

# Acronym List

## ACRONYM LIST

AMC	U.S. Army Materiel Command
AMCOM	Aviation and Missile Life Cycle Management Command
AR	Army Regulation
AUSA	Assistant U.S. Attorney
CID	U.S. Army Criminal Investigation Command
COL	Colonel
DC	Digitized Cell
DCAA	Defense Contract Audit Agency
DFARS	Defense Federal Acquisition Regulation Supplement
EBC	Embedded Battlefield Command
DAMPL	Department of the Army Master Priority List
DCMA	Defense Contract Management Agency
ECP	Engineering Change Proposal
FAR	Federal Acquisition Regulation
FCS	Fire Control System
FFP	Firm-Fixed-Price
FMS	Foreign Military Sales
GPLR	Government Purpose License Rights
HIMARS	High Mobility Artillery Rocket System
IES	Industrial Engineering Services
IETM	Interactive Electronic Technical Manuals
IFCS	Improved Fire Control System
IO	Investigating Officer
LCRRPR	Low Cost Reduced Range Practice Rocket
LCRRTR	Low Cost Reduced Range Training Rocket
LDS	Launcher Drive System
LMS	Launcher Mechanical System
LRIP	Low Rate Initial Production
MFR	Memorandum for Record
MLRS	Multiple Launch Rocket System
OGC	Office of the General Counsel, Army
OMA	Operations and Maintenance, Army
OSC	Office of Special Counsel
PA	Procurement Appropriation
PARC	Principal Assistant for Contracting
PEO MS	Program Executive Office for Missiles and Space
PFRMS	Precision Fire Rockets and Missile Systems
RDTE, A	Research, Development, Test and Evaluation, Army
RRPR	Reduced Range Practice Rocket
RRTR	Reduced Range Training Rocket
S&HDS	Safety & Health Data Sheet
SA	Special Agent
SAR	Safety Assessment Report
SOW	Statement of Work
SRRE	Safety Risk Reduction Effort
TDL	Technical Direction Letter
TDP	Technical Data Package
VECP	Value Engineering Change Proposal
USC	United States Code

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- 28 Excerpt, IES Contract No. DAAH01-98-C-0157, Listing of Contract Clauses incorporated by reference, noting that DFARS 252.227-7013 (Nov 1995), *Rights in Technical Data and Computer Software* was incorporated at Clause I-99 of the contract [Tab 28A]
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- 47 TDL #2, issued against IES Contract No.  
DAAH01-98-C-0157
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- 53 Statement of [REDACTED], dated July 7, 2008
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- 61 Excerpts, Modification P000113 to Contract No. DAAH01-92-C-0432, dated October 26, 1998 [Tab 61A], with Attachment 005, IFCS Contract Closeout Tasks, dated October 13, 1998 [Tab 61B].
- 62 FAR 46.407, *Nonconforming Supplies or Services*
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- 64 Military Standard 882 (MIL-STD-882), *Department of Defense, Standard Practice for System Safety*, dated 10 February 2000
- 65 Excerpts, AR 700-142, *Type Classification, Materiel Release, Fielding, and Transfer*, dated 16 October 2008
- 66 Email from [REDACTED], dated September 21, 2000, forwarded by [REDACTED] describing incident of "uncommanded cage movement" during production-related testing at Lockheed Martin's Camden, Arkansas plant
- 67 M270A1 Safety Bulletin, *M270A1 Operational Recommendations for Personnel Safety*, published by Lockheed Martin in or around September 2000
- 68 Lockheed Martin Letter from [REDACTED], Lockheed Martin Financial Manager, to [REDACTED], Chief of the MLRS Division of the Acquisition Center, AMCOM, subject: *Contract DAAH01-98-C-0198, M270A1 Launcher Upgrade-LRIP 1&2 Launcher Sales*, dated November 20, 2000
- 69 AMCOM Letter from [REDACTED], Contracting Officer for the MLRS Division of the AMCOM Acquisition Center, to [REDACTED], Lockheed Martin's MLRS Production Contracts Manager, dated November 29, 2000
- 70 Excerpts, DD Form 1423, *Contract Data Requirements List*, dated June 23, 2000 [Tab 70A] and Excerpt, SOW, Contract No. DAAH01-00-C-0109 [Tab 70B]
- 71 Email from [REDACTED] to [REDACTED], dated May 24, 2001

- 72 MFR documenting the interview of [REDACTED] [REDACTED] dated June 30, 2008 [Tab 72A] and AMCOM Project Office Memorandum for MLRS Contracting Office, subject: *M270A1 Delivery Issues*, dated March 18, 2003, signed by then [REDACTED] in his role as Project Manager [Tab 72B]
- 73 Email from [REDACTED] to [REDACTED] dated June 30, 2008
- 74 MFR documenting [REDACTED] meeting with PFRMS Project Office regarding AR 15-6 investigation, dated July 11, 2008
- 75 Excerpts, *MLRS M270A1 Safety Risk Reduction Effort, Final Report*, dated January 31, 2002
- 76 Excerpt, MIL-PRF-35500, Revision A, paragraph 3.2.10.2. of which prohibits "single-point failures" in the M270A1 launcher
- 77 AMCOM Safety Office, *M270A1 Safety Assessment/Safety and Health Data Sheet (S&HDS) in Support of a Milestone III Decision*, dated January 31, 2002
- 78 MLRS Project Office Letter from [REDACTED] [REDACTED] Product Manager, Improved Launcher, to [REDACTED] [REDACTED] Lockheed Martin, dated January 24, 2002
- 79 Commanding General's Determination, Conditional Materiel Release and Training Materiel Release of the M270A1 Launcher, executed by [REDACTED] February 2002
- 80 MLRS Maintenance Information Bulletin (MIB) #02001, subject: *Safety Bulletin for M270A1*, issued in or around February 2002
- 81 *M270A1 Launcher System Safety Risk Assessment, Un-Commanded Movement of the Launcher Lode Module (LLM) Cage* [Tab 81A], with endorsements of the MLRS Project Office and the AMCOM Safety Office on May 19, 2003, the Commanding General of AMCOM on June 20, 2003, and the PEO on June 26, 2003 [Tab 81B]

