

W

May 26, 1999

TO: Distribution

FROM: W/Inspector General

SUBJECT: Undue or Improper Influence on the Selection of Contractor Personnel

The NASA Office of Inspector General (OIG) recently received several allegations regarding NASA officials unduly or improperly influencing the selection of contractor personnel.¹ Generally, these allegations involve NASA officials acting to exclude an individual from performing on a NASA contract. Such actions are sometimes referred to as “de facto debarment” or “blackballing.”² While we do not believe that this is a common practice at NASA, the OIG suspects that some incidents go unreported for fear of reprisal or loss of business.

The Agency’s reliance on contractors to support its mission is well established. Due to downsizing and retirement incentives, more former NASA civil servants are seeking employment as contractors. Therefore, it is important that NASA officials remain at arm’s length from the contractor hiring process. It is also important to refrain from actions which may create the *appearance* of improperly influencing contractor hiring decisions. The NASA Office of General Counsel fully supports these general principles.

¹ Exerting undue influence over the selection of contractor employees is distinct from the Agency’s approval process for “key personnel.” To assure that work is performed or managed by personnel with qualifications needed to assure output quality, service contracts may contain a “key personnel” clause committing the contractor to notify the Agency when assigning or changing key staff.

² Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch, §2635.101(b)(8) states, “Employees shall act impartially and not give preferential treatment to any private organization or individual.” The guidance also addresses the *appearance* of violating the standards; §2635.101(b)(14) states: “Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.”

We request that this memorandum be distributed widely to ensure that NASA employees are aware of these standards of conduct regarding NASA contract management. Any questions regarding this matter should be directed to Diane Frazier at (202) 358-0419 or David Cushing at (202) 358-2572, or to your installation's ethics counselor and/or other legal staff.

Original Signed By

Roberta L. Gross

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See Attached

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