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Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
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April 1, 2014

Mr. Todd J. Zinser
Inspector General
Office of Inspector General
Department of Commerce
1401 Constitution Avenue N.W.
Washington, DC 20230

Dear Mr. Zinser:

The Office of Special Counsel (OSC) recently completed a lengthy investigation regarding misconduct by your top legal advisor and the person in your office who you had placed in charge of whistleblower protection. The OSC report details a complete disregard for basic whistleblower protection laws by these senior officials. This conduct appears to have been a thinly veiled effort to intimidate whistleblowers into not reporting misconduct they had witnessed in your office to any of the legal authorities designed to receive such allegations, including Congress.

Frankly, this is an insult to the employees at the Office of Inspector General (OIG), the idea of fair play, and our whole system of checks and balances.

When senior managers in your office learned of protected activities, they took the extraordinary step of producing failing performance appraisals for the employees-in-question, and then threatened to place those appraisals in their permanent files. However, the employees were given the option of signing separation agreements that included a "non-disparagement" provision. To avoid having career threatening evaluations placed in their files, the employees were pushed into agreeing that they would not "disparage the Agency in any communication to any person or entity, including but not limited to Members of Congress and their staff, the Office of Special Counsel, and the media." Performance evaluations should be based on merit and facts, not used as a retaliatory tool or as leverage to force any action by an employee. It is inexcusable that your senior-most experts in law and whistleblowing protection would resort to such tactics.

We are concerned that the mistreatment and intimidation of potential whistleblowers is emblematic of a culture which has taken hold at the Commerce OIG. As the IG, it is your responsibility to be aware of the activities in your office and to hold your management team to the highest standards. It is your office that is supposed to be a safe-harbor for whistleblowers throughout the Department. That whistleblowers in your own office have been treated in the manner documented by OSC strongly suggests you have not created a culture of respect, trust and safety that would empower whistleblowers to come forward. And your failure to take significant steps to remove personnel who have engaged in such egregious conduct signals your complicity with the actions of your senior-most staff.

As lawmakers and defenders of taxpayer dollars, we fully understand the importance of whistleblowing in shedding light on mismanagement of executive branch agencies and functions. Congress has made it a priority to protect whistleblowers from retaliation and intimidation, carving out a special role for Inspectors General to provide a safe haven for whistleblowers as well as expecting significant matters to be reported to the Congress. We find the actions taken by your office in response to the OSC report to be entirely insufficient and contemptuous.

Instead of parsing the law to defend your senior officials from the detailed and well-documented OSC report and recommendations, we believe this issue requires your direct attention, including the immediate termination of the two officials responsible for the whistleblower retaliation documented by the Office of Special Counsel. You also owe this Committee an explanation for the dismissive attitude you have taken towards the OSC's findings.

Please respond to this letter by April 15, 2014, detailing the personnel changes your office has made as a result of the OSC findings, and explaining your own actions in support of senior level officials found by OSC to have engaged in prohibited personnel practices.

Sincerely,

Rep. Paul Broun, M.D.
Chairman
Subcommittee on Oversight

Rep. Dan Maffei
Ranking Member
Subcommittee on Oversight

Rep. F. James Sensenbrenner, Jr.
Subcommittee on Oversight

Rep. Eric Swalwell
Subcommittee on Oversight

Rep. Bill Posey
Subcommittee on Oversight

Rep. Scott Peters
Subcommittee on Oversight

Rep. Kevin Cramer
Subcommittee on Oversight

cc: The Honorable Beth Cobert, Executive Chair,
Council of the Inspectors General on Integrity and Efficiency (CIGIE)
cc: The Honorable Penny Pritzker, Secretary,
U.S. Department of Commerce
cc: The Honorable Carolyn Lerner, Special Counsel,
Office of Special Counsel