- 82 AMCOM Safety Office Memorandum, subject: *M270A1 Safety Assessment/Safety and Health Data Sheet (S&HDS)*, dated August 27, 2003
- 83 M270A1-MLRS Program Action Item 573 and associated M270A1 LRIP II Hazard Controls Matrix, Table 1-1, *Risk Acceptance Criteria*, and Table 1-2, *Hazard Risks and Control Types*
- 84 Email from [REDACTED] to [REDACTED] dated November 22, 2002
- 85 AMCOM Acquisition Center, MLRS Contracting Office Letter to [REDACTED] Lockheed Martin, dated February 12, 2003
- 86 AMCOM Safety Office Memorandum, subject: *M270A1 Delivery Issues*, dated March 13, 2003
- 87 AMCOM Acquisition Center, MLRS Contracting Office Letter to [REDACTED] Lockheed Martin, dated March 20, 2003
- 88 Lockheed Martin Letter from [REDACTED] Financial Manager, Fire Support Programs, to [REDACTED] MLRS Contracting Officer, subject: *Contract DAAH01-00-C-0109, M270A1 LRIP III; Compliance with Contract Terms and Conditions*, dated April 4, 2003
- 89 AMCOM Acquisition Center Memorandum to [REDACTED] [REDACTED] Administrative Contracting Officer, Defense Contract Management Agency, subject: *Contract DAAH01-00-C-0109, M270A1—Resumption of Delivery of M270A1 Launchers*, dated June 26, 2003
- 90 AMCOM MLRS Project Office Letter from [REDACTED] [REDACTED] Product Manager, Field Artillery Launchers, to [REDACTED] Lockheed Martin, dated March 2, 2004
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- 93 Summaries of CID Interviews at Fort Sill, Oklahoma on June 27, 2006
- 94 Slide, *Support to the Warfighter OIF/OEF, MLRS Rockets* [Tab 94A] and Slide, *M270A1 Field Reliability* [Tab 94B]
- 95 Email from [REDACTED] Financial Manager, Fire Support, responding to [REDACTED] Chief of the PEO Tactical Missile PEO Support Directorate, Acquisition Center, dated May 30, 2001
- 96 Second Declaration of [REDACTED] dated August 11, 2008
- 97 AMCOM Acquisition Center Letter from [REDACTED] Chief, MLRS Services Division, to [REDACTED] Lockheed Martin, dated January 28, 2008
- 98 MFR documenting the interview of [REDACTED] dated November 4, 2008
- 99 Email exchange between [REDACTED] and [REDACTED] [REDACTED], documenting their conversation of October 19, 2008
- 100 Email exchange between [REDACTED] and [REDACTED] [REDACTED], dated October 3/7, 2008
- 101 MFR documenting the interview of [REDACTED] [REDACTED], dated November 3, 2008

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TAB 1



SECRETARY OF THE ARMY  
WASHINGTON

FEB 01 2008

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY  
(MANPOWER AND RESERVE AFFAIRS)

SUBJECT: Delegation of Authority Under Title 5, Sections 1213 (c) and (d)

In accordance with Title 10, United States Code, section 3013(f), I hereby delegate to you certain authority conferred upon me as agency head under Title 5, United States Code, section 1213. Specifically you are authorized to review, sign and submit written reports of investigations of information and related matters transmitted to the Department of the Army by The Special Counsel, in accordance with Title 5, United States Code, sections 1213(c) and (d). The authority delegated herein may not be further delegated.

This delegation shall remain in effect for three years from the date of its execution, unless earlier rescinded in writing by me.

A handwritten signature in black ink, appearing to read "Pete Geren", is positioned above the printed name.

Pete Geren

CF: General Counsel



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TAB 2



U.S. OFFICE OF SPECIAL COUNSEL

1740 M Street, N.W., Suite 300  
Washington, D.C. 20036-4507

www.osc.gov

The Special Counsel

August 20, 2003

The Honorable Les Brownlee  
Acting Secretary of the Army  
102 Army Pentagon  
Washington, D.C. 20310-0102

Re: OSC File No. DI-00-1499

Dear Mr. Brownlee:

The U.S. Office of Special Counsel is authorized by law to receive disclosures of information from federal employees alleging violations of law, rule, or regulation, gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 U.S.C. § 1213(a) and (b). As Special Counsel, if I find, on the basis of the information disclosed, that there is a substantial likelihood that one of these conditions exists, I am required to advise the appropriate agency head of my findings, and the agency head is required to conduct an investigation of the allegations and prepare a report. 5 U.S.C. § 1213(e) and (g).

For the reasons set forth below, I have concluded that there is a substantial likelihood that information provided to the Office of Special Counsel by Clarence Daniels, Contract Specialist, discloses violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety arising out of actions by employees at the Department of the Army, Aviation and Missile Command (AMCOM), Multiple Launch Rocket System (MLRS) Program Office, Tactical Missiles, Redstone Arsenal, Huntsville, Alabama. Accordingly, I am referring this information to you for an investigation of the allegations described below and a report of your findings within 60 days of your receipt of this letter.

The Information Disclosed

As noted, the relevant information was provided to the Office of Special Counsel by Clarence Daniels, a Contract Specialist in the Program Executive Office, Tactical Missiles, MLRS Division, AMCOM, who has consented to the release of his name. He has worked as a contract specialist for AMCOM for 26 years. Mr. Daniels alleges government employees assigned to monitor and oversee the government's MLRS M270 and M270A1 contracts with Lockheed Martin Missile and Fire Control (Lockheed Martin), Dallas, Texas have allowed the

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contractor to engage in a wide range of improper contracting practices.<sup>1</sup> He contends that these contracting improprieties violate applicable acquisition regulations, have resulted in a significant monetary loss to the government, and have created a substantial and specific danger to public safety. Mr. Daniels's allegations are described in greater detail below.

