IG Springs states that only 289 of 28,500 files related to his church activities, equating to less than one file per day, and he claims these files were associated with his pro bono work for the church, not his paid position as church Treasurer, because almost all of his Treasurer duties were required to be conducted at the church. IG Springs says that, in response to this investigation, he has purchased a private phone and private email for future church business, and he removed all files related to his church activities from the NARA network.

Notwithstanding these assertions, GSA OIG identified 289 emails on IG Springs’s official NARA email account that related to church matters, and 66 of those emails directly related to IG Springs’s compensated position as treasurer. NARA Policy explicitly prohibits using NARA office equipment in support of any outside employment or business activity or for other commercial purposes. Additionally, many of the emails contained IG Springs’s official NARA OIG signature block, in violation of NARA Policy 802.8.b. This use of government email lends the trappings of his official position to non-official communications, giving their content the appearance of the imprimatur of a United States Inspector General.

The IC also concurs in GSA OIG’s finding that IG Springs violated NARA policy by not ensuring that he had prior written approval for his outside employment as church treasurer. IG Springs asserts this was an oversight as he believed he had submitted and received the proper approvals for outside employment. IG Springs told GSA OIG investigators that he completed two applications to engage in outside employment for his church Treasurer position—the first one he submitted to former IG Paul Brachfeld when he became the Treasurer in 2009, and the second application he submitted to the NARA General Counsel’s office in 2015 when he became the IG. While GSA OIG found IG Springs’s second application for outside employment on file with the NARA General Counsel’s office, it was not approved or signed by either the Archivist of the United States nor NARA’s Designated Agency Ethics Official, as required. Even if the application had been approved, the approval would have expired three years later, and IG Springs never sought to renew it.

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19 GSA OIG ROI, Exhibit O. IG Springs told GSA OIG investigators that he stopped storing church treasurer documents in his NARA office after his first initial interview for the IC investigation on April 11, 2019. Id.
20 Id.
21 Encl. 3 at 3.
22 GSA OIG ROI, Exhibit S.
23 NARA Policy 802.6 h.
24 “It is the responsibility of NARA staff to make it clear that they are not acting in an official capacity when using NARA office equipment for these non-NARA purposes. If any actions could be interpreted as representing NARA, then an adequate disclaimer must be used.” NARA Policy 802.8.b.
25 Encl. 3 at 4.
26 GSA OIG ROI, Exhibit O.
27 GSA OIG ROI, Exhibit GG.
IG Springs told GSA OIG that the Archivist of the United States knows about his outside employment because IG Springs has been briefing the NARA General Counsel’s Office yearly about it via the submission of OGE Form 278s. IG Springs also meets with the Archivist for 45 minutes every 2 weeks and stated he has mentioned being involved in church business during those meetings. Contrary to IG Springs’s assertion, the Archivist stated he was not aware of IG Springs’s outside employment as Treasurer at St. Paul Church and would only have approved a request for such outside employment if IG Springs conducted his Treasurer tasks on his own time. Further, the Archivist told investigators that he would not have authorized IG Springs’s use of NARA equipment and resources to conduct his outside business, nor would he have allowed IG Springs to provide tax advice or consults to NARA employees or within NARA premises.

Accordingly, the IC concludes by a preponderance of the evidence that IG Springs abused his authority by using government equipment and resources to engage in personal tax services for NARA employees and to conduct his outside employment as a church Treasurer of St. Paul Church.

II. The independence of IG Springs and his office is impeded by his engaging in tax services for NARA employees.

The IC finds by a preponderance of the evidence that IG Springs’s tax assistance to NARA employees constituted conduct that undermines the independence and appearance of independence reasonably expected of an IG. IG and OIG independence standards are further set forth in the CIGIE’s Quality Standards, which state:

> The IG and OIG staff must be free both in fact and appearance from personal, external, and organizational impairments to independence. The IG and OIG staff has a responsibility to maintain independence, so that opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. The IG and OIG staff should avoid situations that could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the OIG is not able to maintain independence in conducting its work.

CIGIE’s Quality Standards also provide that “Objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest” and “Independence is a critical element of objectivity. Without independence, both in fact and in appearance, objectivity is impaired.”
IG Springs admitted that he assisted a NARA employee who works in NARA’s Security Management Division. IG Springs stated he had a telephone conversation with, during which he instructed her as to what tax information she needed and what forms she should fill out before meeting with her in his office. While IG Springs said he did not ask for compensation, stated that she paid IG Springs $20 each time IG Springs assisted her. However, IG Springs contends that he “did not ask for money from anyone” and only recalled receiving $20 from on one occasion,” and that he “considers to be a friend.” GSA OIG’s investigation determined that IG Springs also met with a NARA contract security guard, to discuss taxes and provided with advice. told investigators that he contacted IG Springs because he had heard a rumor that IG Springs could provide tax assistance; however, IG Springs ultimately ceased his assistance to after found out his “former tax preparer had filed [his] tax returns without his knowledge.”

At the time IG Springs assisted with her taxes, NARA OIG was auditing the program where worked. Specifically, GSA OIG identified two audits between 2015 and 2017 involving office. Though was not interviewed by NARA OIG in those matters and GSA OIG investigators determined that IG Springs did not try to influence the audit findings regarding NARA programs, the elevated standards of conduct and obligation of impartiality and objectivity placed on the position of the IG require IG Springs to appear independent and free of any conflicts of interest. The IC finds sufficient evidence exists to conclude that IG Springs’s assistance to could, in fact, lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the OIG is not able to maintain independence in conducting its work, as the Quality Standards provide. There is simply no circumstance where an IG can appropriately accept money for services from an individual as to whom he or she is supposed to be in an objective oversight role. So too for his pro-bono work on behalf of such individuals.

In his comments to the draft report, IG Springs contests this finding, stating he provided tax help to a long-term friend who he has known for almost 20 years and asserting he never requested compensation for his assistance. IG Springs notes that at the time he assisted with her taxes, she was a GS-7 employee with no responsibility for management functions and she was not involved with or interviewed as part of either of the two audits. IG Springs states the Assistant IG for Audits is responsible for the audit function in his office and he maintains his assistance to did not reflect an impairment to his independence or integrity.
The IC finds IG Springs’s argument unpersuasive and a reflection of his failure to appreciate the severity of his actions. As an IG with 33 years of experience in in the IG community, IG Springs certainly was aware of the requirement that he be and appear to be independent and free of any conflicts of interest. His acceptance of compensation from an agency employee for tax services clearly had the potential to compromise his independence, in appearance if not in fact. This is further compounded by the fact that it was known throughout the agency that IG Springs was providing tax assistance to NARA employees.\textsuperscript{43} Moreover, assisting others with tax services or advice requires intimate knowledge of those employees’ lives as tax returns can include very personal information, such as donations to religious groups or political affiliations. Even though IG Springs was not a high-level management official and was not directly involved as a subject or witness in the oversight of her office conducted by NARA OIG, IG Spring’s provision of tax services to her affected at least the appearance of independence that is essential for an Inspector General’s ability to provide independent oversight.

Recommendation

The IC concludes by a preponderance of the evidence that IG Springs engaged in actions that abused his authority and undermined the independence reasonably expected of an IG. Specifically, IG Springs failed to safeguard his independence, a cornerstone of OIG’s foundation, by allowing his outside activities, both compensated and uncompensated, to become intertwined with his official duties and he misused official resources in the course of doing so. Accordingly, the IC recommends you consider appropriate disciplinary action for this misconduct. The IC has also provided its findings, conclusions, and recommendations to the CIGIE Executive Chairperson, the CIGIE Chairperson, and the Congressional committees of jurisdiction, as required by section 11(d)(8)(A) of the IG Act.

Sincerely,

\[ (b) (6) \]

Kevin H. Winters  
Chairperson  
Integrity Committee

Enclosures:  
1) Integrity Committee’s Draft Findings  
2) GSA OIG Report of Investigation to the Integrity Committee  
3) IG Springs’s Comments, dated January 19, 2021

\textsuperscript{43} GSA OIG ROI, Exhibit N.
Enclosure 1

(Withheld pursuant to Exemptions b(5), b(6), and b(7)(C))
Enclosure 2
January 24, 2019

The Honorable Scott S. Dahl  
Integrity Committee, Chairperson  
Council of the Inspectors General on Integrity and Efficiency  
1717 H Street, NW Suite 825  
Washington, DC 20006

Re: General Services Administration Office of Inspector General Report of Investigation for Integrity Committee Case Number 964

Dear Mr. Dahl:

Per the Integrity Committee's October 25, 2018 and August 6, 2019 requests for investigative assistance, the General Services Administration Office of Inspector General has concluded its investigation into allegations of wrongdoing by Inspector General James Springs of the National Archives and Records Administration. Enclosed is our Report of Investigation (ROI), which includes an addendum to the ROI addressing allegations of retaliation, and an addendum to the ROI addressing Springs' response to our draft ROI. Please let me know if our office can be of further assistance.

Sincerely,

James E. Adams  
Assistant Inspector General for Investigations

Encl.: GSA OIG Report of Investigation for IC case number 964

cc: Deborah Jeffrey, Vice Chairperson, Integrity Committee
WARNING!

THE REPORT SHOULD BE SAFEGUARDED TO PREVENT IMPROPER DISCLOSURE AT ALL TIMES. THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY THE PRIVACY ACT, AND ANY DISCLOSURE MUST BE IN ACCORDANCE WITH THAT ACT. PERSONS DISCLOSING THIS INFORMATION PUBLICLY OR TO OTHERS NOT HAVING AN OFFICIAL NEED TO KNOW ARE SUBJECT TO POSSIBLE ADMINISTRATIVE, CIVIL, AND CRIMINAL PENALTIES.

AGENCY OFFICIALS WHO RECEIVE REQUESTS FOR THE REPORT FROM THE PUBLIC SHOULD REFER THE REQUESTOR TO THE OFFICE OF INSPECTOR GENERAL, OFFICE OF COUNSEL – FREEDOM OF INFORMATION ACT OFFICER.
BASIS FOR INVESTIGATION

The Council of the Inspectors General on Integrity and Efficiency (CIGIE) Integrity Committee (IC) received an anonymous complaint alleging misconduct by Inspector General (IG) James E. Springs, National Archives and Records Administration (NARA). On October 25, 2018, under the authority of section 11(d) of the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, the CIGIE IC requested the General Services Administration (GSA) Office of Inspector General (OIG) conduct an independent investigation (Exhibits A and B). Specifically, we were requested to initiate an investigation into the following allegations:

1) Whether Springs misused official time and government property by conducting personal business as a tax preparer/consultant/advisor or assisting others with their taxes from his NARA office during work hours.

2) Whether Springs exhibited a lack of independence and integrity by (a) advising on or working on the tax returns of one or more NARA employees; or (b) inappropriately sharing restricted audit data.

3) Whether Springs abused his authority by leveraging his position as the official overseeing the financial statements audit contract to secure an offer of employment from the contractor for [b](b) (7)(C).

4) Whether Springs abused his authority by falsifying his time sheets to conceal the amount of time he is not in the office.

POTENTIALLY APPLICABLE STANDARDS (Exhibit C)

1) NARA Policy 333, Work Hours and Premium Pay


4) NARA Policy 802, Use and Monitoring of NARA Office and Information Technology (IT) Equipment and Resources, Subsection 802.6 Misuse and inappropriate personal uses of NARA office and IT equipment.


6) CIGIE, Quality Standards for Federal Offices of Inspector General.

7) 5 CFR § 2635.302 – General standards of ethics conduct for employees of the executive branch.

8) 5 CFR § 7601.102 – Prior approval of outside employment activities.
SUMMARY

Our investigation determined the following:

1) We did not substantiate the allegations that Springs misused official time or government property by conducting personal business as a tax preparer/consultant/advisor or assisting others with their taxes from his NARA office during work hours. However, during the investigation we learned that Springs has held an outside position since 2009 as Treasurer of St. Paul Church in Forestville, Maryland, for which he is compensated annually. Our investigation found that Springs used government property to conduct business related to his outside compensated position, which is expressly prohibited by NARA policy. We also found that although Springs disclosed his outside employment in his financial disclosure forms, he did not obtain prior written approval for that employment as required by NARA policy.

2) We did not substantiate that Springs exhibited a lack of independence by (a) advising on or working on the tax returns of one or more NARA employees; or (b) inappropriately sharing restricted audit data.

3) We did not substantiate that Springs abused his authority by leveraging his position as the official overseeing the financial statements audit contract to secure an offer of employment from the contractor for Springs and the Archivist agreed to an adjustment in Springs’s schedule. Pursuant to that arrangement, Springs would be absent from the office during and would make up the hours afterwards or take leave. In 2018, Springs took over 500 hours of leave — 456 hours of sick leave, 64 hours of annual leave, and 12 hours of administrative leave.

4) We did not substantiate that Springs misused official time by falsifying his time sheets to conceal the amount of time he was not in the office.

DETAILS OF INVESTIGATION

BACKGROUND

Springs has been the Inspector General of NARA since March 23, 2015. Springs reports directly to the Archivist of the United States, who appointed him to his position. Springs started working at NARA OIG in 1997 and, prior to becoming the IG, served as the Assistant Inspector General for Audits. He also served as the Acting IG between 2012 and 2015.

The NARA OIG consists of 19 employees, including Springs. Springs directly supervises the Assistant IG for Audits (AIGA), the Assistant IG for Investigations (AIGI), the Counsel to the IG, and the OIG’s Administrative Officer.

Springs follows a maxiflex work schedule, which allows him to vary his arrival and departure times each day, work more than eight hours each day, and complete the 80-hour biweekly work requirement in fewer than 10 workdays. In early 2018, Springs and the Archivist agreed to an adjustment in Springs’s schedule. Pursuant to that arrangement, Springs would be absent from the office during and would make up the hours afterwards or take leave. In 2018, Springs took over 500 hours of leave — 456 hours of sick leave, 64 hours of annual leave, and 12 hours of administrative leave.

To conduct this investigation, we interviewed 21 witnesses, including Springs.
FINDINGS

Misuse of official time and government property by conducting personal business as a tax preparer/consultant/advisor or assisting others with their taxes from his NARA office during work hours.

The anonymous complainant alleged that Springs misused official time and government property by conducting tax-related work in the office (Exhibit A). We also received information during the investigation regarding Springs’s use of government property for his compensated outside position as church treasurer. We describe our findings on each of these topics below.

Tax Assistance

Several NARA OIG employees told us they saw tax forms in Springs’s office or heard him discussing what appeared to be tax-related matters on his office telephone.

(b) (6), (b) (7)(C) told us he saw tax documents on Springs’s desk once. He said he did not know whose tax documents he saw, but he recognized the forms as Internal Revenue Service forms 1040 and W-2. also said he has heard Springs discussing taxes while on the telephone in his office. He told us he did not recall when he saw the tax forms or heard the tax conversation. He stated he was aware Springs performed work for his church, and he suspected Springs worked on the church’s taxes (Exhibit D).

(b) (6), (b) (7)(C) stated she has seen Springs log into what appeared to be a tax website, similar to TurboTax, with his work computer and have tax forms, such as 1040s, on his work computer at the office. Additionally, said she saw tax forms on the office printer a few years ago (Exhibit E). photographed what she believed appeared to be shredded tax documents she found in the NARA OIG office; she told us she did not recall when this occurred (Exhibit E Attachment 3; Exhibit F Attachment 2). She also collected adding machine tape from the trash bin next to the shredder (Exhibit E Attachment 4; Exhibit F Attachment 3). She said she suspected Springs used the adding machine in his office to prepare tax returns or work on business related to his church, but provided no evidence to support that Springs used the adding machine for this purpose.

also reported that Springs mentioned to her that he prepared tax returns for clients.

