



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

MANAGEMENT ADVISORY MEMORANDUM

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Recommendation Regarding Lack of
Department of Justice Process for Promotion
of White House Liaison

OVERSIGHT AND REVIEW DIVISION



DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

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Management Advisory Memorandum:

Memorandum For: Lee J. Lofthus
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Justice Management Division

From: Michael E. Horowitz
Inspector General

Subject: Recommendation Regarding Lack of Department of Justice Process for Promotion of
White House Liaison

The Office of the Inspector General (OIG) identified several areas in the Justice Management Division's (JMD) promotions process for the position of Department of Justice (DOJ) White House Liaison that we believe would be improved with greater clarity. The DOJ White House Liaison is a position within the Office of the Attorney General and is responsible for, among other things, managing non-career appointments for DOJ on behalf of the Attorney General and the Attorney General's Chief of Staff by coordinating among DOJ, the White House Presidential Personnel Office (PPO), and the Office of Personnel Management (OPM). Certain non-career positions known as Schedule C appointments, are defined as "positions which are policy-determining or which involve a close and confidential working relationship with the head of an agency or other key appointed officials." 5 C.F.R. § 213.3301(a). These positions are exempted from competitive service rules given their responsibility for determining agency policy or their confidential character, and the occupants of these positions "serve[] at the pleasure" of their agency heads.¹ Schedule C positions are typically paid at a General Schedule (GS) 15 level salary or below. The White House Liaison position is often a Schedule C employee.

The Issue

According to OPM, agencies have the flexibility to determine how to handle promotions for Schedule C employees. We learned that there are several differences between non-career Schedule C appointments and career positions with respect to promotions and pay increases. Most significant here is that, unlike most career positions, Schedule C positions do not have a career ladder. Because a career employee has a career ladder, that employee may move to higher paygrades (or GS levels) within a single position. The range of paygrades/promotional opportunity is identified in the career employee's position description. However, a Schedule C position does not have a career ladder and therefore does not have promotional opportunities within a single position. Thus, in order for a Schedule C appointee to be promoted to a higher paygrade, the individual must be appointed to an entirely new position (and obtain the requisite

¹ See 5 C.F.R. § 213.3301(a); OPM Presidential Transition Guide to Federal Human Resources Management Matters Election Year 2020, www.opm.gov/about-us/our-people-organization/office-of-the-director/executive-secretariat/presidential-transition-guide-2020.pdf (accessed May 12, 2021), 7.

DOJ, PPO, and OPM approvals). The DOJ White House Liaison helps to manage the appointment process for DOJ Schedule C employees.

JMD's Executive Resources Team prepares several documents for Schedule C appointments that must be reviewed and signed by DOJ approving authorities. JMD provides the prepared paperwork to the White House Liaison, who in turn circulates the paperwork to the relevant DOJ component head for approval and signature. One of the forms prepared by the Executive Resources Team is the "Request for Schedule C Appointing Authority," or Form 1019, which requires the signatures of the White House Liaison and Attorney General. After all of the paperwork prepared by the Executive Resources Team has been executed, including the White House Liaison's signature on the Form 1019, a hard copy of the appointment package is brought to the Attorney General's Confidential Assistant to sign on behalf of the Attorney General. In the case of the White House Liaison, the Attorney General is also the component head so the Attorney General's Confidential Assistant signs all required documentation on his behalf. Once the signatures are obtained, the White House Liaison emails the entire Schedule C package to the PPO and the White House Counsel's Office (WHCO) for review and approval. The White House Liaison also sends the executed Schedule C package to JMD's Executive Resources Team to forward to OPM, which signs and approves the appointment after it has been cleared by the PPO and WHCO. OPM then emails the signed Form 1019 back to the White House Liaison and the JMD Executive Resources Team. No promotions, reassignments, or title changes are effective and final until signed and approved by OPM.

The OIG found that DOJ's process for promotions of non-career appointees does not sufficiently address the manner in which the White House Liaison's own promotion should be managed, including who should be responsible for, among other things, signing the Form 1019 in place of the White House Liaison. We found that although some JMD staff have recognized these issues, the absence of applicable policy or process for a White House Liaison's promotion may result in a lack of deliberate discussion and action among JMD managers, up to and including the Deputy Assistant Attorney General who oversees the Human Resources staff, regarding a White House Liaison's own promotion action. The absence of such a policy or protocol creates a risk that a White House Liaison could shepherd his or her own promotion through the appointment process and obtain a promotion and pay raise that had not been approved by the Attorney General or the Attorney General's Chief of Staff.

Conclusion and Recommendation

By addressing the lack of a policy or process that applies to a White House Liaison's own promotion, JMD will help OAG staff avoid the potential ethical and legal issues that could arise when an individual has an inappropriate role in his or her own promotion. We therefore recommend:

1. JMD consider developing protocols for White House Liaison promotions that specify who should sign the Form 1019 in the place of the White House Liaison; ensure the personnel action is properly authorized; and establish when, or whether, the White House Liaison should be recused from the process.

Please advise us within 60 days of the date of this memorandum on what actions JMD has taken or intends to take with regard to the issue we identified. If you have any questions, please contact Assistant Inspector General Sean O'Neill at (202) 514-9539.

cc: Arthur E. Gary
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