In 1989, the Army entered into a multi-million dollar procurement contract with Lockheed Martin to purchase MLRS M270 launchers and, later, M270A1 launchers. Before November 1997, Mr. Daniels was one of the contract specialists who worked in what was then designated "Section A" of the Acquisition Office. Mr. Daniels and other Section A contract specialists negotiated and administered the production portion of the MLRS contract designated as Low Rate Production Contract DAAH01-98-C-0138. Mr. Daniels advises that the production contract was a fixed-price contract.<sup>2</sup> A second portion of the contract, the Industrial Engineering Services (IES) contract, DAAH01-98-C-0157, was handled by contract specialists in Section B of the Acquisition Office. Rather than having a fixed price, the IES contract provided for payment on a cost-type basis.<sup>3</sup>

In November 1997, Sections A and B of the Acquisition Office were consolidated into one unit. After this occurred, Mr. Daniels worked on the engineering services portion of the contract, including approximately six months when he worked as the contracting officer for this contract. Mr. Daniels was transferred to a different contract in October 2000. Although Mr. Daniels is no longer assigned to the MLRS contract, he continues to review documents associated with the contract and to provide advice and assistance to the current contracting officer, [REDACTED], who works in the same office as Mr. Daniels. In addition, due to Mr. Daniels's many years of experience on this contract, he is actively involved in assisting the Defense Contract Management Agency (DCMA) auditors and U.S. Army Criminal Investigation Command investigators who are presently reviewing various aspects of the MLRS acquisition contracts.

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<sup>1</sup> The contract describes the MLRS as a "non-nuclear, all-weather, indirect area fire weapon system" that "provides a high rate of fire, as well as a high volume of fire, and is adaptable to future munitions technology." It is capable of loading and firing as many as 12 surface-to-surface artillery rockets or missiles. The M270A1 is an upgraded version of the M270 Launcher.

<sup>2</sup> Put simply, fixed-price contracts, as the term suggests, provide for a firm price. Thus, under this type of contract, the contractor bears the risk of absorbing any unanticipated costs that may arise during performance.

<sup>3</sup> A cost-type contract allows a contractor to be reimbursed on the basis of costs incurred, provided that the contractor puts forth its "best efforts."

I. Unauthorized Technical Direction Letters

Mr. Daniels alleges that, after he was transferred to the engineering services portion of the contract, he learned, during a contract negotiation session with Lockheed Martin in 1998, that certain services already included in the production contract, were subsequently charged under the engineering services contract as well, amounting to double billing.<sup>4</sup> According to Mr. Daniels, it appeared that whenever Lockheed Martin encountered difficulty meeting a term under the fixed-price production contract and, consequently, accrued additional expenses, the Program Office simply permitted Lockheed Martin to charge these expenses to the cost-type IES contract, thereby enabling Lockheed Martin to be reimbursed.<sup>5</sup> Because these items were already included within the fixed price of the production contract, however, Mr. Daniels maintains that Lockheed Martin was ineligible for reimbursement of these additional costs.

Mr. Daniels explains that one of the primary means whereby the Program Office improperly granted Lockheed Martin additional funding was through issuing unauthorized Technical Direction Letters (TDLs).<sup>6</sup> Mr. Daniels explains that the usual and proper purpose of a TDL is to outline the technical work to be performed under the contract in greater detail. Mr. Daniels states that, instead, the Program Office issued several TDLs under the IES contract for production-related tasks that were already included in the price of the production contract. Hence, the Program Office improperly authorized Lockheed Martin to be paid twice for these production tasks.

Similarly, Mr. Daniels also discovered that the Program Office approved certain TDLs for research and development-related tasks, which the government had already funded under the M270A1 research and development contracts: Engineering and Manufacturing Development Contracts DAAH01-92-C-0432 (IFCS EMD) and DAAH01-95-C-0329 (ILMS EMD). Mr. Daniels advises that the research and development contracts initially were cost-

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<sup>4</sup> Mr. Daniels explains that this situation was not discovered sooner because, prior to consolidation of the two sections of the Acquisition Office, the contract specialists were not exposed to both sides of the procurement. In other words, individual contract specialists were familiar with either the production contract or the engineering services contract, and they rarely had the opportunity, or the need, to review documents associated with the other contract.

<sup>5</sup> Mr. Daniels explains the relationship between the MLRS Program Office and the Acquisition Office in the following terms: "the Program Office ascertains the military's launcher needs and requirements from officers in the field, communicates these requirements to the Acquisition Office, and provides the funding to procure the launchers; the Acquisition Office, in turn, procures the launchers from the contractor and ensures that the terms of the contract are met. The Program Office is also commonly referred to as "the Project Manager's Office."

<sup>6</sup> Mr. Daniels has also alleged that the Program Office improperly utilized Engineering Change Proposals in a similar manner. This issue is currently being investigated by the U.S. Army Criminal Investigation Command, Major Procurement Fraud Unit.

type contracts; however, because Lockheed Martin incurred too many expenses and delivered poor performance under these contracts, the government eventually imposed a funding cap. Thus, Mr. Daniels alleges that, by charging the research and development work to the engineering services contract via TDLs, the Program Office attempted to circumvent the funding cap placed on the contractor's research and development services.