1 Agents were unable to determine if the shredded documents depicted in the photographs taken by were in fact tax related because of their indiscernible condition.
She also said she once heard Springs on the telephone discussing taxes with someone who apparently was being audited. She was unable to provide more specific information about the individual’s identity.

kept a timeline, which she named “Waldo,” of her observations of Springs’s activities from May 11, 2017, through October 1, 2018 (Exhibit G Attachment 1). noted in her timeline that Springs worked on taxes for an unspecified amount of time on July 7, 2017; April 16, 2018; and April 17, 2018. stated that when she wrote “working on taxes” and “James doing taxes” on the timeline, she saw Springs sitting at his desk with his hands on his keyboard while documents that she knew to be 1040s were displayed on Springs’s computer monitor, but she did not know what he was doing to the documents or who they were for. said she recalled Springs worked on taxes for at least 30 minutes on April 16, 2018, but she could not remember how long he may have worked on taxes the other two days referenced. provided her timeline of Springs’s activities and the photographs of the shredded documents and adding machine tape to (b) (6), (b) (7)(C), NARA OIG, who provided them to us (Exhibit F Attachments 2, 3, and 5).

(b) (6), (b) (7)(C)

stated she has not seen any tax forms around the office or witnessed Springs provide any tax advice to individuals in person at the office, but she has heard Springs discuss taxes on his office telephone, including one conversation where Springs discussed with an unknown individual the exemptions that could be taken as an independent contractor. was unable to recall when this occurred. Additionally, she stated Springs’s time out of the office increased during tax season, and she indicated he would arrive at the office, leave, and return to the office (Exhibit H).

Two of the nine current NARA OIG employees we interviewed, including(b) (6), (b) (7)(C)

, told us they were unaware of Springs providing tax assistance in the office (Exhibits I and J). Another employee, (b) (6), (b) (7)(C)

, said she recalled seeing tax documents on Springs’s computer screen six to eight years ago, but was unsure if the documents were filled out (Exhibit K).

Witnesses provided the names of three specific people they believed Springs had assisted with taxes: (b) (6), (b) (7)(C).

Regarding (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) both told us they saw a green folder in Springs’s office with the name “(b) (6), (b) (7)(C)” written on it while conducting an inventory of information technology equipment (Exhibits D and F). told us she opened the folder and saw it contained tax records. We identified as a GS-7 NARA (b) (6), (b) (7)(C)

. Additionally, noted on her timeline that on March 23, 2018, from “Security” (an apparent reference to (b) (6), (b) (7)(C)) dropped off tax records for Springs, and she and Springs subsequently met for an unspecified amount of time on April 9, 2018 (Exhibit G Attachment 1).

Regarding (b) (6), (b) (7)(C), told us that in approximately July/August 2018, she opened an inter-office envelope Springs had addressed to (b) (6), (b) (7)(C), a NARA contractor security guard, photographed the contents of the envelope, which consisted of tax return forms prepared by hand (Exhibit E Attachment 2; Exhibit F Attachment 4). Additionally, noted on her timeline that on August 14, 2018, Springs had a telephone call about taxes and then left the envelope for (b) (6), (b) (7)(C) to pick up (Exhibit G Attachment 1).
With respect to [b](6), [b](7)(C) told us that [b](6), [b](7)(C) told her that Springs used to prepare [b](6), [b](7)(C) taxes when he was the AIGA. [b](6), [b](7)(C) is the former NARA [b](6), [b](7)(C).

We interviewed [b](6), [b](7)(C) about any tax assistance they had received from Springs. [b](6), [b](7)(C) told us she worked as the NARA OIG [b](6), [b](7)(C) for 16 years until becoming a [b](6), [b](7)(C) in the NARA Training Division in September 2016. [b](6), [b](7)(C) told us she has known Springs since he was an auditor, and she considered him a colleague, mentor, and friend. She said Springs helped her while she was doing her own 2015 taxes by answering questions when she “got stuck,” but Springs did not prepare her taxes. She said she did not know of any others he assisted, and she never saw anyone else’s tax documents on Springs’s desk (Exhibit L).

[b](6), [b](7)(C) told us she met Springs through [b](6), [b](7)(C) and has known Springs for 9 years. She said Springs helped with her taxes in 2015, 2016, and 2017. [b](6), [b](7)(C) said she dropped off her tax documents at Springs’s office, Springs or his wife prepared the taxes at home, and then Springs brought the tax documents to the office for [b](6), [b](7)(C) to sign and mail to the IRS. [b](6), [b](7)(C) said she paid Springs $20 each time, although he did not ask for money (Exhibit M).

[b](6), [b](7)(C) told us he heard “a rumor” that Springs could provide tax assistance, and he hoped Springs could give him a second opinion on tax advice [b](6), [b](7)(C) had received from a tax preparer. According to [b](6), [b](7)(C) he never left any tax documents for Springs to review, and he ultimately did not receive tax assistance from Springs because Springs was always busy when [b](6), [b](7)(C) was available to meet (Exhibit N).

Springs denied having a tax preparation business, but stated he has assisted others with their taxes (Exhibit O). He said he has answered tax-related questions over the phone while at work, and has worked on other people’s taxes at work while on his own time and during his lunch break. Additionally, Springs told us that he used some government property to assist others with their taxes. Specifically, he said he stored tax-related documents in a locked cabinet or desk drawer in his NARA OIG office, used his NARA telephone to answer tax-related questions, used the NARA OIG copier to make copies of tax documents, and used the NARA OIG shredder to destroy tax documents he no longer needed.

Springs told us he recalled meeting with [b](6), [b](7)(C), the security guard, outside of NARA and in Springs’s office for 10-15 minutes to discuss [b](6), [b](7)(C) taxes. They also spoke on the telephone. Springs asked [b](6), [b](7)(C) to obtain his tax transcript, but then [b](6), [b](7)(C) learned his former tax preparer had filed [b](6), [b](7)(C) tax returns without his knowledge and received his refund. [b](6), [b](7)(C) notified the IRS of the situation, and Springs ceased assisting him (Exhibit O).

Springs confirmed he assisted [b](6), [b](7)(C), a GS-7 NARA [b](6), [b](7)(C), with her taxes in 2015, 2016, and 2017 (Exhibit O). Springs said he considers [b](6), [b](7)(C) to be a friend. Springs told us he had a telephone conversation with [b](6), [b](7)(C) during which he instructed her as to what tax information she needed and what forms she should fill out before meeting with her in his office. Springs said he did not ask for money from [b](6), [b](7)(C) and only recalled receiving $20 from [b](6), [b](7)(C) on one occasion.

[b](6), [b](7)(C) also claimed [b](6), [b](7)(C) told her that Springs prepared tax returns for [b](6), [b](7)(C), a NARA [b](6), [b](7)(C) employee. Neither [b](6), [b](7)(C) nor [b](6), [b](7)(C) confirmed that Springs prepared taxes for [b](6), [b](7)(C). [b](6), [b](7)(C) stated she had asked Springs tax-related questions in the past, but [b](6), [b](7)(C) friend prepared her taxes for the past five or six years (Exhibit P).
Springs also confirmed he assisted with her taxes in 2015, when she was at NARA OIG, by answering questions she had on how to complete her tax forms (Exhibits O). Springs said he never compensated Springs for his assistance and he never solicited any payments from her.

Springs stated that after he became the IG, the NARA OIG General Counsel, told him not to prepare taxes for people anymore. According to Springs, he told him he did not have a tax business and explained he only helped people on his own time or during his lunch break at work. Springs stated he did not think helping people by looking over their numbers or trying to figure out their deductions was “impacting what [he was] doing.” He said he never spent all day doing taxes or answering tax questions; he spent 5 to 20 minutes per day—and not every day—doing it. Springs said he brought documents to work for meetings he would attend after work, but did not think it interfered with work (Exhibit O).

said he did not recall providing Springs with legal advice about providing tax advice or tax preparation assistance. said if he had provided such advice, he would have memorialized his legal opinion in a memorandum and would have obtained independent concurrence (or non-concurrence) from NARA’s ethics official. However, said he had a general discussion 5-10 years ago about whether or not government employees, especially certified public accountants (CPAs), could provide tax preparation assistance. He said he could not recall if he had this conversation with Springs or with the former IG. explained he was concerned about a conflict arising from a government employee assisting others with tax preparation if the client became the subject of an audit. expressed concern that, during such an audit, the government employee would be personally representing another person before a federal agency in a matter against the Government. stated this conflict would be problematic. told us he did not think Springs was a CPA (Exhibit Q).

Our query of the Directory of Federal Tax Return Preparers with Credentials and Select Qualifications website disclosed Springs was not listed there as a registered tax preparer. We did not find evidence that Springs operated or owned a tax consultant business, or that, aside from the money gave him, he received compensation for providing tax assistance to others.

During our review of Springs’s NARA email account, we identified a total of four emails, out of approximately 28,500 emails, that contained tax-related information. This information pertained to a married couple and, none of whom is a NARA employee (Exhibit R Attachments 2, 3, 4, and 5). Our review of Springs’s NARA network drive identified five files containing tax-related information belonging to one individual and three married couples, none of whom were NARA employees (Exhibit R Attachments 6, 7, 8, 10, and 12). We attempted to obtain and analyze Springs's office telephone records to determine the extent to which Springs had tax-related conversations, but NARA OIG was unable to provide those records for review.

**Use of Government Property**

5 CFR § 2635.704, Use of Government property, states “an employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.” Sub-section b(2) defines “authorized purposes” as “those purposes . . . authorized in accordance with law or regulation.”

NARA Policy 802, Use and Monitoring of NARA Office and IT Equipment and Resources,
specifically authorizes the limited personal use of office equipment and resources. NARA Policy 802.5 states, “NARA staff are authorized to use NARA office and IT equipment and resources when: […] Performing limited personal use during non-work time as long as the use does not interfere with official business or involve the inappropriate uses described in para. 802.6.” NARA Policy 802, Use and Monitoring of NARA Office and IT Equipment and Resources, Section 802.6, specifically prohibits employees from using NARA office equipment in support of any outside employment or business activity.

Examples of authorized limited personal use provided in the NARA policy are:

a. Making a few photocopies using NARA-supplied paper (five pages or less on an infrequent basis) or by using employee-supplied paper;
b. Using a computer printer with NARA-supplied paper to print a few pages of material (five pages or less on an infrequent basis) or by using employee-supplied paper;
c. Making personal telephone calls;
d. Sending or receiving personal email messages;
e. Sending or receiving a personal fax (five pages or less on an infrequent basis);
f. Storing appropriate personal-use materials on your local drive (C:);
g. Using NARA office equipment in support of authorized and unpaid professional activities; or
h. Using the Internet for personal reasons.

Our investigation did not substantiate that Springs’s tax assistance to others constituted an “outside employment or business activity.” Springs denied that he had a tax preparation business, and we found no evidence that he is a registered tax preparer. We also found that, aside from the $20-$60 paid Springs for assisting her, Springs did not appear to solicit or receive money for the assistance. Accordingly, we did not find that Springs ran afoul of NARA policy 802.6, which prohibits use of office equipment for outside employment or business activity.

We also found insufficient evidence to conclude that Springs’s use of office equipment in support of his tax assistance to others exceeded the personal use authorized in NARA Policy 802.5. Springs described making limited use of office equipment, such as the telephone and copier, for tax assistance, and our analysis of his email and network drive revealed a minimal number of tax-related documents. Springs also stated that he assisted others during non-work time and that this did not interfere with his work and this did not interfere with his work and this did not interfere with his work and this did not interfere with his work and this did not interfere with his work and this did not interfere with his work and this did not interfere with his work and this did not interfere with his work and this did not interfere with his work and this did not interfere with his work accounts of occasionally seeing tax-related documents in Springs’s work area or on his computer screen, or hearing him discuss taxes on the telephone, do not contradict Springs’s account. Indeed, who sought to document Springs’s tax assistance activities, identified in her timeline only five instances over a 15-month period where she asserted Springs worked on or discussed taxes in the office. When asked how long Springs worked on taxes during these five instances, provided an approximate time for only one of the instances, which she estimated at 30 minutes.

Based on the above, we did not substantiate that Springs misused government property by assisting others with their taxes.

**Use of Official Time**

5 CFR § 2635.705, Use of official time, states, “Unless authorized in accordance with law or regulations to use such time for other purposes, an employee shall use official time in an honest
effort to perform official duties."

By Springs’s own admission, he worked on some tax-related matters while on his own time and during his lunch break at work. Springs’s maxiflex schedule allowed him flexibility to adjust his schedule as long as he completed 80 hours of combined work and leave during a pay period. Springs stated he never spent all day doing taxes or answering tax questions; he spent 5 to 20 minutes on some days working on taxes. Similarly, although some NARA OIG staff members described instances of Springs’s working on tax-related matters in his office, their accounts do not indicate that Springs’s conduct prevented him from completing 80 hours of work and leave during each pay period. Therefore, we did not substantiate that Springs violated 5 CFR § 2635.705, Use of Official Time, by assisting others with their taxes.

**Outside Employment.**

Springs stated he has been the Treasurer at St. Paul Church in Forestville, Maryland, since approximately 2009 and receives an annual salary of $____ for that position (Exhibit O). Springs admitted that he used the NARA telephone, computer, email account, copier, and printer in support of this position, and to support uncompensated work he did for the church as Deacon and as part of a financial outreach ministry. Additionally, he directed church members to call him on his NARA OIG desk phone if they could not reach him at home. Springs said he did not have a personal email account, and he used his NARA OIG email account to perform his treasurer duties (Exhibit O).

(b)(6), (b)(7)(C) told us they heard Springs engage in church-related telephone conversations while at the office (Exhibits D, E, and H). (b)(6), (b)(7)(C) told us someone named _____ from Springs’s church called multiple times per week (Exhibit E). (b)(6), (b)(7)(C) said she overheard a number of conversations between Springs and someone from his church named _____ (Exhibit H). The “Waldo” timeline maintained includes brief descriptions of potentially church-related conversations she overheard between Springs and others (Exhibit G Attachment 1). For example, the timeline entry dated “8/14” refers to a conversation between Springs and _____ (NFI) in which (b)(6), (b)(7)(C) salary was discussed (Exhibit G Attachment 1). We also found an exchange of three emails between Springs and _____ dated August 15 - August 17, 2018, in which they discussed _____ salary and _____ referred to Springs as “Brother Treasurer” (Exhibit S Attachment 43).

Our review of Springs’s official NARA email account for the time period November 1, 2016, to August 28, 2018, identified 289 instances when Springs used his official email account and computer to correspond regarding matters related to St. Paul Church (Exhibit S).³ Of the 289 emails, 66 were directly related to Springs’s treasurer position (Exhibit S), while the remaining emails pertained to church matters, such as invitational church functions, that appeared to be unrelated to Springs’s compensated position as Treasurer. The 66 emails pertaining to Springs’s work as Treasurer included communications about topics such as the church’s finances, investment accounts, loans, invoices, payroll, and taxes. For example, on January 18, 2017, Springs received the position summary for one of the church’s investment accounts (Exhibit S Attachment 6). On March 15 and 22, 2017, and October 19, 2017, Springs received information pertaining to church loans (Exhibit S Attachments 14, 15, and 21).

