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The Special Counsel

November 5, 2021

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-19-3713

Dear Mr. President:

I am forwarding to you reports transmitted to the Office of Special Counsel (OSC) by the General Services Administration (GSA) in response to disclosures of wrongdoing in GSA Region 6, Kansas City, Missouri, and Goodfellow Federal Center (Goodfellow), St. Louis, Missouri. I have reviewed the agency reports and, in accordance with 5 U.S.C. § 1213(e), provide the following summary of the report, whistleblower comments and my findings.¹

Mr. [REDACTED] [REDACTED] an Occupational Health and Safety Specialist, who consented to the release of his name, alleged that GSA Region 6 and Goodfellow officials placed employees at risk by failing to properly address serious environmental concerns at Goodfellow, including widespread, longstanding environmental contamination, improper storage of explosives, and inadequate environmental and fire protection and life safety programs. Mr. [REDACTED] alleged that GSA officials were aware of these ongoing safety concerns since at least 2002 but took little or no action to correct them.

The agency substantiated most of Mr. [REDACTED] allegations. The agency determined that since at least 2002, Region 6 and Goodfellow officials have been aware of environmental contamination from asbestos, lead, mercury, cadmium, radon, polychlorinated biphenyls, arsenic, and other toxic material, but took no substantial action to notify GSA employees or tenant agencies. In addition, FOH determined that officials' 2016 communications regarding the contamination were "overtly misleading" and part of a "pattern of suppressing or downplaying risks." The agency found that officials made no effort to restrict access to contaminated areas and did not promptly or effectively implement mitigation recommendations prior to 2016. According to the report this was part of a "significant pattern of ongoing, self-perpetuating management defects including a lack of oversight by and requirements/orders from the GSA central office, the site/region's deficient

¹The allegations were referred to former GSA Administrator Emily W. Murphy for investigation pursuant to 5 U.S.C. § 1213(c) and (d). GSA entered into an interagency agreement with the Department of Health and Human Services' Federal Occupational Health (FOH) agency to conduct the investigation. The GSA Office of the Inspector General also completed an implementation review of the agency's corrective actions. Former Administrator Murphy delegated authority to former Chief of Staff Robert Borden to review and sign GSA's initial report.

environmental management systems, their management culture and history of non-compliance, ‘group think,’ a disbelief/discounting of the opinions and recommendations of subject matter experts, absent or overtly misleading hazard communication and a poor performance incentive system”

The report also stated that Region 6 and Goodfellow officials failed to initiate corrective actions pursuant to federal regulations² within 30 days of receiving environmental reports identifying the contamination, including personal exposure monitoring, hazard assessments, and training, likely leading to timely use of controls including personal protective equipment and medical screening to monitor workers’ health over time. The agency further determined that officials did not monitor spaces for personal exposures, resulting in personnel working in known contaminated spaces without adequate knowledge of the hazards, safety training, personal protective equipment, or medical screening. Officials also failed to assess the impact of contamination on different categories of individuals—specifically, the agency found that testing in the childcare center was inadequate to fully evaluate the exposures and risks to children. The agency also substantiated that Goodfellow officials stored explosives in buildings that housed childcare centers but agreed with an Occupational Safety and Health Administration (OSHA) determination that they did not pose an undue safety risk. The agency noted that the explosives were brought on site without notice to occupational safety and health staff or evaluation of whether the storage of the explosives was incompatible with the other uses of the building. The agency determined that from 2002 to 2015, Region 6 officials did not effectively implement existing GSA policy on storage of explosives.

The agency further found that there was no significant improvement in the Region 6 fire and life safety programs from 2002 to 2015, despite documented, uncorrected non-conformance with fire and life safety code requirements. The agency identified other ongoing environmental and health safety conditions at Goodfellow, including uncorrected electrical vault safety concerns; buildings abandoned without significant remediation to prevent ongoing environmental and safety liabilities and future exposure to contaminants and unsafe conditions; incomplete site evaluation of spaces that contain air, water, surface, and soil contamination; uncharacterized exposures from non-ionizing radiation risks associated with building roof antennas; and potential undiscovered existing, long-term, or latent adverse health effects in employees, contractors, tenants, and children who attended childcare onsite, as well as secondary exposure of family members due to lack of decontamination requirements for onsite personnel.

Nevertheless, the agency did not find significant documentation of adverse health effects of GSA personnel. For example, Goodfellow OSHA logs from 2002 to 2009 recorded only one injury.³ However, the agency acknowledged that these results may be because only GSA employees are recorded in OSHA logs—contractors and tenants are recorded on their own employers’ logs—and chronic or acute health conditions due to contamination are not recorded in OSHA logs. Similarly, investigators did not find any documentation of

²29 CFR § 1960.34; 41 CFR § 102; 29 CFR § 1910.