According to Mr. Daniels, not only do these improper TDLs constitute double billing, but many of them also fall outside of the scope of the IES contract, under which they were issued. Mr. Daniels maintains that the IES contract expressly excludes production-related tasks, research and development tasks, and any other tasks already included in other contracts. Mr. Daniels relates that he first realized that these TDLs were outside of the scope of the contract when the Program Office submitted several of them to the Acquisition Office for approval. Mr. Daniels states that, at that time, he personally rejected several of the TDLs on the grounds that they were out-of-scope. Later, when reviewing documents associated with the contract, Mr. Daniels discovered that, after this occurred, the Program Office continued to authorize TDLs, but simply stopped seeking approval from the Acquisition Office. Mr. Daniels states that he informed his then-supervisor, [REDACTED] former Chief, MLRS Contracting Division, about what he had uncovered. She failed, however, to report the problem or take any other action to remedy the situation.

Mr. Daniels states that the TDLs improperly issued under the engineering services contract for production work and research and development work include, among others, TDL TR-99-001A (revision B), TDL LM-98-03, TDL IL-99-01, TDL PT-P-99-020, TDL LO-99-05. Mr. Daniels advises that these improper TDLs were signed by four individuals in the Program Office, including [REDACTED] former MLRS Project Manager.<sup>7</sup> Mr. Daniels estimates that these TDLs have afforded Lockheed Martin over \$2 million in additional, unauthorized funding.

## 2. Reimbursement for Voluntary Value Engineering Concepts

Mr. Daniels further alleges that the Program Office permitted Lockheed Martin to charge the government for voluntary value engineering costs under the Reduced Range Practice Rocket (RRPR) and the Low Cost Reduced Range Practice Rocket (LCRRPR) IES contracts. Mr. Daniels explains that the RRPR and LCRRPR were developed, solely at government expense, under IES contracts DAAH01-92-C0243, DAAH01-96-C-0295, DAAH01-98-C-0157 and DAAH01-C01-0141. These contracts did not authorize Lockheed Martin to charge the government for any additional costs incurred for Value Engineering Change Proposals

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<sup>7</sup> Mr. Daniels states that he is uncertain about the identities of the other three individuals because he is unable to decipher their names from their signatures on the TDLs.

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(VECPs) (also known as "value engineering concepts").<sup>5</sup> Rather, the contracts provided that any value engineering costs incurred by the contractor would be strictly voluntary, and, therefore, would be borne by the contractor, pursuant to section 52.248-1 of the Federal Acquisition Regulations (FAR).

Mr. Daniels contends that, despite the contract's prohibition against VECP reimbursement, Lockheed Martin nevertheless charged the government for VECPs by mischaracterizing them as Engineering Change Proposals (ECPs), which are reimbursable under the contract. Mr. Daniels alleges that the Program Office has reimbursed Lockheed Martin for unauthorized VECPs in the total amount of over \$33 million. The contract provisions under which these costs were improperly charged include, but are not limited to, the following: modification P00241 to contract DAAH01-89-C-0336; TDL number TR-99-001A, Revision B to IES contract DAAH01-98-C-0157 (in the amount of \$85,460.10); RRPR VECP nos. MI-C1450, MI-C-1658V, MI-C1397 and MI-C1352R1, and LCRRPR ECP no. MI-M9041.

Mr. Daniels also alleges that, pursuant to Part 27 of the FAR and sections 227.7103 and 252.227-7013 of the Defense Federal Acquisition Regulations (DFARS), the government should retain "unlimited rights" to these value engineering concepts, as they constitute proprietary information that was paid for exclusively with government funds. Nevertheless, Mr. Daniels alleges that the government has not acquired any proprietary rights to the design concepts and technical data contained therein. Mr. Daniels alleges that, instead, the Program Office has repeatedly allowed Lockheed Martin to assert that the RRPR and LCRRPR technical data packages – with the exception of the warhead technical data package, which is classified – were developed at private expense. As a result, Lockheed Martin has demanded and received from the government a production royalty payment of \$5000 per rocket pod delivered. By way of example, Mr. Daniels alleges that, in January 1996, the government approved future royalty payments to Lockheed Martin of \$393,400 via modification P00260 to contract DAAH01-89-C-0336. Other documents approved by the Program Office wherein Lockheed Martin improperly asserted proprietary rights include, among others: modification P00241 to contract DAAH01-89-C-0336, ECPs MI-C1973FR0A0 and MI-M9041, and specifications MIS-35095/19 and MIS-35094/19 to contract DAAH01-C-01-0141.

### 3. Acceptance of Nonconforming M270A1 Launchers

Mr. Daniels alleges that, under production contract DAAH01-98-C-0138, the Program Office accepted, paid for, and deployed over fifty M270A1 launchers that did not satisfy several of the contract's performance specifications. Among the unmet performance

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<sup>5</sup> Mr. Daniels explains that "value engineering concepts" are research concepts designed to save the government money by increasing efficiency and reducing the overall costs of production.

specifications were several critical safety requirements. Mr. Daniels explains that delivery of the first M270A1 launchers began in 2000. When Lockheed Martin refused to perform a Safety Assessment of the missiles at that time, as required under the contract, the government hired an independent contractor to perform this task. The independent contractor issued a Safety Assessment Report in 2000, finding that the launchers did not meet several of the critical safety-related performance specifications set forth in the contract. This report was reviewed by both the Program Office, which at the time was headed by [REDACTED] and the Safety Office, which advises the Program Office on safety matters. In addition, several members of the Program Office, including [REDACTED] attended a briefing conducted by Lockheed Martin in November 2000, at which time Lockheed Martin informed the Program Office of critical safety deficiencies they had discovered in the launchers, including "uncommanded launcher cage movement." Mr. Daniels states that Lockheed Martin representatives were so concerned about these safety issues at that time that they proposed halting delivery of the launchers. Mr. Daniels relates that, notwithstanding the contractor's reservations, the Program Office authorized the contractor to resume delivery of the unsafe M270A1 launchers.

According to Mr. Daniels, the Program Office failed to notify the Acquisition Office that the launchers did not comply with the requirements of the contract until approximately two years had elapsed. In fact, he claims that Contracting Officer [REDACTED] the primary official responsible for ensuring that all terms of the contract are satisfied and the official who has the power to stop acceptance of the launchers, was not informed of the existence of the independent Safety Assessment Report, nor of its findings, until she attended a meeting on April 3, 2002, where the report was discussed.