³ Many of these emails contained Springs’s official NARA OIG signature block. Springs’s use of his email signature block may raise issues under 5 CFR § 2635.702, Use of public office for private gain; and the NARA Policy prohibiting use of NARA equipment to transmit a personal endorsement, NARA Policy 802.6.j. We did not conduct an investigation of these potential violations.
On January 2, 2018, April 29, 2018, and July 15, 2018, Springs received reports pertaining to parishioners’ church contributions (Exhibit S Attachments 25, 35, and 40).

We reviewed Springs’s network drive and determined he used it to store 43 files related to St. Paul Church’s finances (Exhibit T Attachments 2 through 44). Twelve of the files recorded donations or expenses pertaining to St. Paul Church (Exhibit T Attachments 10 through 21). Thirteen files tracked the collection or expenditure of funds in support of events organized by St. Paul Church (Exhibit T Attachments 22 through 34). Five of the files were partly filled out forms intended for financial institutions (Exhibit T Attachments 2 through 6).

**Use of Government Property**

As noted above, 5 CFR § 2635.704, Use of Government property, states “an employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.” Sub-section b(2) defines “authorized purposes” as “those purposes . . . authorized in accordance with law or regulation.” NARA policy does not authorize even limited use of office equipment for outside employment; instead it specifically prohibits employees from using NARA office equipment in support of any outside employment or business activity. NARA Policy 802, Use and Monitoring of NARA Office and IT Equipment and Resources, Section 802.6.

Springs told us that he holds a salaried position of Treasurer at his church and that he used office equipment in support of that employment. Witness statements and our review of Springs’s email account network drive confirmed that he did so. Accordingly, based on the facts outlined above, we found that Springs misused NARA OIG office equipment in support of his outside employment as Treasurer of St. Paul Church.

**Authorization to Engage in Outside Employment**

We also considered whether Springs received approval for his outside employment. Springs told us he completed two applications to engage in outside employment for his church treasurer position (Exhibit O). He said he submitted the first one to former IG Paul Brachfeld when he became the Treasurer (in 2009). Springs said he submitted the second application to the NARA General Counsel’s office in 2015 when he became the IG (Exhibit O). Springs said he never received a reply from the NARA Office of Counsel after submitting his form in 2015, and he was unsure if the Archivist or the NARA Office of Counsel signed the form. Springs also reported his church treasurer position on his financial disclosure forms, OGE Forms 278, for 2016, 2017, and 2018 (Exhibit U Attachments 1, 2, and 3).

Springs’s second application for outside employment, dated February 13, 2015, is on file with the NARA General Counsel’s office (Exhibit V Attachment 1); however, it was not approved. According to (b)(6), (b)(7)(C) NARA’s Counsel for Procurement and Employment Law, the approving officials for the request are Hon. David Ferriero, Archivist of the United States; and (b)(6), (b)(7)(C), NARA’s Designated Agency Ethics Official; but neither signed the request. (b)(6), (b)(7)(C) opined that an oversight on her part resulted in the lack of approval for the request (Exhibit W).^5

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^4 Agents were unable to obtain a copy of the application Springs said he submitted to Brachfeld in 2009. Stated these forms are only maintained for six years (Exhibit U).

^5 During this investigation, Springs submitted a new application for outside employment on June 4, 2019, at (b)(6), (b)(7)(C) request (Exhibit W Attachment 1).
Ferriero stated he was not aware of Springs’s outside employment as Treasurer for his church, but he would have approved it if Springs performed his Treasurer duties on his own time and without the use of his NARA email, equipment, resources, or employees (Exhibit X). NARA stated that since NARA has no business with churches, Springs’s request likely would have been approved (Exhibit X).

NARA’s Supplemental Standards of Ethical Conduct for Employees of the National Archives and Records Administration require prior written approval of requests for outside activities (5 CFR § 7601.102(a)). Any approval expires after three years, after which a new approval must be obtained (5 CFR § 7601.102(c)). These restrictions also appear in NARA Admin. 201, Chapter 19, Ethics and Professional Conduct Part 3. Outside Employment, Business, and Professional Activities.

We found that Springs requested approval in 2015 for his outside employment and disclosed the employment on his annual financial disclosure forms. However, he did not obtain prior approval for the employment as required by 5 C.F.R 7601.102 – Prior approval for outside employment activities, and NARA Admin. 201, Chapter 19 – Ethics and Professional Conduct Part 3 – Outside Employment, Business and Professional Activities. Additionally, any approval would have expired after three years so even if the application Springs submitted in 2015 had been properly approved, it would have expired in 2018. He did not submit a renewal approval request until June 4, 2019, after NARA counsel requested that he submit one.

Lack of Independence and integrity by (a) advising on or working on the tax returns of one or more NARA employees; or (b) inappropriately sharing restricted audit data

Advising or Working on Tax Returns of NARA Employees

The anonymous complainant alleged that “OIG staff have seen Springs's clients' tax-related documents [...] left in and around the office, including documents related to NARA employee (b) (6), (b) (7)(C) 2016 tax return” (Exhibit A).

As previously discussed, our investigation determined that Springs assisted one NARA employee, (b) (6), (b) (7)(C), with her taxes in 2015, 2016, and 2017. Springs is a GS-7 NARA (b) (6), (b) (7)(C) who works in NARA’s Security Management Division (Exhibits M and O). Springs also met with a NARA contract security guard, (b) (6), (b) (7)(C), to discuss taxes; however, Springs was ultimately unable to assist (b) (6), (b) (7)(C) (Exhibits N and O). 6

Springs stated that (b) (6), (b) (7)(C) had not been the subject of a NARA OIG audit or investigation (Exhibit O). (b) (6), (b) (7)(C) confirmed that (b) (6), (b) (7)(C) had not been the subject of a NARA OIG investigation (Exhibit D). (b) (6), (b) (7)(C) provided documentation showing that NARA’s Compliance with HSPD-12 between 2015 and 2017, and an audit of NARA’s COOP Readiness in 2017. (b) (6), (b) (7)(C) stated (b) (6), (b) (7)(C) was not interviewed in these two audits. Additionally, the Security Management Division, was audited twice since 2015, including an audit of NARA’s Compliance with HSPD-12 between 2015 and 2017, and an audit of NARA’s COOP Readiness in 2017. (b) (6), (b) (7)(C) stated that (b) (6), (b) (7)(C) was not interviewed in these two audits. Additionally, the office initiated an audit on June 24, 2019, of the Personnel Security and Suitability Program that directly affects the Security Management Division (Exhibit G). According to (b) (6), (b) (7)(C), Springs never tried to influence audit findings regarding NARA programs (Exhibit E).

6 Our investigation identified another current NARA employee, (b) (6), (b) (7)(C), who received tax assistance from Springs. However, the tax assistance occurred in 2015 while (b) (6), (b) (7)(C) was employed by the NARA OIG.
IG and OIG independence standards are set forth in the CIGIE Quality Standards for Federal Offices of Inspector General, which state:

"The IG and OIG staff must be free both in fact and appearance from personal, external, and organizational impairments to independence. The IG and OIG staff has a responsibility to maintain independence, so that opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. The IG and OIG staff should avoid situations that could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the OIG is not able to maintain independence in conducting its work."

We did not substantiate that [redacted] reflected an impairment to Springs’s independence or integrity. We found no evidence that the NARA OIG conducted any investigations in which [redacted] was a subject. Although we identified two audits involving [redacted], [redacted] told us [redacted] was not interviewed in those matters. Additionally, [redacted] stated Springs has never tried to influence audit findings regarding NARA programs.

Under these circumstances, we found insufficient evidence to conclude that Springs’s assistance to [redacted] "could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the OIG is not able to maintain independence in conducting its work."

Inappropriately Sharing Restricted Audit Data.

The anonymous complainant alleged, "During several audits, Springs met individually with officials whose offices were undergoing audit reviews […] There is some indication and suspicions that Springs may also have inappropriately shared restricted audit data during these meetings" (Exhibit A).

During our interviews, witnesses offered evidence beyond mere speculation of only one specific incident where they believed Springs inappropriately shared a draft audit report outside of the office. [redacted] and [redacted] alleged Springs inappropriately shared with congressional staffers a draft of NARA OIG Audit Report 18-AUD-04, “Office of the Federal Register’s (OFR) Administration of the Electoral College Process” (Exhibits E and F). According to the audit report, the Archivist of the United States delegated to the Director of the Federal Register the responsibilities for carrying out ministerial duties related to the Electoral College on behalf of the States and the Congress under 3 U.S.C. §§ 6, 11, 12, 13. The audit’s stated purpose was to determine whether the OFR implemented proper controls for the administration of those ministerial duties (Exhibit Y Attachment 4).

Based on our interviews of Springs and [redacted], NARA’s Director of OIG (OFR Director), for management comments in accordance with normal procedure (Exhibit O and Z), [redacted] who was assigned to draft comments, contacted [redacted], General Counsel, Office of the Secretary of the Senate, U.S. Senate, because she believed Congress was one of the stakeholders described in the report. [redacted] told us that she was concerned the report identified potential shortcomings in the way OFR maintained relevant documents, which could present problems if Congress requested documents related to the Electoral College from NARA as allowed under Title 3. [redacted] said she read parts of the report to [redacted] over the phone, but she denied providing anyone in Congress a copy of the draft report.

After [redacted], [redacted] emailed [redacted] requesting an opportunity
to review the report before it was finalized (Exhibit Y Attachment 1). arranged a meeting that he, Springs, and attended with NARA’s Head of Congressional Affairs Office, the Parliamentarian of the U.S. House of Representatives, the Parliamentarian of the U.S. Senate, and the Clerk of the U.S. House of Representatives (Exhibit Y Attachment 1). During the meeting, Springs and allowed meeting participants to read but not retain a copy of the draft audit report (Exhibits O and Q). Meeting participants suggested on their review of the draft report and memorialized the requested changes in a memorandum (Exhibit Y Attachment 2).

stated they did not believe and Springs should have shared the draft report prior to it being finalized (Exhibits E and F). stated “Congress” asked for changes in the draft report, which she believed could create the perception that Congressional influence was affecting audit results (Exhibit F). However, audit work papers showed rejected all of the changes proposed during the meeting (Exhibit Y Attachment 3). Further, opined that Springs has not tried to influence NARA OIG audit findings about NARA programs (Exhibit E).

As noted above, IG and OIG independence standards are set forth in the CIGIE Quality Standards for Federal Offices of Inspector General, which state:

“The IG and OIG staff must be free both in fact and appearance from personal, external, and organizational impairments to independence. The IG and OIG staff has a responsibility to maintain independence, so that opinions, conclusions, judgments, and recommendations will be impartial and will be viewed as impartial by knowledgeable third parties. The IG and OIG staff should avoid situations that could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the OIG is not able to maintain independence in conducting its work.”

We did not find that Springs’s actions regarding the draft audit report impaired his office’s independence. As stated in the audit report, NARA is responsible for administering the ministerial duties related to the Electoral College, in part on Congress’s behalf. While Springs permitted Congressional staff members to read the draft report, doing so did not result in any change to the audit findings. In fact, rejected the congressional staff members’ proposed changes to the draft. Further, who was critical of and Springs’s decision to show Congressional staffers the draft, stated Springs had not tried to influence audit findings. Therefore, we did not substantiate that Springs exhibited a lack of independence and integrity by allowing Congressional staffers to read and comment on the draft audit related to the Electoral College.

Abuse of authority by leveraging his position as the official overseeing the financial statements audit contract to secure an offer of employment from the contractor for

The anonymous complainant alleged that,

“In 2016 accounting firm CliftonLarsonAllen LLP, had a major contract with the OIG pertaining to audit work, and Springs was the official responsible for overseeing the contractor’s payments. During that period, Springs may have leveraged his position with the contractor to facilitate an offer of employment from the contractor to , an offer that was accepted. The potential conflict of interest issue aside, the allegation, if true, has implications for the OIG’s independence” (Exhibit A).
In 2014, NARA awarded CLA a contract on behalf of NARA OIG to perform audits of NARA’s financial statements (Exhibits K, AA, and BB). The contract, number NAMA-14-F-0059, was ultimately valued at $1.8 million and consisted of a base year plus four option years. It was renewed each year until it expired in March 2019. CLA’s annual revenue is $1.1 billion, and the company has more than 120 U.S. locations and global affiliations. CLA has both commercial and government customers.

CLA provided (b) (6), (b) (7)(C), an offer of employment on December 16, 2016, with a starting annual salary of $40,000. At the time, was hired, she was 25 years old, married, and did not reside with Springs. worked for CLA from January 2017 to October 2017 as an accountant in one of CLA’s offices that supported commercial customers. She did not work on the NARA audit contract (Exhibit K, BB, and CC).

None of the witnesses we interviewed offered any allegation or evidence in support of the anonymous complaint that Springs used his position to secure an offer of employment with CLA for (b) (6), (b) (7)(C). In addition, the key CLA and NARA OIG witnesses responsible for the CLA audit contract denied any knowledge of Springs’s involvement with (b) (6), (b) (7)(C) hiring.

Springs denied influencing CLA to hire (Exhibit O), (b) (6), (b) (7)(C), the CLA partner who had been assigned to the NARA OIG audit since the contract was awarded in 2014, stated that Springs did not request her assistance with getting a job with CLA. She also said she was not aware of Springs having contact with anyone else at CLA regarding an employment opportunity for (Exhibit BB). (b) (5), (b) (7)(C), the NARA OIG contracting officer’s representative (COR) on the CLA contract, said she does not know whether (b) (6), (b) (7)(C) applied for the job on her own or if Springs gave CLA (b) (8), (b) (7)(C) resume (Exhibit K). Moreover, both (b) (5), (b) (7)(C) and (b) (8), (b) (7)(C) described Springs’s involvement with CLA’s NARA audit contract as limited. (b) (8), (b) (7)(C) said Springs was an alternate invoice approver and attended some meetings with CLA, but his involvement was generally limited to greeting CLA representatives (Exhibit K). (b) (8), (b) (7)(C) said she had limited contact with Springs, as he rarely attended the bi-monthly progress meetings on the audit (Exhibit BB).

Additionally, our review of Springs’s NARA email account did not reveal any evidence of Springs’s involvement in CLA’s hiring of (b) (6), (b) (7)(C). We also subpoenaed CLA for any correspondence between Springs and CLA officials regarding (b) (8), (b) (7)(C) as well as any correspondence between (b) (8), (b) (7)(C) and CLA officials referencing Springs. CLA provided no responsive correspondence.

5 CFR § 2635.702, Use of Public Office for Private Gain, prohibits a federal employee from using his public office for the private gain of relatives. Based on the facts outlined above, our investigation found no evidence that Springs used his position to promote (b) (8), (b) (7)(C) hiring at CLA. Therefore, we did not substantiate this allegation.

**Falsifying timesheets to conceal the amount of time Springs was not in the office**

The anonymous complaint alleged that Springs was frequently out of the office without taking leave. The complaint specifically alleged that, on November 13, 2017, Springs was out of the office and sent an email to NARA officials stating he was on leave, but his time and attendance did not reflect leave was taken. The complainant alleged NARA OIG staff “suspect that his claims of telework are false” (Exhibit A).

and noted that Springs was often out of the office beginning in approximately
late 2016 (Exhibits D, E, and G). However, they did not have access to Springs’s timecards, which record his number of hours worked and leave taken (Exhibit D). Springs’s current and former administrative officers, who managed Springs’s calendar and verified his timecards, both told us they were not aware of any inconsistencies between what Springs claimed in his timecards and the hours he worked (Exhibits I and L).

also questioned whether Springs actually teleworked when he claimed to because they said he did not take his laptop home, he did not respond to emails in a timely manner, and he did not return calls. said Springs’s time out of the office increased during tax season, and she noted that he would come to the office, leave, and later return (Exhibit H). stated Springs was at NARA OIG only half days on Mondays, Wednesdays, and Fridays (Exhibit G). stated that, after Springs told him that he was receiving help to Springs worked all day twice a week and left at noon on certain days; however, he could not recall on what days Springs worked all day (Exhibit D).