³Logs were not available for 2009 to 2016.

environmental regulatory citations, fines, or clean-up orders from the Environmental Protection Agency or state or local regulators.

In response to OSC's request for additional information, the agency produced a supplemental report acknowledging that environmental surveillance completed at Goodfellow did not involve personal monitoring and that the limited medical surveillance data GSA was aware of provided no evidence of adverse health effects. The agency also noted that, although some medical testing had occurred at Goodfellow, GSA planned to reengage with FOH and the National Institute for Occupational Safety and Health (NIOSH) to see if either organization would recommend additional medical surveillance.

Despite these findings, the agency determined that it lacked sufficiently detailed evidence to recommend disciplinary action for specific individuals and focused its recommendations on ensuring current staff have the resources and responsibility to mitigate future hazards. Those recommendations included development of an OSHA and Safety Management training course for all employees in facilities management and the addition of a requirement in Region 6 performance plans regarding proper abatement of hazards, in alignment with regulatory requirements. In addition, the agency stated that it intended to designate Goodfellow as excess property and have most of its occupants relocated by the end of 2022. In preparation, the agency is working with appropriate state and federal agencies to identify potential hazardous substance remediation.

Mr. ██████ commented on both reports, expressing concern with the agency's findings. He opined that the environmental hazards at Goodfellow are part of a larger pattern of Region 6's disregard for federal safety regulations and that the lack of personal accountability for agency officials, despite information showing that they misled employees and tenants, and downplayed the severity of the contamination, creates a permissive culture for continuing violations. Mr. ██████ also expressed concern about accumulated exposure to contaminants prior to 2016 and the timing, reliability, and scope of testing. He highlighted the potential exposure of children and pregnant women to lead dust and the possibility of secondary exposure to employees' family members. He also stated that GSA officials have never made a concerted effort to determine if employees, contractors, tenants, or children suffered ill health because of their exposure at Goodfellow—including employees who left Goodfellow prior to 2016—and he implored officials to institute a claims process similar to those previously created at GSA's Bannister Federal Complex and Marine Corps Base Camp Lejeune. Mr. ██████ also highlighted the continuing safety hazards at Goodfellow, including 81 safety deficiencies that remained uncorrected at the time of his comments. He asserted that Region 6 was not in compliance with the requirements of the Federal Agency Safety Program⁴ and questioned the qualifications and experience of Region 6 management.

The agency confirmed to OSC in an update that it is implementing the recommendations in its report, including a series of environmental, health, safety, and fire risk management training courses developed by the Public Buildings Service (PBS) in Fiscal Year 2021, which hundreds of employees have already completed. PBS also expects to

⁴29 C.F.R. § 1960.

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implement a contractor-developed training on federal employee OSHA responsibilities by the end of 2021. PBS is also instituting a mandatory three-day course on successful stewardship for all facility managers and lease administration managers of federal facilities, with full compliance also expected by the end of 2021. The agency expects to add a critical element regarding hazard abatement to all Region 6 performance plans in November 2021. In addition, the agency has initiated discussions with FOH and NIOSH regarding the need for additional testing which, if determined necessary, would be completed in FY 2022.

I have reviewed the original disclosure, the agency reports, and Mr. [REDACTED] comments. The agency substantiated serious allegations of widespread environmental contamination at Goodfellow and acknowledged years of exposure by individuals to hazardous materials. The agency also substantiated that Region 6 and Goodfellow officials were aware of these conditions but downplayed the risk to employees, tenants, and contractors, and discounted expert guidance and advice, rather than take appropriate corrective action. As Mr. [REDACTED] expressed in his comments, the agency's failure to hold Region 6 and Goodfellow officials accountable for these failures is deeply concerning, particularly because many of the same individuals remain in positions of authority. The agency has, however, taken significant steps to prevent future oversight failures through extensive new training and the implementation of performance criteria to hold officials personally accountable for hazard abatement. I remain concerned about the long-term health effects on employees, tenants, and contractors at Goodfellow, particularly because the agency's determination in this area relies on its inability to produce health records reflecting illness, as opposed to records affirmatively showing that individual exposures did not result in illness. I strongly encourage the agency to coordinate with FOH and NIOSH to ensure that employees, tenants, and contractors receive appropriate screening, testing, and care. Nevertheless, in consideration of the agency's actions to correct these deficiencies, including the anticipated closure of the Goodfellow complex, I have determined that the report meets all statutory requirements and the findings of the report appear reasonable.

As required by 5 U.S.C. § 1213(e)(3), I have sent a copy of this letter, the agency reports, and the whistleblower comments to the Chairs and Ranking Members of the Senate Committee on Homeland Security and Governmental Affairs and House Committee on Transportation and Infrastructure. I have also filed redacted copies of these documents and the redacted § 1213(c) referral letter in our public file, which is available at www.osc.gov. This matter is now closed.

Respectfully,



Henry J. Kerner
Special Counsel

Enclosures