Mr. Daniels states that, upon learning of the launchers' safety defects, [REDACTED] promptly advised the Program Office that the government should seek corrective action prior to accepting any more launchers. Contrary to her advice, however, the Program Office did not halt delivery of new launchers at that time. Instead, the Program Office decided to establish an independent government team to perform a Safety Risk Reduction Effort in order to identify the specific safety hazard reduction needs of the launcher. Based on this assessment, the Program Office and Lockheed Martin developed and agreed to a "Get-Well Plan" intended to correct the identified safety hazards over an extended period of time, in an effort to avoid delaying the delivery schedule. According to Mr. Daniels, the Safety Office concurred with this approach, and granted a "conditional safety release" of the launchers. The conditional release allowed the government to accept the launchers, contingent upon Lockheed Martin

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<sup>10</sup> According to Mr. Daniels, "uncommanded launcher cage movement" refers to a defect in the MLRS software, whereby the missile independently takes aim, and possibly fires, at a target without being commanded to do so. Because the M270A1 reaches its aim point and fires in a fraction of the time required by the M270, Mr. Daniels advises that, if a missile misfires during combat, soldiers will have very little time to escape from its path.



The Special Counsel

The Honorable Les Brownlee

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resolving the deficiencies within two years. Mr. Daniels advises that several launchers have already been accepted under this agreement and have since been deployed to the field.

Mr. Daniels relates that, subsequent to implementation of the conditional agreement, Lockheed Martin presented the government with its own safety assessment in October 2002. The Lockheed Martin Safety Assessment reported safety deficiencies in the launchers that were deemed much more serious than those previously reported in the independent Safety Assessment Report. These hazards included some regarded as "catastrophic" in nature by the Safety Office. The "catastrophic hazards" identified in the report include "uncommanded launcher cage movement" and the inadvertent firing of missiles. In light of the new information, the Safety Office concluded that the M270A1 launchers are not compliant with requirements set forth in Paragraph 3.2.10.2 of MIL-PRF-35500.

Based on the information contained in the new Safety Assessment Report, [REDACTED] instructed DCMA to halt acceptance and delivery of the launchers, by letter dated April 11, 2003. By letter of April 23, 2003, [REDACTED] Administrative Contracting Officer, DCMA Lockheed Martin, Dallas, Texas, informed Lockheed Martin that DCMA would not accept any more launchers because "DCMA believes the launcher does not meet all terms of the contract." Even though delivery was finally halted at this time, Mr. Daniels remains very concerned that over 50 launchers had already been accepted by the government prior to termination of delivery. Mr. Daniels advises that the government accepted these defective launchers without requiring any form of consideration to offset the launchers' defects.

Mr. Daniels contends that the government's acceptance of launchers known to be defective, from 2000 until April 2003, violated FAR section 46.407. This regulation provides that the government must "reject supplies or services not conforming in all respects to contract requirements." Mr. Daniels also contends that acceptance of the nonconforming launchers constitutes a gross waste of funds because the defective launchers are useless to the military unless and until the government expends more money to render the launchers safe and compliant. Had the government rejected the launchers immediately upon learning of their safety hazards, Lockheed Martin would have remained responsible for remedying the defects, pursuant to the contract.

#### 4. Safety Risks Posed by Fielded M270A1 Launchers

In addition, Mr. Daniels has expressed concern that many of these unsafe launchers have already been deployed to several locations, including Iraq and Kuwait. He contends that these launchers pose a substantial and specific danger to the safety of the soldiers who will be firing, or standing in close proximity to, them. Although the military has already attempted to minimize the safety risk by implementing certain strict procedural steps (known as "the

The Honorable Les Brownlee

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M270A1 Fielding Operating Restrictions”) that soldiers must follow when operating the launchers, Mr. Daniels maintains that these steps are impractical and doubts such precautions are sufficient to mitigate against the potentially catastrophic dangers posed by the launchers’ safety deficiencies. Mr. Daniels also contends that the Army’s reliance upon these Fielding Operating Restrictions violates Military Standard 882 (MIL-STD-882) “System Safety Requirements.” Under MIL-STD-882, the military must rely on design features, rather than operating procedures (such as the M270A1 Fielding Operating Restrictions), in order to achieve an adequate level of safety.

#### 5. Acceptance of Five M270A1 Launchers Lacking Fire Control Systems

Mr. Daniels alleges that [REDACTED] by letter dated October 15, 2002, permitted Lockheed Martin to deliver five M270A1 launchers, under Contract DAAH01-00-C-0109, from which the Fire Control System (FCS) equipment had been removed, without adjusting the price of the launchers to reflect the missing equipment.<sup>10</sup> Mr. Daniels advises that each FCS is worth approximately \$1.5 million. Since the total cost of each launcher is approximately \$3 million, the FCS accounts for approximately one-half of the launcher’s overall value. Mr. Daniels asserts that the government derived no benefit from, and received no consideration in return for, accepting these incomplete launchers. On the other hand, Lockheed Martin benefited from this transaction by receiving full payment for the five launchers while at the same time retaining \$7.5 million worth of FCS equipment. According to Mr. Daniels, [REDACTED] accepted the incomplete launchers at the direction of [REDACTED] a Project Manager in the Program Office.

Based on his review of inventory records, Mr. Daniels suspects that the government directed Lockheed Martin to install the five FCSs that were removed from these M270A1 launchers onto five other M270A1 launchers in the government inventory, from which the FCSs had also been improperly removed. He maintains that relevant documents suggest that the FCSs that were removed from the launchers in inventory had been illegally transferred to five High Mobility Artillery Rocket System launchers, which are covered by a different Lockheed Martin contract. According to Mr. Daniels, the incomplete M270A1 launchers that were in inventory were discovered during the Army’s preparation for Operation Iraqi Freedom. As a result, the military had to quickly locate replacement parts before these five launchers could be deployed to Iraq. It appears the Program Office’s solution to the dilemma of the missing equipment was to simply permit Lockheed Martin to remove five more FCS components from other launchers scheduled for delivery, and then to accept the five stripped launchers at full price.