As previously discussed, in early 2018, Springs informed his supervisor, Archivist Ferriero, that Springs needed to adjust his schedule on Mondays, Wednesdays, and Fridays (Exhibits O). Ferriero told us he permitted Springs to use the maxiflex schedule to interrupt his workday and resume working afterwards to make up the hours he missed (Exhibit X). Ferriero said he expected Springs to take leave if he was unable to work 80 hours per pay period. Ferriero also stated he did not have any concerns regarding Springs’s time and attendance certifications. He said he was able to reach Springs, and he expected Springs to follow a modified work schedule (Exhibit X).

Springs stated he completed his work hours by taking leave or teleworking or during the weekend (Exhibit O). Springs said that when he teleworked, he completed a variety of tasks, such as revising investigative reports, editing audit reports, handling CGIE inquiries or projects, and drafting responses. Springs called himself “old school” and stated that instead of using a computer, he preferred making comments on hard copy reports. He also said that when he was unable to complete his hours by working, he took leave. Springs’s timecard report and timekeeping account history show he took 64 hours of annual leave, 456 hours of sick leave, and 12 hours of administrative leave in 2018 (Exhibits DD and EE). We were unable to determine the precise number of hours Springs teleworked because he did not consistently annotate telework hours on his time cards.

We examined Springs’s activities for the specific date cited in the complaint – November 13, 2017. A review of Springs’s timecard report showed Springs did not claim any leave on that day (Exhibit DD). The only email we found pertaining to Springs’s whereabouts that day informed that Springs was “not in the office” (Exhibit R Attachment 17). Contrary to the complaint, our review of Springs’s NARA email records for November 13, 2017, did not locate any email in which Springs stated he was on leave.

5 CFR § 2635.705, Use of official time, states, “An employee shall use official time in an honest effort to perform official duties.” Springs’s maxiflex schedule afforded him a great deal of flexibility regarding the manner in which he completed his 80-hour work requirement each pay period. Springs’s supervisor, Ferriero, along with the administrative personnel with access to Springs’s timesheets, supported Springs’s assertions that he completed his 80-hour requirement. We also noted that observations of Springs’s comings and goings were consistent with the timeframe when Springs began and
returning to work following [b] (6), (b) (7)(C). Additionally, [b] (6), (b) (7)(C) observations regarding Springs working half days three days a week was also consistent with Springs taking [b] (6), (b) (7)(C) on Mondays, Wednesdays, and Fridays. Finally, Springs took a large amount of sick leave during 2018. Therefore, we did not substantiate the allegation that Springs falsified his timecards.

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Should you have any questions or require additional information, please telephone [redacted].
EXHIBITS

A. CIGIE Request for Assistance letter
B. Signed Memorandum of Understanding
C. Potentially Applicable Standards
D. Memorandum of Activity, Initial Coordination with November 20, 2018; Memorandum of Interview, (b)(6), (b)(7)(C), March 12, 2019; and Memorandum of Interview, (b)(6), (b)(7)(C), July 23, 2019
E. Memorandum of Interview, (b)(6), (b)(7)(C), February 28, 2019
F. Memorandum of Interview, (b)(6), (b)(7)(C), February 5, 2019
G. Memorandum of Interview, (b)(6), (b)(7)(C), July 23, 2019
H. Memorandum of Interview, (b)(6), (b)(7)(C), February 25, 2019
I. Memorandum of Interview, (b)(6), (b)(7)(C), February 12, 2019
J. Memorandum of Interview, (b)(6), (b)(7)(C), March 7, 2019
K. Memorandum of Interview, (b)(6), (b)(7)(C), February 28, 2019
L. Memorandum of Interview, (b)(6), (b)(7)(C), February 12, 2019
M. Memorandum of Interview, (b)(6), (b)(7)(C), February 12, 2019
N. Memorandum of Interview, (b)(6), (b)(7)(C), March 12, 2019
O. Memorandum of Interview, James Springs, April 11, 2019; Memorandum of Interview, James Springs, June 18, 2019
P. Memorandum of Interview, (b)(6), (b)(7)(C), March 7, 2019
Q. Memorandum of Interview, (b)(6), (b)(7)(C), March 7, 2019; Memorandum of Interview, (b)(6), (b)(7)(C), June 4, 2019
R. Memorandum of Activity, Review of Clearwell Records, January 2, 2019
S. Memorandum of Activity, Review of Email Records, July 12, 2019
T. Memorandum of Activity, Review of Network Drive Records, July 14, 2019
U. Memorandum of Activity, Review of OGE 278s, April 29, 2019
V. Memorandum of Interview, (b)(6), (b)(7)(C), May 17, 2019
W. Memorandum of Interview, (b)(6), (b)(7)(C), May 24, 2019; Memorandum of Interview, (b)(6), (b)(7)(C), July 1, 2019
X. Memorandum of Interview, David Ferriero, April 29, 2019
Y. Memorandum of Activity, Review of Electoral College Audit Docs, May 31, 2019
Z. Memorandum of Interview, (b)(6), (b)(7)(C), June 27, 2019
AA. Memorandum of Activity, FPDS Review DUNS 0776333311, November 7, 2018
BB. Memorandum of Interview, (b)(6), (b)(7)(C), March 26, 2019
CC. Memorandum of Activity, Review of CLA Records, May 3, 2019
DD. Memorandum of Activity, Review of Timecard Report, June 27, 2019
EE. Memorandum of Activity, Review of 2018 IBC History by Account Printout, April 29, 2019
FF. Addendum to the ROI addressing allegations of retaliation
GG. Addendum to the ROI addressing Springs’s response to our draft ROI
REPORT
OF
INVESTIGATION
ADDENDUM

OFFICE OF INSPECTOR GENERAL
U. S. GENERAL SERVICES
ADMINISTRATION
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BASIS FOR SUPPLEMENTAL INVESTIGATION

During our investigation of the issues described in this report, two witnesses from the National Archives and Records Administration (NARA) Office of Inspector General (OIG) provided us with information about potentially retaliatory actions Inspector General James Springs had allegedly taken against NARA OIG employees. On July 23, 2019, [b] (6), [b] (7)(C) [redacted] alleged that since February 2019, Springs accused her of lying, not having earned the right to have a maxiflex schedule, and being confused about her job responsibilities. [redacted] also alleged that Springs had stated that he did not want to sit near her. [redacted] stated that her work environment had become uncomfortable and that “I am not the only one who feels [Springs] has made the work environment uncomfortable.” On July 31, 2019, [redacted] notified us that [redacted] and [redacted] voiced concerns that, since our investigation commenced, “there have been numerous instances where those Audit staff who have provided information to GSA OIG have felt they were being harassed/retaliated against by [Springs].” We reported these issues to the Integrity Committee (IC).

On August 6, 2019, the IC requested that we investigate the following issues:

(1) Whether Springs retaliated against [redacted] by:

(a) Stating that [redacted] was confused about her job responsibilities;

(b) Stating that [redacted] had not earned the right to have a maxiflex schedule;

(c) Accusing [redacted] of lying; and

(d) Stating that he did not want to sit anywhere near [redacted] in NARA OIG office space.

(2) Whether Springs retaliated against NARA OIG audit staff by harassing them or creating a hostile work environment.

In addition to the above allegations, we investigated a potential issue that was brought to our attention after the IC’s August 6, 2019 letter. On August 7, 2019, we interviewed [redacted] who stated that he did not believe that Springs took any retaliatory action against him, but he told us of a matter in which the thought of retaliation “crossed his mind.” Specifically, [redacted] stated that, for his 2018 performance evaluation, Springs initially rated him a Level 3 (out of 5) in the critical elements of “Leading People” and “Leading Change.” These ratings were a downgrade because Springs had rated [redacted] a Level 4 in those critical elements in 2017. After a Senior Executive Service Performance Review Board reviewed Springs’s initial rating, Springs raised [redacted] rating in the critical element of Leading People from a Level 3 to a Level 4, but Springs did not change his Level 3 rating of [redacted] in the critical element of Leading Change. Because a performance evaluation is a type of personnel action that can trigger an allegation of reprisal, we included this issue in our supplemental investigation. Therefore, we also investigated whether Springs retaliated against [redacted] by rating [redacted] a Level 3 (out of 5) in the critical element of “Leading Change” as part of his final summary rating for 2018.
SUMMARY OF FINDINGS

We did not substantiate the allegations relating to retaliation. We did not find that Springs took or threatened to take any personnel action against [redacted] or any other NARA OIG audit employees. Therefore, we did not find that Springs retaliated against [redacted] or other NARA OIG audit employees. We also did not find that [redacted] protected activity or perceived protected activity affected Springs’s annual performance rating of [redacted]. Therefore, we did not find that Springs’s annual performance rating of [redacted] was retaliatory in nature.

DETAILS OF INVESTIGATION

METHODOLOGY OF INVESTIGATION

For this supplemental investigation, we interviewed the following individuals: (1) Springs: (2) [redacted] (3) [redacted] (4) [redacted] and (5) [redacted] NARA OIG. We also examined documentary evidence, including emails dated from May 2017 through January 2019, office policies, and personnel records.

FINDINGS OF FACT

A. Initiation of IC Investigation

On August 28, 2018, the IC notified Springs that he was the subject of a complaint of wrongdoing submitted by an anonymous complainant. The complaint alleged that Springs misused official time and government property, exhibited a lack of independence and integrity, and abused his authority. On September 15, 2018, Springs submitted a response to the IC denying the allegations. On October 25, 2018, the IC notified Springs that GSA OIG would investigate the allegations.

B. Alleged Statements Regarding [redacted]

On February 28, 2019, we interviewed [redacted] as part of the original IC investigation. We re-interviewed her on July 23, 2019 to gain further details about matters related to the original IC investigation. On July 23, 2019, [redacted] alleged that since February 2019, Springs made her work environment uncomfortable by: (1) stating that she was confused about her job responsibilities, (2) accusing her of lying, (3) claiming that she had not earned the right to a maxiflex schedule, and (4) stating that he did not want to sit near her in NARA OIG office space.

We interviewed [redacted] Springs, and other members of the NARA OIG senior staff regarding Springs’s alleged statements and treatment toward [redacted]. Below we discuss each of the alleged statements in turn.

1. Statement about [redacted] Understanding of Her Job Responsibilities

As noted above, Springs was notified of the GSA OIG investigation on October 25, 2018. In December 2018, [redacted] was promoted to a [redacted] manager position. The [redacted] manager position was newly created, and [redacted] competed for this position. According to [redacted] while Springs was not involved in the selection, he was involved in creating the position, and he reviewed and signed her performance plan.

In her August 7, 2019 interview, [redacted] told us that sometime in February or March 2019, after
the government furlough, Springs had a conversation with about her performance. told us that told her that Springs had stated that was confused about her job responsibilities. stated that she did not have any conversations with Springs regarding this topic.

On August 9, 2019, we interviewed and asked if she recalled Springs telling her that was confused about her job responsibilities. recalled that after was promoted, when was in the process of transitioning some of her functions to Springs asked "Are you sure knows what she is doing?" told us she reassured Springs that knew what she was doing, and Springs did not continue discussing the topic. also stated that, six months after promotion, told that was the best for the promotion she got.

In his August 16, 2019 interview, Springs acknowledged that he had a conversation with about job responsibilities around the time that she was promoted. He recalled that the purpose of his conversation with was to convey his expectations for in her new role as manager. Springs stated that both he and agreed that was deserving of a promotion, but, prior to creating the manager position, he and disagreed about whether would be suited for a supervisory position. Springs envisioned being promoted to a support function to while envisioned having supervisory authority. Springs disagreed with vision, but he supported it. However, he wanted to ensure that understood what he expected of her. Springs stated that, when was promoted to manager, he told upfront that he expected a lot from and wanted to communicate what his expectations were. Springs wanted to step up as a leader, and he was looking for a manager not afraid to make management decisions.

2. Statement About Right to a Maxiflex Schedule

told us that, on or about March 6, 2019, told her that Springs had a conversation with about a maxiflex schedule. According to , told that Springs had asked to look into how to pull a maxiflex schedule because Springs did not believe that had earned it. told who then told who had been on a maxiflex schedule since December 2018 when, after her promotion to a GS-15 position, she became eligible for participation in the maxiflex program and approved it.

When we interviewed about his conversation with Springs, told us he recalled Springs stating that he wanted to tell because he had not granted approval. said that Springs's tone was normal and not upset during the conversation. said he advised against the idea of revoking an employee's maxiflex and that Springs stated that no one had gone to him to demonstrate that had a need for maxiflex. According to Springs preferred to be the final approval authority. He had approved the maxiflex schedules for both and when they were originally GS-15 employees. However, told us that situation was unique because she was the first GS-15 employee eligible for maxiflex who did not report directly to Springs.

Springs said he found out about maxiflex schedule a few months after she was promoted, and he confirmed that he questioned right to a maxiflex schedule. Springs stated that in the old policy, the IG had to approve maxiflex. Springs stated that he thought NARA OIG was still operating under the old policy guidelines, but he stated that
Springs stated that it was not his intention to single him out. Springs stated that he was used to granting maxiflex approval and had to learn not to micromanage. Springs did not take away the maxiflex schedule or instruct him to take away the maxiflex schedule.

We reviewed NARA OIG policies concerning maxiflex. At the time we began participating in the maxiflex program in December 2018, NARA OIG personnel relied on an April 7, 2016 policy letter. The policy letter stated that both the supervisor and the IG had to approve an employee’s request for a compressed schedule. Maxiflex is a type of compressed schedule. In October and November 2017, drafts of a new NARA OIG Office Hours policy were circulated to Springs. The NARA OIG Office Hours policy became effective on August 7, 2019, and the policy stated that “Employees at the grade of GS-15 or higher may request to be placed in the maxiflex program. This request, and any subsequent approval, must be in writing and approved by the IG.” This language was consistent with the earlier drafts that were circulated to Springs.

3. Statement about Lying

Springs told us that on May 20, 2019, she had a status meeting with Springs regarding a NARA Acquisition Oversight and Management Audit. According to **Springs,** normally participated in the status meetings, but because **Springs** was on vacation, **Springs** filled in for her. **Springs** told us that during the meeting, Springs asked **Springs** when the audit would be completed. Based on the information she had available, **Springs** informed Springs that the audit would be completed by May 31, 2019.

When we interviewed Springs about his meeting with Springs, he stated that he felt like Springs was not giving him a realistic “snap shot” of the audit. The audit had been dragging, and Springs wondered what was causing the delay and whether it was the auditors’ fault or management’s fault.

Springs told us that, on or about June 12, 2019, after she returned from vacation, she provided Springs with a later estimated completion date for the audit. **Springs** stated that, during her conversation with Springs, he questioned why **Springs** and **Springs** had different dates for the completion of the audit, and Springs told him that he thought Springs was “covering up” or “fabricating” for Springs. **Springs** said that Springs asked why the audit had not been completed by the May 31, 2019 deadline. **Springs** acknowledged to us that the “audit had already slipped” once by the time he met with Springs.

Springs told us that, on June 19, 2019, **Springs** spoke with her by phone and told her what Springs had said about her covering up for Springs. **Springs** stated that, on June 26, 2019, she met with Springs in his office and confronted him about accusing her of lying. According to Springs, Springs responded that lying was a strong word. **Springs** stated that the meeting ended when Springs said the matter was squashed and walked out of his office.

When we interviewed Springs in August 2019, he recalled talking to both **Springs** and **Springs** about his feeling that Springs was covering up for Springs. Springs recalled telling Springs that she did not need to “lie or fabricate anything for Springs,” and that she did not “have to cover for Springs.” Springs stated that by saying lying, he “might have used the wrong term,” and he added, “I am not perfect.”
4. **Statement About Seating Arrangement**

[tell us that she heard from who heard from that Springs said that he did not want to sit near . When we interviewed , he told us he did not recall that Springs made a statement about not wanting to sit near . He said he only recalled discussing a new office space layout with Springs, though he could not recall what was specifically discussed.

Springs denied making any comments about not wanting to sit near . Springs told us that NARA OIG employees were moving to a new office space, and in the new space, would have one wall that consisted of a fabric partition. Springs stated that in or about July 2019, he met with and and learned that had concerns that people might be able to listen to her conversations through the partition. Springs said that he told that if had concerns about the partition, she could move closer to office where there were several empty office spaces with all walls made of sheetrock. Springs stated that he provided with a couple of options, and the decision was up to her.

5. **Concern of Retaliation**

stated that she believed Springs made the above alleged statements in retaliation for her cooperating with the IC investigation. suspected that Springs knew of her cooperation with the IC investigation, though she never informed Springs of her cooperation with the investigation or talked with Springs about the IC investigation.

On April 11, 2019, when we interviewed Springs as part of the original investigation, he told us that he notified the NARA Archivist of the IC investigation. Springs stated that he did not inform or talk to any NARA OIG employees about the IC investigation. When we interviewed Springs on August 16, 2019 relating to the recent allegations, Springs told us that if any NARA OIG employees knew of the investigation, it would have been because we interviewed them, or told someone. Springs stated that he did not know if any NARA OIG employees had assisted with the IC investigation. confirmed to us that they did not talk to Springs about the IC investigation.

C. **Springs’s Behavior Toward NARA OIG Audit Staff**

As part of the original IC investigation, we interviewed NARA OIG employees in February and March of 2019. On July 23, 2019, alleged that, since February 2019, she and others felt that the work environment had become uncomfortable. On July 31, 2019, notified us that went to him to voice concerns that NARA OIG auditors felt like Springs had harassed or retaliated against them because of their cooperation with the IC investigation.

When we interviewed on August 7, 2019, stated that, whom we interviewed on March 7, 2019, had expressed to her that she felt uncomfortable in the work environment because of Springs’s lack of communication. said that Springs was withdrawn before the investigation began and that he had stopped talking to her before the summer of 2018. however, added that Springs appeared to communicate even less since the IC investigation started. stated that since the investigation began, Springs only talked to a few people, including. stated that no one else had reported to her, as a supervisor, any concerns about being in an uncomfortable work environment.
When we interviewed [redacted] on August 9, 2019, she stated that she was not aware of Springs harassing any NARA OIG auditors. However, [redacted] stated that, on June 12, 2019, she reported to [redacted] that [redacted] and [redacted], whom we interviewed on February 28, 2019, were concerned Springs was retaliating against them by ignoring them when he walked by their offices.

[redacted] stated that Springs’s communication style involved almost no communication, and it was normal for Springs not to say anything. However, added that Springs appeared to communicate even less since the IC investigation started. [redacted] stated that Springs had stopped speaking to [redacted].

No one that we interviewed said they observed Springs making any harassing statements toward the audit staff. When asked if Springs made any disparaging comments relating to NARA OIG auditors, [redacted] recalled an instance where Springs questioned the use of extended telework due to an illness. [redacted] stated that after she mentioned [redacted] request for extended telework, Springs questioned if [redacted] work was slipping. [redacted] recalled that Springs asked to receive medical documentation for [redacted] condition such as a doctor’s note.

[redacted] stated that the telework issue occurred sometime in July 2019. Springs went to him for guidance on use of telework as a reasonable accommodation. [redacted] stated that Springs “has never been a huge fan of telework,” and Springs questioned [redacted] participation in telework because he wanted to ensure that all of the proper documentation was completed. [redacted] provided guidance to Springs that the decision to grant extended telework was [redacted]. Springs did not have any further discussions with [redacted] regarding [redacted] extended telework.

As we previously discussed, Springs stated that he did not talk to any NARA OIG employees about the IC investigation. He also stated that he did not know whether any NARA OIG employees cooperated with the IC investigation. NARA OIG employees whom we interviewed in relation to these recent allegations stated that they did not discuss the IC investigation with Springs.

**D. Springs’s Rating of [redacted]**

On August 7, 2019, we interviewed [redacted] about the allegations of retaliation against Springs. Because we had interviewed [redacted] on March 12, 2019 as part of the original IC investigation, we asked [redacted] if he ever felt like Springs had retaliated against him. [redacted] stated he had “no idea” if Springs knew he coopered with the IC investigation. [redacted] also stated that Springs never took any reprisal action against him. However, later in our interview, [redacted] stated that the thought of retaliation “crossed his mind” when Springs initially rated him a Level 3 in the critical elements of “Leading People” and “Leading Change” as part of his 2018 performance appraisal. For 2017 performance appraisal, Springs had rated [redacted] a Level 4 in those critical elements. When we asked if Springs provided any reasons for the drop in score for these critical elements, [redacted] stated that Springs “did not provide anything that satisfied me.” Springs ultimately changed his rating in Leading People to a Level 4 and maintained [redacted] rating in Leading Change at a Level 3.

Because Springs dropped [redacted] rating in one of five critical elements from 2017 to 2018 and a performance appraisal is a personnel action, we reviewed [redacted] 2018 performance appraisal for potential reprisal. To examine this issue, we interviewed Springs, conducted a follow-up interview of [redacted] interviewed [redacted] about their performance.
appraisals, reviewed 2017 and 2018 performance appraisals, and reviewed emails and other documents.

1. **First Annual Rating as a Senior Executive for FY 2017**

Under NARA policy, the appraisal period for NARA senior executives is the fiscal year (FY), October 1 of each year through September 30 of the following year. As part of the appraisal process, NARA senior executives are provided with an initial summary rating, which is reviewed by a performance review board, and then they receive a final summary rating. The summary rating is based on several critical elements. For each critical element, there are five performance levels: Level 5 (Outstanding); Level 4 (Highly Successful); Level 3 (Fully Successful); Level 2 (Minimally Satisfactory); and Level 1 (Unsatisfactory). Each critical element is assigned a weight, with the weights adding to 100 points. A derivation formula produces a weighted score that corresponds to a summary rating.¹ A weighted score of 475 to 500, for example, produces a Level 5 summary rating, and 400 to 474 produces a Level 4 summary rating.

For FY 2017, because became a senior executive in 2017, Springs rated on a condensed period from January 21, 2017 to September 30, 2017. The performance evaluation was based on five critical elements. The first four critical elements (Leading Change, Leading People, Business Acumen, and Building Coalitions) each accounted for 15 points for a total of 60 points. received a Level 4 rating for each of those critical elements. The last critical element (Results Driven) accounted for 40 points. received a Level 5 rating for the Results Driven critical element. Using the derivation formula, Springs gave a weighted score of 440, or an annual summary rating of Level 4 (Highly Successful). For 2017 rating, Springs wrote the following:

became an SES during the period and has worked under this performance plan since May 16, 2017. While the overall rating places at Highly Successful, I believe with a full year working under this performance plan he will achieve an outstanding rating next cycle.

2. **Springs’s “360 Survey” of NARA OIG Employees and Office Turnover**

Springs stated that in May 2017, the Federal Employee Viewpoint Survey was administered to NARA OIG employees. Because not enough employees responded to the survey, Springs decided to develop his own “360 Climate Assessment Questions” so that he could assess NARA OIG employees’ perception of management’s performance. Springs provided us a list of 15 questions that he developed (10 of which related to the office and management). Questions included: “Does your supervisor provide you with the tools, training and guidance you need to perform your job?” and “Do you feel that your supervisor supports, respects, motivates, trusts,

¹ The derivation formula consists of two steps: First, multiply the weight of the critical element by the performance level to produce a score for each critical element. For example, if a critical element has a weight of 15 points, and an employee received a Level 3, then the weighted score for that critical element would be 45 (15 x 3). Second, add the score for each critical element to get a total weighted score.
and treats you fairly?"

Springs’s “360 survey” was unlike the Office of Personnel Management’s Leadership 360™ assessment. The OPM Leadership 360 is administered online, and each participant receives a detailed, confidential feedback report. The OPM Leadership 360 also includes aggregate reports of the results and group orientation and feedback sessions. told us that, because Springs did not incorporate any of those types of processes into his 360 survey, Springs calling the survey a 360 was a misnomer, stated that Springs told his senior staff about his survey idea, but they had no involvement in the process, and nothing happened for over six months. It does not appear that Springs distributed a written copy of the questions to senior staff or employees, or that employees filled out any written questionnaires. Rather, Springs met one-on-one with employees in (D) (6), (D) (7)(C) to ask them questions and receive their feedback.

Springs informed us that he interviewed five (D) (6), (D) (7)(C) on January 9 and 12 of 2018. Springs recalled that one or two (D) (6), (D) (7)(C) stated that they felt that (D) (8)(F) direction was bad or put them in dangerous situations. Springs also stated that (D) (6), (D) (7)(C) told him that (D) (6), (D) (7)(C) did not listen to them. Springs stated that none of the (D) (6), (D) (7)(C) who complained wanted to disclose any further information or elaborate because they worried it would hinder their chances of finding employment with other agencies. This information concerned Springs.

Springs stated that after (D) (6), (D) (7)(C) interviews, between January and March 2018, he talked to (D) (6), (D) (7)(C) about the results of his meetings with (D) (6), (D) (7)(C) and about the potential issues that had been raised by (D) (6), (D) (7)(C), told Springs that he felt like (D) (6), (D) (7)(C) were not going far enough (D) (6), (D) (7)(C). Springs felt there may have been some communication issues between (D) (6), (D) (7)(C) and his staff.

told us that Springs never provided any formal feedback or had a formal meeting with him related to the results of his survey. However, stated that Springs told him what (D) (6), (D) (7)(C) said about him or what was going on in the office. According to (D) (6), (D) (7)(C) Springs told (D) (6), (D) (7)(C) that he was providing feedback for (D) (6), (D) (7)(C) awareness.

confirmed that Springs told him about (D) (6), (D) (7)(C) complaining that (D) (6), (D) (7)(C) guidance put (D) (6), (D) (7)(C) in danger. believed it was (D) (6), (D) (7)(C), and that her complaint referred to an instance where she had reservations about arresting an individual. had instructed to accompany him in a government-owned vehicle (GOV) to a target’s house to execute an arrest warrant. argued that because there was no radio or cage in the GOV, it was unsafe to make the arrest, and did not end up arresting the target because he self-surrendered. However, told Springs that she felt was putting her in jeopardy, and Springs brought her complaint to attention. explained that transporting arrestees in vehicles not equipped with a cage was a common practice by law enforcement officers and was not dangerous. told Springs that he would never put his employees in danger. told us that Springs responded that he understood and indicated that there was no problem.

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3 In Springs’s August 16, 2019 interview, he originally stated that the meeting with (D) (6), (D) (7)(C) took place in the spring or summer of 2018, but in answering our written follow-up questions, he stated that he believed he provided preliminary feedback to (D) (6), (D) (7)(C) between January and February of 2018 and met with him to discuss the results of the survey between February and March 2018.
In feedback separate from the 360 survey, [redacted] also recalled that Springs told him that [redacted] NARA OIG, complained that [redacted] created a hostile work environment. According to [redacted], [redacted] worked with [redacted] on an investigation in which they had to conduct an interview at a company. [redacted] believed that they would have to provide the Miranda warning to the interviewee. [redacted] advised that because the interview would be voluntary and the interviewee would not be in custody, they should not provide a Miranda warning. Despite his instruction, [redacted] received significant pushback from [redacted]. In or around April 2018, [redacted] pulled [redacted] off the case and conducted the interview with [redacted]. Around that time period, [redacted] complained to Springs that she felt harassed after being pulled off the case. [redacted] said Springs told him that he (Springs) advised [redacted] to put her complaint in writing. [redacted] said Springs did not indicate that he was concerned or that there were any issues with [redacted].

[redacted] said he did not recall Springs ever mentioning that he had concerns about his management. [redacted] described Springs as “laidback” during a mid-year performance review meeting, which only took about five minutes in or around May 1, 2018. [redacted] stated that in conversations where Springs would relay something one of [redacted] employees said, Springs would generally say something to the effect of, “I want to let you know what was said, but there’s no issue. I’m not concerned. We’re going to get there. We’re going to fix it.” [redacted] stated that Springs never “came down” on him, and always phrased things like, “keep up the good work,” “you don’t need to worry,” and “I’m not concerned.”

[redacted] acknowledged that three of [redacted] left for other agencies during fiscal year 2018. [redacted] stated that a fourth leave, on October 25, 2018. With the exception of [redacted], [redacted] said he believed the turnover was a good thing because he was able to assemble a new, competent team and hire [redacted]. [redacted] stated that [redacted] was a disgruntled employee because in or about October 2017, she was reassigned to a non-supervisory role because of conflicts with her subordinates. [redacted] said Springs initially did not want [redacted] to assign her, but later agreed to it. [redacted] stated that although Springs told him to put up a performance improvement plan and “manage her out,” Springs liked [redacted]. She would tell him what was going on in [redacted] and Springs would have candid conversations with [redacted]. [redacted] told us that the separation from NARA OIG may have had some impact on his 2018 performance appraisal.

When we interviewed [redacted], she indicated that Springs appeared to have some issues with the way [redacted] managed his staff. [redacted] stated that in or around November 18, 2018, Springs told her that her rating was going to be fine, but that there was a problem with [redacted] because he did not know how to lead people and needed training. [redacted] stated that Springs then asked her about leadership courses she had taken so that Springs could recommend some courses for [redacted] to take.

3. Springs’s Perception of [redacted] as the IC Complainant

On November 7, 2018, we contacted [redacted] to obtain documents in support of the IC investigation. On November 20, 2018, [redacted] provided documents that we requested in support of the investigation. As discussed above, on March 12, 2019, we also interviewed [redacted] as part of the IC investigation.
We initially interviewed Springs on April 11, 2019, and we re-interviewed him on August 16, 2019, after we received the referral from CIGIE to conduct an investigation of the retaliation allegations. During these interviews, Springs stated that he believed submitted the anonymous complaint that initiated the IC investigation. Springs said he believed was having trouble managing his staff, and Springs had given him negative feedback about his management performance. Springs stated that he heard from that was out to get Springs and that stated something to the effect of, “He might get you before you get him.” Springs speculated that was afraid he would lose his SES position and that the complaint was a way for to protect himself.

Although Springs stated that he believed was the anonymous complainant, he did not state that he had actual knowledge of the identity of the anonymous complainant. Springs also did not state that he had knowledge that cooperated with the IC investigation in November 2018 and March 2019.

4. 2018 Performance Appraisal

On December 7, 2018, Springs provided with his initial summary rating for FY 2018. Springs initially rated a Level 3 in Leading People and Leading Change, critical elements for which had received a Level 4 for his FY 2017 rating. Springs rated a Level 5 in the remaining critical elements. These scores gave a weighted score of 440, the same weighted score as in 2017. An initial summary rating was thus a Level 4 (Highly Successful).