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<sup>10</sup> Mr. Daniels explains that a launcher’s FCS equipment consists of computer hardware and software that controls a launcher’s ability to fire missiles.

6 Unauthorized Use of Warranty Spare Launcher Parts

Mr. Daniels alleges that members of the Program Office allowed Lockheed Martin to use "rotable warranty spares" the government had purchased under M270 production contract DAAH01-94-C-A005 for unauthorized purposes, without requiring the contractor to provide due consideration. Mr. Daniels explains that contract DAAH01-94-C-A005 included a warranty clause that required Lockheed Martin to acquire and store brand new spare launcher parts exclusively for the purpose of performing launcher repairs in order to meet the contract's performance specifications. He advises that the contract required Lockheed Martin to return all residual warranty spares to the government at the end of the warranty performance period. Mr. Daniels states that, when the warranty performance period ended, approximately 40 of the warranty spares were returned by Lockheed Martin in a used condition, even though the warranty had been invoked on only two occasions during performance of the contract, requiring only two launcher parts to be replaced. Mr. Daniels forwarded to OSC a spreadsheet he prepared, based on information obtained during an audit of the warranty spares conducted by ██████████ Quality Assurance Representative, which documents the used condition of each of the spare parts. To date, Lockheed Martin has not accounted for the consumption of these warranty spares. Mr. Daniels estimates these launcher spares to be worth a combined total of approximately \$3.5 million.

Mr. Daniels states that IES Quarterly Progress Reports indicate that Lockheed Martin used several of the government's rotable warranty spares to repair several M270 launchers that were delivered to Foreign Military Sales customers. He explains that these Foreign Military Sales launchers had failed Production Acceptance Tests conducted at Red River Army Depot, Texas.<sup>11</sup> The launchers required replacement parts, yet the Foreign Military Sales customers had not purchased warranty coverage or rotable spares.<sup>12</sup> Mr. Daniels alleges that, consequently, Lockheed Martin used the rotable launcher spares that were purchased by the U.S. government to perform these repairs. He asserts that, to date, the Program Office has not required Lockheed Martin to reimburse nor provide any other form of consideration to the government for the unauthorized use of these launcher parts. He contends that, recently, the Program Office instructed Lockheed Martin to ship the DAAH01-94-C-A005 residual warranty spares to Kuwait "as is" to be used in support of the war effort. Because the Program Office did not require Lockheed Martin to account for the condition of all of the rotable spares before

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<sup>11</sup> According to Mr. Daniels, most launchers are sent to Red River Army Depot for final performance testing before being shipped to their ultimate destination.

<sup>12</sup> Mr. Daniels is well-versed in the terms of contract DAAH01-94-C-A005, as he was one of the contract's negotiators. He advises that the contract involved the sale of M270 launchers to both the U.S. military and certain foreign military customers, yet the U.S. military was the only customer that opted to purchase warranty coverage and spare launcher parts.

The Special Counsel

The Honorable Les Brownlee

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they were shipped to the field. Mr. Daniels fears that it is unlikely that Lockheed Martin will ever be held accountable for unauthorized use of the government's launcher spares.

Copies of documentation submitted by Mr. Daniels in support of his allegations are enclosed.

### The Special Counsel's Findings

As noted above, if I find that there is a substantial likelihood that information disclosed to my office reveals violations of law, rule or regulation, a gross waste of funds or a substantial and specific danger to public health or safety, I am required to send that information to the appropriate agency head for an investigation and report. 5 U.S.C. § 1213. Given Mr. Daniels's apparent expertise regarding the matters he has disclosed, the detail he has provided, and his first-hand knowledge of many of the incidents he has described, I have concluded that there is a substantial likelihood that he has disclosed violations of law, rule, or regulation, a gross waste of funds, and a substantial and specific danger to public safety arising out of actions by employees in the Department of the Army, Aviation and Missile Command, MLRS Program Office, Tactical Missiles, Redstone Arsenal, Huntsville, Alabama.

Accordingly, I am referring this information to you for an investigation of the allegations described above and a report of your findings within 60 days of your receipt of this letter. By law, the report must be reviewed and signed by you personally. Should you delegate your authority to review and sign the report to the Inspector General, or any other official, the delegation must be specifically stated and must include the authority to take the actions necessary under 5 U.S.C. § 1213(d)(5). Without this information, the report may be found deficient. The requirements of the report are set forth at 5 U.S.C. § 1213(c) and (d). A summary of § 1213(d) is enclosed.

In the event it is not possible to report on the matter within the 60-day time limit, as the statute requires, you may request in writing an extension of time not to exceed 60 days. Please be advised that an extension of time will not be granted automatically, but only upon a showing of good cause. Accordingly, in the written request for an extension of time, please state specifically the reasons the additional time is needed.

After making the determinations required by 5 U.S.C. § 1213(e)(2), copies of the report, along with any comments on the report from the person making the disclosure and any comments or recommendations by me will be sent to the President and the appropriate oversight committees in the Senate and House of Representatives. 5 U.S.C. § 1213(e)(3).

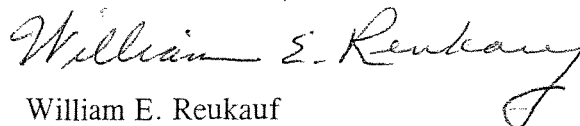
A copy of the report and any comments will be placed in a public file in accordance with 5 U.S.C. § 1219(a).

The Honorable Les Brownlee

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Please refer to our file number in any correspondence on this matter. If you need further information, please contact Catherine A. McMullen, Chief, Disclosure Unit, at (202) 653-6005. I am also available for any questions you may have.