When we interviewed he stated that he was surprised to see a Level 3 in Leading People and Leading Change because Springs had indicated in the prior fiscal year that he expected to achieve an Outstanding. stated that he met with Springs twice to argue why his scores in Leading People and Leading Change should be higher. Although Springs did not change initial summary rating, told us that Springs repeatedly told him that he could challenge his rating. However, stated he did not want to do that because he worried it would look like he was trying to show up his boss.

stated that Springs did not explain specifics about the reasons for his ratings, but told him that the scores were because of the turnover in Office. Because thought that the turnover was a good thing, he stated that the thought of reprisal crossed his mind. told us that he asked Springs directly, “Are you trying to manage me out?” said that Springs assured him that “no, I would never do that.”

Because there was no narrative in the 2018 performance appraisal, we asked Springs to explain his rating of Springs told us that communication issues between and his staff, his management style, and his staff not trusting him were reasons Springs took down some points. Springs stated that had a way of dealing with people that could “rub them the wrong way.”

On December 20, 2018, and Springs signed the initial summary rating. On December 20, 2018, Springs submitted 2018 initial summary rating along with self-

4 NARA policy provides senior executives with the opportunity to request a Higher Level Review before an initial summary rating is sent to the Performance Review Board. NARA 355-S1, Senior Executive Service Performance Management System, paragraph (9)(e).
assessment to the NARA OIG Performance Review Board (PRB). The NARA OIG PRB was made up of three senior executives from the Department of State OIG, Department of Transportation OIG, and the Department of Education OIG.

On December 21, 2018, the PRB recommended that [ ] score for Leading People be raised from a Level 3 to a Level 4. The PRB provided the following rationale:

During the rating period, a reorganization oversaw the lateral transfer of to a newly created position, created an position for a staff member, served as himself for several months, and then, finally, was able to fill the position permanently with an external hire.

Reorganizations can be challenging, even under the best of circumstances, and the PRB’s discussion of the responsibilities we imagine carried during this timeframe, based on the narrative provided, led us to conclude his performance in this area could acceptably be categorized as Highly Successful.

Springs concurred with the PRB’s recommendation and rated a Level 4 in Leading People. For the final summary rating, Springs gave a weighted score of 455, which (like Springs’s initial rating of ) produced a summary rating of Level 4 (Highly Successful). Because he received a Level 4, received a performance award of 7.5 percent of his basic pay. Below is a chart detailing Springs’s 2017 summary rating, 2018 initial summary rating (before the PRB review), and 2018 final summary rating (after the PRB review).

<table>
<thead>
<tr>
<th>Critical Element (with corresponding weight)</th>
<th>FY 2017 Rating</th>
<th>FY 2017 Score</th>
<th>FY 2018 Initial Rating</th>
<th>FY 2018 Initial Score</th>
<th>FY 2018 Final Rating</th>
<th>FY 2018 Final Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leading Change (15 points)</td>
<td>4</td>
<td>60</td>
<td>3</td>
<td>45</td>
<td>4</td>
<td>45</td>
</tr>
<tr>
<td>Leading People (15 points)</td>
<td>4</td>
<td>60</td>
<td>3</td>
<td>45</td>
<td>4</td>
<td>60</td>
</tr>
<tr>
<td>Business Acumen (15 points)</td>
<td>4</td>
<td>60</td>
<td>5</td>
<td>75</td>
<td>5</td>
<td>75</td>
</tr>
<tr>
<td>Building Coalitions (15 points)</td>
<td>4</td>
<td>60</td>
<td>5</td>
<td>75</td>
<td>5</td>
<td>75</td>
</tr>
<tr>
<td>Results Driven (40 points)</td>
<td>5</td>
<td>75</td>
<td>5</td>
<td>200</td>
<td>5</td>
<td>200</td>
</tr>
<tr>
<td>Weighted Score</td>
<td>440</td>
<td>440</td>
<td></td>
<td>455</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Summary Level Ranges**

- 475 – 500 = Level 5
- 400 – 474 = Level 4
- 300 – 399 = Level 3
- 200 – 299 = Level 2

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6 Under 5 U.S.C. § 4314(c), each agency must establish one or more PRBs to conduct an independent review of a rating official’s initial appraisal of a senior executive. Based on the initial appraisal and any response from the senior executive, the PRB issues a recommendation. While a rating official need not concur with the PRB’s recommendation, the rating official must consider the PRB’s recommendation before issuing a final appraisal.

6 A performance award for a senior executive in the SES is contingent on performance level. For example, in 2018 at NARA, a SES performance level of 5 equated to a performance award of 10 percent. A SES performance level of 4 equated to a performance award of 7.5 percent.
Springs stated that his rating of [REDACTED] was not meant to punish him for the IC investigation. Springs said he was concerned about making the processes in the office more efficient, and he wanted to focus on improving [REDACTED] performance as a manager and getting him training. Springs stated that while he had some concerns about [REDACTED] management in 2018, he currently saw no real management issues with [REDACTED] and he was scheduled for leadership training in September 2019. Springs said he hired a new, experienced [REDACTED] to work under him, and he hired new, competent [REDACTED] who fit his personality.

[REDACTED] stated that although the thought of reprisal had crossed his mind when Springs gave him his 2018 initial summary rating, [REDACTED] did not observe Springs’s behavior change toward him after the IC investigation started.

To compare his rating with the ratings of the other members of the senior staff, we interviewed [REDACTED] and [REDACTED]. Although Springs gave [REDACTED] an overall summary rating of Outstanding, [REDACTED] opined that there was “no rhyme or reason” to the way Springs rated her in the past. [REDACTED] opined that Springs has an audit-driven mind and required the submission of copious amounts of data as backing for appraisal ratings. For his 2018 annual rating, [REDACTED] received a summary rating of Highly Successful, which [REDACTED] stated was the first time he was rated below an Outstanding.

5. Timeline of Relevant Events

Below is a timeline of relevant events leading up to and following [REDACTED] 2018 summary rating.

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 2018</td>
<td>Springs conducted “360 surveys”</td>
</tr>
<tr>
<td>January or February 2018 (est.)</td>
<td>Springs provided [REDACTED] with feedback regarding the 360</td>
</tr>
<tr>
<td>February or March 2018 (est.)</td>
<td>Springs provided [REDACTED] with feedback regarding the 360</td>
</tr>
<tr>
<td>March 31, 2018</td>
<td>(b)(6), (b)(7)(C) left NARA OIG</td>
</tr>
<tr>
<td>May 1, 2018</td>
<td>Springs held [REDACTED] mid-year review meeting</td>
</tr>
<tr>
<td>June 6, 2018</td>
<td>(b)(6), (b)(7)(C) left NARA OIG</td>
</tr>
<tr>
<td>July 21, 2018</td>
<td>(b)(6), (b)(7)(C) left NARA OIG</td>
</tr>
<tr>
<td>August 28, 2018</td>
<td>The CIGIE IC notified Springs of the complaint against him</td>
</tr>
<tr>
<td>October 25, 2018</td>
<td>(b)(6), (b)(7)(C) left NARA OIG</td>
</tr>
<tr>
<td>November 7, 2018</td>
<td>The CIGIE IC notified Springs that GSA OIG would investigate</td>
</tr>
<tr>
<td>November 18, 2018</td>
<td>[REDACTED] told [REDACTED] that [REDACTED] did not know how to lead people</td>
</tr>
<tr>
<td>November 20, 2018</td>
<td>[REDACTED] provided GSA OIG with the records requested</td>
</tr>
<tr>
<td>December 7, 2018</td>
<td>Springs provided [REDACTED] with his initial summary rating</td>
</tr>
</tbody>
</table>

7 Based on emails we reviewed, it appears that from August to November 2018, Springs sought opportunities for coaching and training for his senior staff employees. [b](6), [b](7)(C).

6 An SL position is classified above a GS-15 position and includes broad and complex duties. However, [REDACTED] does not supervise any employees.
December 2018 (est.) Springs met with Springs twice to discuss the initial summary rating. Springs provided verbal feedback.

December 20, 2018 Springs and Springs signed the formal initial summary rating. Springs forwarded the signed initial summary rating to the PRB.

December 21, 2018 The PRB recommended change to the initial rating

January 31, 2019 Springs signed the final summary rating, which incorporated the PRB’s changes.

March 12, 2019 GSA OIG interviewed Springs.

April 11, 2019 GSA OIG interviewed Springs.

ANALYSIS

APPLICABLE LAWS

The Inspector General Act of 1978, as amended, and the Civil Service Reform Act (CSRA) prohibit a responsible federal management official from retaliating against an employee who has made a protected disclosure or engaged in a protected activity. See 5 U.S.C. App. 3 § 7(c); 5 U.S.C. §§ 2302(b)(8), (9). Because this is an OIG investigation, we analyze retaliation using the preponderance of the evidence standard. We discuss how we analyze allegations of retaliation in further detail below.

Generally, to establish retaliation, the following elements must be proven by a preponderance of the evidence. First, a federal employee must engage in a protected activity or make a protected disclosure. However, if a management official believes that an employee engaged in a protected activity or made a protected disclosure, a federal employee need not have actually engaged in a protected activity or made a protected disclosure. See Correll v. Dep’t of Homeland Sec., 123 M.S.P.R. 417 (2016). Second, a responsible management official must have knowledge that the employee engaged in a protected activity or made a protected disclosure. However, as noted previously, if a responsible management official believes that an employee made a protected disclosure, then that belief will be sufficient. Third, the responsible management official must have taken, threatened to take, or directed others to take or withhold a personnel action against the employee. Fourth, there must be causation between the protected activity or protected disclosure and the personnel action. The elements are discussed in more detail below.

When reviewing allegations of retaliation, we first examine whether an employee engaged in a protected activity or made a protected disclosure, or whether a management official believed the employee engaged in a protected activity or made a protected disclosure. Under Section 7(c) of the Inspector General Act, an employee engages in a protected activity when “making a complaint or disclosing information to an Inspector General.” Similarly, under 5 U.S.C. § 2302(b)(9)(C), an employee engages in a protected activity by “cooperating with or disclosing information to an Inspector General (or any other component responsible for internal investigation or review) of an agency.” Under 5 U.S.C. § 2302(b)(8), an employee makes a protected disclosure by disclosing information that he reasonably believes evidences (1) a violation of law, rule, or regulation, or (2) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

For employees who have engaged in a protected activity or made a protected disclosure, we next examine whether a responsible management official knew that the employee engaged in

9 As appropriate, we cite case law that addresses the Whistleblower Protection Act, 5 U.S.C. 2302(b)(8).
the protected activity. To prove knowledge, we examine direct statements made by the responsible management official and any circumstantial evidence.

If there is sufficient proof of knowledge or a belief that an employee engaged in a protected activity or disclosure, we review whether the responsible management official took, directed others to take, or threatened to take or withhold a personnel action against the employee. A personnel action includes a performance evaluation and "any other significant change in duties, responsibilities, or working conditions." 5 U.S.C. § 2302(a)(2)(A)(viii), (xii). A hostile work environment can also constitute a personnel action if an employee is subjected to harassment that is so severe or pervasive that it changes the employee’s conditions of employment. See Savage v. Department of the Army, 122 M.S.P.R. 612 (2015).

Next, we examine whether there was any causal connection between the protected activity and the personnel action. See 5 U.S.C. § 1221(e)(1). To determine whether there was a causal connection, we look at direct and circumstantial evidence. First, we look at whether there was any temporal proximity between the protected activity or protected disclosure and the personnel action. If a personnel action occurs within a reasonable time after the protected activity or protected disclosure, then it may evidence causation. See Kewley v. Dep’t of Health and Human Services, 153 F.3d 1357, 1363 (Fed. Cir. 1998). We also examine the evidence in support of the personnel action and the existence and strength of any motive to retaliate. See Carr v. Soc. Sec. Admin., 185 F. 3d 1318, 1323 (Fed. Cir. 1999)). Lastly, we look at whether the responsible management official took similar personnel actions against similarly situated employees who did not engage in a protected activity. Id.

As discussed below, we did not find that all of the elements of retaliation were proven by a preponderance of the evidence. In relation to [redacted] and the audit staff, although we found they engaged in protected activity, we could not determine whether Springs had knowledge of that activity, and we did not find that he took any personnel actions against those employees. In relation to [redacted], although we found that Springs believed [redacted] made a protected disclosure and that he took a personnel action, we did not establish causation. Therefore, we determined that Springs did not retaliate against NARA OIG employees.

RESTITUTION ALLEGATIONS

A. Allegations Concerning [redacted]

We found that [redacted] engaged in a protected activity. However, we did not substantiate that Springs knew or believed that [redacted] engaged in protected activity. Moreover, we did not find that Springs took, threatened to take, or directed others to take a personnel action against [redacted]. Therefore, we determined that Springs did not retaliate against [redacted].

1. Whether [redacted] Engaged in a Protected Activity

A federal employee who cooperates with or discloses information to an OIG engages in a protected activity under 5 U.S.C. App. 3 § 7(c) and 5 U.S.C. § 2302(b)(9)(C). On February 28, 2019, [redacted] submitted to an interview with GSA OIG and disclosed information. Therefore, she engaged in a protected activity.

2. Whether Springs Had Knowledge of [redacted] Protected Activity

[redacted] speculated that Springs knew of her protected activity, but we did not find any evidence to prove that Springs was aware of [redacted] cooperation with the investigation. [redacted] told us
she never talked to Springs about the IC investigation, and she never heard him accusing anyone of cooperating with the IC investigation. Springs stated that he did not know whether any NARA OIG employees had assisted with the IC investigation, and he did not discuss the IC investigation with any NARA OIG employees. Therefore, we could not substantiate that Springs knew or perceived that engaged in protected activity.

3. Whether a Personnel Action Was Taken Against

alleged that Springs created an uncomfortable working environment for her when he stated that: (a) she was confused about her job responsibilities; (b) she had not earned the right to a maxiflex schedule; (c) she had lied; and (d) he did not want to sit near her. Statements, by themselves, can constitute a personnel action if they are so severe and pervasive that they create a hostile work environment that alters an employee’s working conditions. See Savage v. Department of the Army, 122 M.S.P.R. 612 (2015).

The complaint about the first alleged statement was based on a conversation Springs had with supervisor, after was promoted in December 2018. According to Springs, asked her, “Are you sure knows what she is doing?” According to told her that Springs had indicated to that she was confused about her job responsibilities. Springs told us that he had a conversation with about job responsibilities to request that communicate to what Springs expected from her in her new position as manager. Springs’s conversation was between him and not between him and told us that approximately six months after promotion, Springs told that “was the best for the promotion she got.” Therefore, we did not find that Sprin’s alleged statement relating to knowledge of her job responsibilities was severe or pervasive.

The complaint about the second alleged statement was based on a conversation Springs had with about the possibility of cancelling maxiflex schedule. told us she learned about this statement from who heard it from springs confirmed that he raised the issue of maxiflex issue with Springs said that because he had not approved maxiflex schedule, he did not believe she was authorized to have maxiflex. We found that Springs correctly believed that NARA OIG policy required him to approve employees’ maxiflex schedules. However, incorrectly told him that had the final authority to approve maxiflex, Springs did not pursue the issue, and continued with her maxiflex schedule. Therefore, we did not find that Springs’s statements concerning maxiflex schedule were severe or pervasive.

The complaint about the third alleged statement was initially based on a conversation Springs had with relating to an audit. According to gave Springs a completion date for an audit that had already missed one deadline. stated that she subsequently gave Springs a later completion date. As a result, stated that Springs told her that he believed was “covering up” or “fabricating” for her. The statement was meant for not However, stated that relayed this conversation to her. stated that she confronted Springs, and after a brief exchange, stated that the issue was squashed. stated that nothing further transpired. Therefore, we did not find Springs’s statement concerning “covering up” or “fabricating” for severe or pervasive.

The complaint about the fourth alleged statement was based on a conversation Springs had with concerning a NARA OIG move to new office space. Although told us that she heard from who heard from that Springs stated he did not want to sit
anywhere near...told us he had no recollection of Springs making such a comment. Springs told us he learned that...had concerns that in her new office she would not have complete privacy because one of her walls would be a fabric partition. Springs said that he told...if he had concerns, she could move to an office closer to...that had all walls made of sheetrock. This statement was neither severe nor pervasive.

In conclusion, we found that none of Springs's statements, individually or collectively, resulted in a change in working conditions that impacted...Therefore, no personnel action was taken against...

4. Whether There Was Causation Between a Protected Activity and a Personnel Action

As we discussed above, there was no personnel action taken against...Therefore, there was no causation between a protected activity and a personnel action. Accordingly, we did not find that Springs retaliated against...

B. Allegations Concerning NARA OIG Audit Staff

We found that NARA OIG audit employees engaged in protected activity. However, we did not substantiate that Springs knew or believed that NARA OIG auditors engaged in protected activity. Moreover, we did not find that Springs took any personnel actions against employees on the audit staff. Therefore, we determined that Springs did not retaliate against the NARA OIG audit staff.

1. Whether Any NARA OIG Audit Staff Engaged in Protected Activity

A federal employee who cooperates with or discloses information to an OIG engages in protected activity under 5 U.S.C. App. 3 § 7(c) and 5 U.S.C. § 2302(b)(9)(C). On February 5, 2019, GSA OIG interviewed...On February 28, 2019, GSA OIG interviewed...Lastly, we interviewed...on March 7, 2019. Therefore, we found that these individuals engaged in a protected activity.

2. Whether Springs Had Any Knowledge of a Protected Activity

Springs stated that he did not know whether any NARA OIG employees had assisted with the IC investigation and that he did not discuss the IC investigation with any NARA OIG employees. NARA OIG employees whom we interviewed stated that they did not discuss the allegations with Springs. Therefore, we could not substantiate that Springs had knowledge of NARA OIG audit staff’s protected activity.

3. Whether Any Personnel Actions Were Taken Against NARA OIG Audit Staff

...alleged that Springs created an uncomfortable work environment for audit staff. As we discussed above, a hostile work environment, if severe and pervasive, can be a personnel action. Therefore, we examined whether the allegations that Springs created an uncomfortable work environment amounted to a hostile work environment that could be classified as a personnel action.

The allegation of an uncomfortable work environment relates primarily to Springs’s lack of communication toward members of the NARA OIG audit staff. ...told us that...and...complained that Springs would ignore them by saying hello to some people but walking by their offices without a word. ...also recounted a time when
Springs questioned the use of extended telework. He stated that Springs questioned whether he had proper medical documentation, and he stated that Springs asked her if her work was slipping. However, she stated that after he advised Springs that it was her decision to allow her to use extended telework, nothing further transpired.

No one that we interviewed reported that Springs made any harassing statements directed toward the audit staff or took any adverse actions against the audit staff. There was no indication that Springs’s lack of communication inhibited the audit staff's ability to successfully complete their assignments or severely affected their working conditions. Therefore, we found no personnel action was taken against the NARA OIG audit staff.

4. Whether There Was Causation Between a Protected Activity and a Personnel Action

As we discussed above, there was no personnel action taken against any NARA OIG audit employees. Therefore, we found no causation. Accordingly, we did not find that Springs retaliated against NARA OIG audit employees.

C. Allegation Regarding 2018 Performance Appraisal

Because complained to us that Springs initially rated him lower in two critical elements for his FY 2016 performance appraisal (compared to his FY 2017 performance appraisal), we investigated whether this action was retaliation. We found that Springs believed that submitted the initial complaint to the IC. Therefore, we examined whether there was causation between Springs’s belief and a personnel action affecting . We found that Springs took a personnel action by issuing a final summary rating for 2018. However, we did not find causation between Springs’s belief that submitted the IC complaint and a final summary rating. Therefore, we determined that Springs did not retaliate against .

1. Whether Springs Believed that Made a Protected Disclosure

A protected activity includes cooperating with or disclosing information to an OIG or a component tasked with the internal review of an agency. 5 U.S.C. App. 3 § 7(c) and 5 U.S.C. § 2302(b)(9)(C). A protected disclosure includes a disclosure that an employee reasonably believes evidences a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, or an abuse of authority. 5 U.S.C. § 2302(b)(8).

On April 11, 2019, GSA OIG agents interviewed Springs. During the interview, Springs volunteered that he suspected that had submitted the original complaint to the IC. During his interview on August 16, 2019, Springs reiterated that he believed that was the complainant. Disclosing information to the IC concerning allegations of IG misconduct is a protected activity or protected disclosure. Therefore, we find that Springs believed that made a protected disclosure.

2. Whether There Was a Personnel Action

A performance evaluation or performance appraisal is a personnel action. 5 U.S.C. § 2302(a)(viii). On December 20, 2018, Springs signed an initial summary rating of 2018 performance. Because this rating was not final, it did not constitute a personnel action.10

10 An approving authority may not issue a performance appraisal for a senior executive until after considering the review and recommendation of a PRB. 5 U.S.C. § 4314(c).
However, on January 30, 2019, Springs issued a final summary rating for 2018 performance. Therefore, we found that Springs took a personnel action.

3. Whether There Was a Causal Connection

There must be preponderant evidence that a management official's belief that an employee engaged in protected activity caused the management official to take a personnel action against the employee. See Corthell v. Dept' of Homeland Sec., 123 M.S.P.R. 417 (2016). To determine whether there was causation, we first looked at the temporal proximity between the belief and the personnel action. We then examined the strength of evidence supporting the personnel action, whether Springs had any motive to retaliate, and whether he took a similar personnel action against similarly situated employees who he did not believe engaged in protected activity.

a. Temporal Proximity

The first factor we looked at was whether a personnel action was taken within a “reasonable time” of a perceived protected activity. There is no clear-cut definition of what constitutes a reasonable time, but case law suggests that the meaning of reasonable time be construed liberally. See Kewley v. Dep't of Health and Human Services, 153 F.3d 1357, 1363 (Fed. Cir. 1998) (suggesting that “an action taken within the same performance evaluation period would normally be considered within a reasonable time”) (internal quotations omitted); Agoranos v. Department of Justice, 119 M.S.P.R. 498, ¶ 23 (2013) (finding that the issuance of a performance evaluation within two years of a protected disclosure occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the lowered performance rating).

On August 28, 2018, Springs became aware that the IC had received an anonymous complaint alleging that Springs committed misconduct. Springs believed the anonymous complainant was Springs. On December 20, 2018, Springs issued Springs his initial summary rating, and on January 30, 2019, Springs issued Springs his final summary rating. Because approximately five months elapsed between the perceived protected activity and the personnel action, we find that Springs took a personnel action within a reasonable time after he believed Springs made a protected disclosure.

b. Evidence in Support of the Personnel Action

We next examined the strength of the evidence in support of Springs 2018 final summary rating. For FY 2018, Springs gave the following ratings: a Level 3 in Leading Change; a Level 4 in Leading People; a Level 5 in Business Acumen; a Level 5 in Building Coalitions; and a Level 5 in Results Driven. Springs received an overall rating of Level 4 or Highly Successful.

FY 2018 was the first full performance period in which Springs was rated as a senior executive in the SES. Because Springs became a senior executive in the SES during the calendar year of 2017, his performance period for FY 2017 was only from January 21, 2017 to September 30, 2017. In 2017 annual rating, Springs indicated that he expected Springs would earn a rating of Outstanding for FY 2018. However, after the completion of a full year, Springs told us he felt that Springs performance in FY 2018 did not warrant an overall rating of Outstanding.

Springs stated that he took off some points in critical elements of Leading Change and Leading People due to employee issues and information he learned from talking with subordinates in early 2018 as part of his “360 survey.” In January 2018, Springs heard from one...
or two [D(6), D(7)(C)] that they did not trust [D(10), D(17)(C)] direction or worried that it put them in danger. Springs also heard from [D(5), D(7)(C)] that they felt that Springs did not listen to them. Springs stated that between January and March 2018, he provided [D(10), D(17)] feedback about concerns raised by the investigators. [D(10), D(17)] acknowledged that Springs discussed issues with him that the investigators had raised, though [D(10), D(17)] felt that Springs did not adequately communicate concerns he (Springs) had about [D(10), D(17)] management.

[D(10), D(17)] stated that Springs had expressed concerns to her about [D(10), D(17)] management in or around November 18, 2018. [D(10), D(17)] stated that Springs told her that her rating would be fine, but that [D(10), D(17)] had some issues because he did not know how to lead people and needed training. [D(10), D(17)] stated that Springs asked her what leadership courses she had taken so that he could suggest some courses for [D(10), D(17)] to attend.

Springs said that his rating was also based on concerns he had about the high turnover rate in [D(12), D(13)] office, the way [D(15)] communicated with his staff, and trust issues between [D(15)] and his staff. During FY 2018, from March through July 2018, three of five [D(13), D(14)] from [D(13), D(14)] office left NARA OIG. A fourth [D(13), D(14)] also left NARA OIG in October 2018. [D(13), D(14)] stated that in December 2018, Springs told him that staff turnover impacted his performance rating, but [D(13), D(14)] told us that this reason did not satisfy him (D(13), D(14)). Nevertheless, [D(13), D(14)] acknowledged that the departure of one of his subordinates, [D(15)] may have contributed to his FY 2018 rating. [D(13), D(14)] also told us that in or about April 2018, Springs had advised him that [D(13), D(14)] complained to Springs that she felt [D(13), D(14)] had created a hostile work environment for her.

On December 21, 2018, the PRB performed an independent review of Springs’s initial rating of [D(16), D(17)] and agreed with all of his initial ratings except the initial Level 3 rating in Leading People. The PRB recommended that the rating be raised to a Level 4. Springs reviewed the PRB’s rationale and concurred. The PRB did not recommend changing any other ratings.

In sum, Springs articulated specific reasons for his rating of [D(18), D(19)] Furthermore, Springs’s final rating of [D(18), D(19)] comported with the recommendation of the PRB, which was tasked with performing an independent assessment of Springs’s performance. Therefore, we found that there was sufficient evidence to support [D(18), D(19)] 2018 performance rating.

c. Existence and Strength of Motive to Retaliate

The third factor that we looked at was whether Springs had any motive to retaliate against [D(20), D(21)] by rating [D(20), D(21)] the way he did. Although the IC complaint raised serious allegations concerning Springs’s integrity, and Springs believed that [D(22), D(24)] submitted the allegations, Springs stated that his rating of [D(22), D(24)] was not meant to punish him for the IC investigation. This assertion was evidenced by the fact that [D(22), D(24)] weighted score on his FY 2018 final summary rating (455 points) was actually greater than his weighted score on his FY 2017 final summary rating (440 points). The only critical element in which [D(22), D(24)] went down in score from FY 2017 to FY 2018 was Leading Change (worth 15 points), where he dropped from a Level 4 for FY 2017 to a Level 3 for FY 2018. As noted above, for FY 2018, [D(22), D(24)] was rated at a Level 4 in Leading People (15 points) and a Level 5 in Results Driven (40 points), which was the same rating he received for FY 2017. From FY 2017 to FY 2018, [D(22), D(24)] was elevated from a Level 4 to a Level 5 in the remaining three critical elements (worth 15 points each).

After the PRB issued a recommendation on December 21, 2018 to raise [D(22), D(24)] rating in Leading People from a Level 3 to a Level 4, Springs concurred and raised it accordingly.
Springs did not have to accept the PRB’s recommendation to increase his rating. However, he did. Because Leading People was only weighted at 15 points, he would have received a summary rating of a Level 4 or Highly Successful with or without the acceptance of the PRB recommendation.

Springs stated that his motive in assessing performance was not to retaliate against. Rather, Springs said he was concerned about making the processes in the office more efficient. Springs said he wanted to focus on improving performance as a manager and getting him training. Springs stated that was scheduled for leadership training in September 2019 and that he currently saw no real management issues with as he had a competent staff and a good that matched his personality.

told us that although the thought of reprisal crossed his mind when he received his initial rating for 2018, he had not observed Springs’s behavior toward him change. also stated that Springs had not retaliated against him. told us that after he received his initial rating, in December 2018, he asked Springs directly, “Are you trying to manage me out?” stated that Springs assured him, “No, I would never do that.”

In sum, we found that Springs had a motive to retaliate against based on the gravity of the allegations and his belief that was the complainant. However, we did not find evidence that Springs acted on any retaliatory motive relating to final summary rating for 2018. While Springs initially rated a Level 3 in Leading People and Leading Change, he rated him a Level 5 in the remaining categories, which gave an overall rating of Level 4 or Highly Successful – the same summary rating Springs had provided him in 2017. In addition, although Springs did not have to concur with the PRB, he accepted their recommendation to raise rating to a Level 4 in Leading People. Springs told us that his goal was to make a better manager, not to punish him. We found that the reasons Springs provided for his rating – the “360 review” and the high staff turnover – preceded Springs’s awareness of the IC complaint and his belief that was the complainant. Springs also had given feedback to about issues brought by members of staff before the complaint arose. Therefore, we did not find that Springs acted on a retaliatory motive in issuing final summary rating.

d. Similarly Situated Employees

Lastly, we looked at whether Springs took a similar personnel action against similarly situated employees who he did not believe engaged in protected activity. However, we interviewed about how Springs rated senior staff. Although Springs gave an overall summary rating of Outstanding, opined that there was “no rhyme or reason” to the way Springs rated her in the past. opined that Springs has an audit-driven mind and required the submission of copious amounts of data as backing for appraisal ratings. For his 2018 annual rating, received a summary rating of Highly Successful, which was the first time he received a rating below Outstanding. In sum, we did not find a comparable senior executive in position. However, we did find that there was an element of subjectivity in the rating process that affected other members of the senior staff and that was not the only member of the NARA OIG senior staff who received an overall rating of Highly Successful.

In conclusion, we did not find a causal connection between Springs’s belief that made a protected disclosure and the personnel action Springs took in issuing FY 2018
performance rating. We found sufficient evidence to support Springs’s rating of [REDACTED] including an independent review by the PRB. Furthermore, we found that although Springs believed [REDACTED] was the complainant in the original IC complaint, Springs’s rating of [REDACTED] was based on events that occurred before Springs became aware of the complaint. Therefore, we did not find that Springs retaliated against [REDACTED].

CONCLUSION

We examined whether there was preponderant evidence to substantiate the above allegations of retaliation. We found that [REDACTED] and employees of the NARA OIG audit staff engaged in a protected activity. We also found that Springs believed that [REDACTED] made a protected disclosure. However, with respect to the allegations concerning [REDACTED] and the NARA OIG audit employees, we did not find that Springs took a personnel action. With respect to the allegations concerning [REDACTED], we found that Springs took a personnel action, but we did not find causation between Springs’s belief that [REDACTED] made a protected disclosure and the personnel action. Therefore, we did not find that Springs retaliated against NARA OIG employees for their protected activity.