Sincerely,

A handwritten signature in cursive script that reads "William E. Reukauf". The signature is written in dark ink and is positioned above the printed name.

William E. Reukauf  
Acting Special Counsel

Enclosures

Enclosure

Requirements of 5 U.S.C. § 1213(d)

Any report required under subsection (c) shall be reviewed and signed by the head of the agency<sup>1</sup> and shall include:

- (1) a summary of the information with respect to which the investigation was initiated;
- (2) a description of the conduct of the investigation;
- (3) a summary of any evidence obtained from the investigation;
- (4) a listing of any violation or apparent violation of law, rule or regulation, and
- (5) a description of any action taken or planned as a result of the investigation, such as:
  - (A) changes in agency rules, regulations or practices;
  - (B) the restoration of any aggrieved employee;
  - (C) disciplinary action against any employee, and
  - (D) referral to the Attorney General of any evidence of criminal violation.

In addition, we are interested in learning of any dollar savings, or projected savings, and any management initiatives that may result from this review.

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<sup>1</sup> Should you decide to delegate authority to another official to review and sign the report, your delegation must be specifically stated

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TAB 3





DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104



Suspense: 3 October 2003  
25 August 2003

MEMORANDUM FOR Headquarters Army Materiel Command, Office of the Command Counsel, ATTN: Ms. Kathryn Szymanski, 5001 Eisenhower Avenue, Alexandria, Virginia, 22333-0001

SUBJECT: Whistleblower Investigation—Aviation and Missile Command (AMCOM) (OSC File No. DI-00-1499)

Enclosed for your action is a 20 August 2003 letter from the Office of Special Counsel (OSC), requesting an investigation of the noted allegations and a report pursuant to 5 U.S.C. 1213(c)(1) and (g). The Special Counsel has concluded that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, discloses violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama. According to the OSC's correspondence, Mr. Daniels alleges that "government employees assigned to monitor and oversee the government's MLRS M270 and M270A1 contracts with Lockheed Martin Missile and Fire Control (Lockheed Martin), Dallas, Texas, have allowed the contractor to engage in a wide range of improper contracting practices...that violated applicable acquisition regulations, have resulted in a significant monetary loss to the government, and have created a substantial and specific danger to public safety." The OSC correspondence also advises that Defense Contract Management Agency auditors and U.S. Army Criminal Investigation Command (CIDC) investigators are presently reviewing various aspects of the MLRS acquisition contracts. I recommend that your office's efforts be conducted in concert with the DCMA and CIDC efforts. [REDACTED] Staff Judge Advocate for CIDC, has been advised about this case and can assist you in coordinating with CIDC.

A final response describing the action taken and prepared for the signature of the Secretary of the Army should be submitted to this office AS SOON AS POSSIBLE BUT NOT LATER THAN 3 October 2003.

The Army's response will be available to the public. Therefore, our response and any supporting investigative report should be prepared in a manner intended to facilitate public understanding of the allegations and Army's response thereto. The requirements specified in 5 U.S.C. 1213(d) (copy enclosed) may be used as a guideline and should include findings, conclusions and corrective action. In all cases, please furnish for our

review all backup materials supporting the proposed response that will be used to prepare the official response for the Secretary of the Army.

If necessary, I will seek an extension of the date for our reply to the Special Counsel. As soon as it becomes apparent that more time will be needed, you should forward to me an interim response requesting the extension and indicating the reasons for the request and the date by which the Special Counsel can expect to receive our final response.

[REDACTED]  
[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

CF: DAJA-LE, [REDACTED]  
DA IG, [REDACTED]  
DAEC-CA, [REDACTED]  
CIJA-ZA, [REDACTED]

4

TAB 4



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104



14 October 2003

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is to confirm our telephone conversation on 6 October 2003 regarding a request to grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case. In correspondence to the Acting Secretary of the Army, dated 20 August 2003, the OSC concluded that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama. According to the OSC's correspondence, Mr. Daniels alleged that "government employees assigned to monitor and oversee the government's MLRS M270 and M270A1 contracts with Lockheed Martin Missile and Fire Control (Lockheed Martin), Dallas, Texas, have allowed the contractor to engage in a wide range of improper contracting practices...that violated applicable acquisition regulations, have resulted in a significant monetary loss to the government, and have created a substantial and specific danger to public safety."

This request for an extension is being made pending the outcome of an ongoing criminal investigation by the Army's Criminal Investigation Division Command (CIDC), 701<sup>st</sup> Military Police Group, Fort Belvoir, Virginia. I forwarded the OSC correspondence to the United States Army Materiel Command (AMC), Office of the Command Counsel (AMCCC), for appropriate action since AMCOM is a major subordinate command of AMC. AMCCC coordinated with CIDC to determine if it needed to supplement the CIDC investigation at this time or defer to CIDC until its investigation was completed. As reflected in the AMCCC request for an extension and the CIDC correspondence, CIDC has indicated that it will investigate "all of the allegations described in the OSC letter of 20 August 2003." Further, CIDC indicated that "Criminal investigations such as this one are complex. Considerable time and effort will be required to determine if such allegations are substantiated and if they are, to pursue the appropriate remedies....a criminal investigation of this kind normally will not meet the processing timelines of an




administrative inquiry such as that contemplated by the Office of Special Counsel in its 20 August 2003 letter.”

In the OSC correspondence, there was a reference to efforts currently underway by the Defense Contract Management Agency (DCMA) auditors to investigate some of the matters described in the OSC correspondence. AMCCC has been advised by the DCMA that its auditors are working in concert with the CIDC investigators.

Therefore, I am requesting that you grant an extension so that the Department of the Army can continue to investigate the allegations in a thorough and complete manner. Should you grant this extension, please advise me as to length of the extension. When the CIDC investigation effort is completed, the Department of the Army may need additional time to address the issues presented in the final CIDC report.