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EXHIBITS

A. Integrity Committee Request to Investigate Additional Allegations, August 6, 2019
B. Memorandum of Interview, (b) (6), (b) (7)(C), August 7, 2019
C. Memorandum of Interview, (b) (6), (b) (7)(C), August 9, 2019
D. Memorandum of Interview, (b) (6), (b) (7)(C), August 9, 2019
E. Memorandum of Interview, (b) (6), (b) (7)(C), August 7, 2019
F. Memorandum of Interview, James Springs, August 16, 2019
G. Memorandum of Activity, Review of Email Records, August 28, 2019
H. Memorandum of Interview, (b) (6), (b) (7)(C), September 5, 2019
I. NARA 355-S1, Senior Executive Service Performance Management System Policy, March 8, 2017
J. Memorandum of Activity, 360 Review Email, September 17, 2019
K. Memorandum of Activity - Clearwell Review - PRB, October 4, 2019
L. Memorandum of Interview, (b) (6), (b) (7)(C), July 23, 2019
M. Memorandum of Activity - Notification of Potential Harassment or Retaliation, July 31, 2019
REPORT OF INVESTIGATION ADDENDUM

OFFICE OF INSPECTOR GENERAL
U. S. GENERAL SERVICES ADMINISTRATION
WARNING!

THE REPORT SHOULD BE SAFEGUARDED TO PREVENT IMPROPER DISCLOSURE AT ALL TIMES. THE INFORMATION CONTAINED IN THIS REPORT IS GOVERNED BY THE PRIVACY ACT, AND ANY DISCLOSURE MUST BE IN ACCORDANCE WITH THAT ACT. PERSONS DISCLOSING THIS INFORMATION PUBLICLY OR TO OTHERS NOT HAVING AN OFFICIAL NEED TO KNOW ARE SUBJECT TO POSSIBLE ADMINISTRATIVE, CIVIL, AND CRIMINAL PENALTIES.

AGENCY OFFICIALS WHO RECEIVE REQUESTS FOR THE REPORT FROM THE PUBLIC SHOULD REFER THE REQUESTOR TO THE OFFICE OF INSPECTOR GENERAL, OFFICE OF COUNSEL – FREEDOM OF INFORMATION ACT OFFICER.
BASIS FOR SUPPLEMENTAL ADDENDUM

On January 14, 2020, the Integrity Committee (IC) provided us with National Archives and Records Administration (NARA) Inspector General James Springs’s response to our draft Report of Investigation (ROI) (Exhibit A). In his response, Springs disagreed with our findings that he used government property to conduct business related to his outside-compensated position. Springs also discussed receiving approval for outside employment in 2019. This addendum presents our response to Springs’s comments regarding the draft ROI.

SUMMARY OF FINDINGS

Springs used government property to conduct business related to his outside compensated position, which is expressly prohibited by NARA policy. In addition, although Springs disclosed his outside employment in his financial disclosure forms, he did not obtain prior written approval for that employment as required by NARA policy.

DETAILS OF INVESTIGATION

USE OF GOVERNMENT PROPERTY

During a June 18, 2019 interview, Springs told GSA OIG agents that he received $65,000/year to fulfill the role of Treasurer at his church. Springs also stated that he performed pro bono work for his church that included providing financial and tax advice to members of his church. Springs indicated he used NARA resources, including NARA Information Technology (IT) equipment, his NARA email account, and his NARA OIG office in support of church-related tasks related to his treasury, deacon, and financial outreach ministries. See ROI Exhibit O, Memorandum of Interview, James Springs, June 18, 2019. As explained in further detail in the ROI, we identified records in Springs’s NARA email account and documents in Springs’s government network drive relating to his work as treasurer. See ROI, pages 10-11. These records included information concerning collections, donations and the expenditure of church funds.

We were mindful of the distinction Springs drew between his work as treasurer and his pro bono work. We based our conclusions that Springs violated NARA policy by using NARA IT equipment and resources in support of his outside employment on the description Springs provided us in the June 18, 2019 interview relating to his treasurer duties, a description that remains largely unchanged in his January 2020 response.

In his January 2020 reply, Springs stated, “one hundred percent of the annual $65,000 compensation I receive as Treasurer is given back to the church as a charitable contribution.” Springs did not disclose this information during our investigation; however, this new information does not affect our conclusions. Accordingly, based on the facts outlined above, we maintain that Springs misused NARA OIG office equipment in support of his outside employment as Treasurer of St. Paul Church.

OUTSIDE EMPLOYMENT

As explained in more detail in the ROI, we found that Springs requested approval in 2015 for his outside employment and disclosed the employment on his annual financial disclosure forms. However, he did not obtain prior approval to conduct outside employment as required by 5 C.F.R 7601.102 – Prior approval for outside employment activities, and NARA Admin.
Additionally, any approval would have expired after three years so even if the application Springs submitted in 2015 had been properly approved, it would have expired in 2018. He did not submit a renewal approval request until June 4, 2019, during the course of this investigation, and after NARA counsel requested that he submit one. In his January 2020 response, Springs stated, “On October 23, 2019, the Archivist signed approving my outside employment.” Springs’s clarification does not change our finding that he did not receive prior approval for outside employment during the period under review.

CONCLUSION

The new information provided by Springs does not change our investigative findings. Even after considering Springs’ response, our investigation finds that he used government property to conduct business related to his outside compensated position, which is expressly prohibited by NARA policy. We also find that, although Springs disclosed his outside employment in his financial disclosure forms, he did not obtain prior written approval for that employment as required by NARA policy.

PERMISSIBLE USE

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EXHIBITS

A. Springs response to GSA OIG’s Draft ROI
Exhibit A
January 7, 2020

The Honorable, Scott Dahl
Chairperson, CIGIE Integrity Committee
1717 H Street, N.W., Suite 825
Washington, DC  20006

Dear Mr. Dahl and CIGIE Integrity Committee:

RE Case 964

Thank you for an opportunity to review and respond to the Draft IC Report of Investigation emailed to me on November 6, 2019. I offer the following comments for your consideration, which speak specifically to two points raised in your summary on page 4 of the draft.

Springs used government property to conduct business related to his outside-compensated position

I am not in agreement with GSA OIG’s assessment that I used government property to conduct business related to my outside-compensated position. As I stated when interviewed I do pro bono work for my church and my community as borne out in the documents collected in appendix T. I do not receive any compensation for these activities and Church pro bono activities include but are not limited to financial and management analysis, some accounting, investment analysis, contract review, and research for identification of ways to improve church operations and utilize funds better so that the church can continue operations and meet its mission.

This work is vastly different from the estimated $\text{XXXX}$ paid per week (\text{YYYY} annually before taxes) for the Treasurer position. The Treasurer position requires me to (1) supervise and oversee counting of funds collected on Sunday and during the week when services occur, (2) deposit funds into the bank as quickly as possible for the immediate credit of the church, and (3) sign checks approved for payment of operational expenses.

Additionally, one hundred percent of the annual $\text{XXXX}$ compensation I receive as Treasurer is given back to the church as a charitable contribution.

Springs did not obtain prior written approval for outside employment

When I was notified by NGC during a review of my 278 documents on June 4, 2019 that I needed to file a renewal request form for outside employment, I initiated actions to submit the form and get it signed. On October 23, 2019, the Archivist signed approving my outside employment.

If I can help you further, please contact me at \text{(b) (6), (b) (7)(C)}. Thank you.
James Springs
Inspector General
National Archives and Records Administration
Enclosure 3
Dear Inspector General Springs,

The Integrity Committee (IC) thoroughly reviewed GSA OIG’s report and exhibits and made its initial findings. Given that the IC reached a different conclusion for two of the allegations, finding them to be substantiated by a preponderance of the evidence, we are giving you another opportunity to comment. Attached is the IC’s draft findings, which have been redacted to protect complainant and witness identities. While IC policy gives a respondent 10 business days to submit comments, the holiday season and the logistical challenges associated with COVID-19 militate for an extension. Therefore, the deadline for your comments is January 14, 2021. Any additional comments you provide will be included as an exhibit to the final report. Please let me know as soon as practicable if you wish to review the underlying exhibits again prior to submitting your response. You may submit your comments to the ROI or any questions you may have to me or the IC Working Group cc’d above. Please reply to this email to acknowledge receipt. Thank you!

Sincerely,

Council of the Inspectors General on Integrity and Efficiency
1717 H Street, NW, Suite 825
Washington DC 20006-3900

Main: 202-292-2600

This email may contain personal information or information that may be confidential and subject to the attorney-client privilege, work-product doctrine, or other applicable protection. If you are not the intended recipient of this email, you are prohibited from sharing, copying, or otherwise using or disclosing its contents.
Pages 69-117 are withheld pursuant to FOIA Exemptions b(5), b(6), and b(7)(C).
January 19, 2021

The Honorable Kevin Winters
Chairperson CIGIE Integrity Committee
1717 H Street, N.W., Suite 825
Washington, DC 20006

RE: Integrity Committee Case 964

Dear Mr. Winters and CIGIE Integrity Committee:

I am in receipt of the Integrity Committee’s draft letter dated December 17, 2020. I thank you for the opportunity to respond and offer comments to this letter. I would like to begin by stating that the initial allegations lodged against me and reported to you were done so by a disgruntled employee who accessed my office unlawfully, went through my desk and locked cabinets to unlawfully obtain records and information without my permission. The employee took this action because he believed that he was going to get a negative rating based on his performance. My concern is that the evidence you relied on to come to your conclusion based on a preponderance of evidence could contain evidence taken unlawfully from my office.

Based on your draft report I am responding using the preponderance of evidence standard that you are now using. Preponderance of the evidence is one type of evidentiary standard used in a burden of proof analysis. Under the preponderance standard, the burden of proof is met when the party with the burden convinces the fact finder that there is a greater than 50% chance that the claim is true.

You concluded in your draft letter by a preponderance of evidence that (1) I abused my authority and engaged in conduct that undermines the independence or integrity reasonable expected of an IG by using my office to perform private tax preparation services for which at least in one case I accepted compensation from a NARA employee and (2) I abused my authority by improperly using the government office time and equipment to carry out my private paid duties as a Church Treasurer.

Based on the qualitative standard used I disagree with your two conclusions and offer the following.

Concerning item one – abused of my authority and engaged in conduct that undermines the independence or integrity reasonable expected of an IG by using my office to perform private tax preparation services for which at least in one case I accepted compensation form a NARA employee.
Tax Assistance

The investigation did not find any evidence that I operated a tax business. Additionally, the investigation did not substantiate that my tax assistance to others constituted an “outside employment or business activity.”

None of the 20 witnesses interviewed commented or disclosed any issues with the IG not being available for meetings or derelict in performing any IG duties and responsibilities as a result of being too busy performing some tax service for someone.

According to the GSA Investigative Report, the investigators reviewed relevant agency documents including contents of my official email account for the time November 1, 2016 – August 28, 2018 and contents of my NARA network drive. Only four of 28,500 emails contained tax related information and only five files on my network drives contained tax related information indicating that tax assistance activities were extremely limited and not enough to affect my job as IG or my independance.

NARA Policy specifically authorized the limited personal use of office equipment and resources. NARA Policy 802.5 states, “NARA staff are authorized to use NARA office and IT equipment and resources when: […] Performing limited personal use during non-work time as long as the use does not interfere with official business or involve the inappropriate uses described in para. 802.6.”

Examples of authorized limited personal use provided in the NARA policy are:

a. Making a few photocopies using NARA-supplied paper (five pages or less on an infrequent basis) or by using employee-supplied paper;
b. Using a computer printer with NARA-supplied paper to print a few pages of material (five pages or less on an infrequent basis) or by using employee-supplied paper;
c. Making personal telephone calls;
d. Sending or receiving personal email messages;
e. Sending or receiving a personal fax (five pages or less on an infrequent basis);
f. Storing appropriate personal-use materials on your local drive (C:);
g. Using NARA office equipment in support of authorized and unpaid professional activities; or
h. Using the Internet for personal reasons.

The GSA investigators found insufficient evidence to conclude that my use of office equipment in support of tax assistance efforts to others exceeded the personal use authorized in NARA Policy 802.5. The GSA investigators found that I described making limited use of office equipment, such as the telephone and copier, for tax assistance, and the GSA investigators’ analysis of my email and network drive revealed a minimal number of tax-related documents. Ultimately, the investigators did not substantiate that I misused government property by assisting others with their taxes.

Tax service to a NARA employee

I provided tax help to an individual who is a long-term friend [D] (6), (D) (7)(C), which I have known for almost 20 years. This individual gave me $20 for the service. As I communicated to the GSA investigator, I did not ask for the anything. At the time, this individual was a GS grade-
The investigation did not substantiate that my assistance to this individual reflected an impairment to my independence or integrity. The GSA investigators found no evidence that the NARA OIG conducted any investigations in which involved the individual I assisted. The GSA investigators identified two audits involving the office that the individual works for. However, the individual was not interviewed in those matters. My AIGA is responsible for the audit function and performed those audits independent of efforts from me. I was not involved in the two audits identified and the individual was not even interviewed, as her role was insignificant to these audits. Additionally, I communicated to the GSA investigator that I have never tried to influence audit findings regarding NARA programs. Under these circumstances, the GSA investigators found insufficient evidence to conclude that my assistance to the individual “could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the OIG is not able to maintain independence in conducting its work.”

**Status of Tax Assistance**

The four email and five network files identified by GSA have been removed from NARA email and servers and all hard copy files removed from the agency. This was communicated to the GSA investigators.

Concerning item 2 – Abused by authority by improperly using government office time and equipment to carry out private paid duties as a Church Treasurer.

**GSA OIG’s assessment that I used government property to conduct business related to my outside-compensated position.** As I stated when interviewed by the GSA Investigators, I perform pro bono work for my church and my community as borne out in the documents collected in appendix T. I do not receive any compensation for these activities and Church pro bono activities include but are not limited to financial, budget and management analysis, some accounting, investment analysis, contract review, and research for identification of ways to improve church operations and utilize funds better so that the church can continue operations and meet its mission. I used NARA resources in line with NARA Policy 802.5, which specifically authorizes the limited personal use of office equipment, and resources. The GSA investigators identified 289 of 28,500 files, which related to my church pro bono activities from the period November 1, 2016 to August 28, 2018. This equates to less than one file per day and less than a quarter of all emails indicating that this activity was extremely limited. The pro bono work is vastly different from the estimated $ paid per week (annually before taxes) for the Treasurer position. The Treasurer position only requires me to (1) supervise and oversee counting of funds collected on Sunday at church and during the week when services occur, (2) deposit funds into the bank as quickly as possible for the immediate credit of the church, and (3) sign checks approved for payment of operational expenses. Almost all my duties must be conducted at the church. Additionally, one hundred percent of the annual compensation I receive as Treasurer is donated back to the church as a charitable contribution. I differ that a reasonable person would conclude that I abused my position and government resources to carryout these duties.
Status of Church Pro Bono activities

As of April 7, 2019, I have removed the 289 files identified by the GSA investigators to a private email account and Server, which I have acquired. Additionally I purchased and use a private phone and private email for interaction on pro bono activities and church business.

The IG did not obtain prior written approval for outside employment
As I communicated to you on 1/7/2020 this was an oversight. I believed that I had submitted and received the proper approvals for outside employment. When the NARA Office of General Counsel (NGC) notified me during a review of my Form 278 documents on June 4, 2019 that I needed to file a renewal request form for outside employment, I initiated actions to submit the form and get it signed. On October 23, 2019, the Archivist signed approving my outside employment. This was also communicated to the GSA investigators.

I have been in the IG community for 33 years and IG for almost six years. I have always tried to uphold the tenets of the IG act and my profession. It is my hope that the responses included here addresses your concerns. If you have any questions regarding this submission, please contact me at [b](6), (b) (7)(C).

Sincerely,

(b) (6)

James Springs
Inspector General
National Archives and Records Administration