I appreciate your assistance in granting the extension.



Associate Deputy General Counsel  
(Human Resources)



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
5001 EISENHOWER AVENUE, ALEXANDRIA, VA 22333-0001

REPLY TO  
ATTENTION OF:

AMCCC-B-BI

2 October 2003

MEMORANDUM FOR Department of the Army, Office of the General Counsel, ATTN:  
[REDACTED] 104 Army Pentagon, Washington, D.C. 20310-0104

SUBJECT: Whistleblower Investigation-Aviation and Missile Command (AMCOM) (OSC  
File No DI-00-1499)

1. Office of Special Counsel has directed the Army to conduct an investigation, in accordance with 5 U.S.C. 1213(c)(1) and (g), into violations of law, rule or regulation, fraud, waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, Multiple Launch Rocket System (MLRS), Division, Huntsville, Alabama. Army Materiel Command, Command Counsel has forwarded the 20 August 2003 letter directing the Department of the Army to the U.S. Army Criminal Investigation Division (CID).
2. The Army Criminal Investigation Command, 701<sup>st</sup> Military Police Group, Fort Belvoir, VA has agreed to investigate all of the allegations contained in OSC 's letter, (enclosed). Due to the complex nature and length of time needed by CID to properly investigate these allegations, this office is requesting and extension from OSC.
3. If you have any questions, please contact me or [REDACTED] at [REDACTED]

*Kathryn T. H. Szymanski*  
KATHRYN T. H. SZYMANSKI  
Command Counsel (Acting)



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY CRIMINAL INVESTIGATION COMMAND  
701<sup>ST</sup> MILITARY POLICE GROUP (CID)  
6010 6TH STREET  
FORT BELVOIR, VA 22060

CISA-AA

25 September 2003

MEMORANDUM FOR [REDACTED] Associate Counsel, U.S. Army Materiel  
Command, 5001 Eisenhower Avenue, Alexandria, VA 22333-0001

SUBJECT: Whistleblower Investigation – Aviation and Missile Command (Office of Special  
Counsel File No. DI-00-1499)

1. References:

a. U.S. Office of Special Counsel letter to Acting Secretary of the Army Brownlee, re: OSC  
File No. DI-00-1499, dated August 20, 2003.

b. Army General Counsel Memorandum to Army Materiel Command, subject:  
Whistleblower Investigation – Aviation and Missile Command (AMCOM) (OSC File No. DI-00-  
1499), dated 25 August 2003.

2. Army CID will investigate all the allegations described in the OSC letter of 20 August 2003.

3. Criminal investigations such as this one are complex. Considerable time and effort will be  
required to determine if such allegations are substantiated, and if they are, to pursue the appropriate  
remedies. The information that Army CID can provide you during the course of such a criminal  
investigation is necessarily limited in nature to avoid compromising the investigation. In addition, a  
criminal investigation of this kind normally will not meet the processing timelines of an  
administrative inquiry such as that contemplated by the Office of Special Counsel in its 20 August  
2003 letter.

4. Please contact me at [REDACTED] if you have any questions.

[REDACTED]

ARMY CID-1501





DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

9 January 2004

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant a second extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama. This request is being made pending the outcome of an ongoing criminal investigation by the Army's Criminal Investigation Division Command (CIDC). You had granted a previous extension for ninety days on 14 October 2003 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action was completed, then the final Department of the Army report would be submitted to the Special Counsel.

As reflected in the enclosed status report from Ms. Kathryn Szymanski, Command Counsel, U.S. Army Materiel Command, the ongoing criminal investigation by the Army's CIDC is being conducted in conjunction with the U.S. Attorney's Office (USAO) regarding all of the allegations in the OSC's original letter. I am requesting that you grant an extension so that the Department of the Army can continue to investigate the allegations in a thorough and complete manner. Certainly, when the CIDC/USAO investigation effort is completed, the Department of the Army will need additional time to address the issues presented in the final CIDC/USAO report/effort. Should you grant this extension, please advise me as to length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
9301 CHAPEK ROAD  
FORT BELVOIR, VA 22060-5527

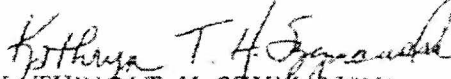
AMCCC-B-BI

8 January 2004

MEMORANDUM FOR Department of the Army, Office of the General Counsel,  
ATTN: [REDACTED] 104 Army Pentagon, Washington D.C. 20310-0104

SUBJECT: Whistleblower Investigation-U.S. Army Aviation and Missile Command  
(AMCOM) (OSC File No D1-00-1499)

1. The U.S. Army Materiel Command (AMC) is requesting an additional extension in connection with the Office of Special Counsel (OSC) case referenced above.
2. The U.S. Army Criminal Investigation Command (CID), 701<sup>st</sup> Military Police Group, Fort Belvoir, VA is still conducting an active and ongoing investigation in conjunction with the U.S. Attorney's office regarding all of the allegations contained in the OSC's original letter. CID advises us that they expect to have more information and a course of proposed action soon.
3. If you need any further assistance on this matter, please contact [REDACTED] at [REDACTED]

  
KATHRYN T. H. SZYMANSKI  
Command Counsel



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

20 April 2004

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant a third extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

This request is being made pending the outcome of an ongoing criminal investigation being conducted by the Army's Criminal Investigation Division Command (CIDC) in conjunction with the Assistant United States Attorney's (AUSA) office for the Northern District of Alabama. You had granted the second request for an extension for ninety days on 12 January 2004 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel.

As reflected in the enclosed status report from COL David Howlett, Deputy Command Counsel, U.S. Army Materiel Command, the ongoing criminal investigation by the Army's CIDC is being conducted in conjunction with the AUSA regarding all of the allegations in the OSC's original letter. The AUSA sent a demand letter to Lockheed Martin that addressed the allegations from all three investigations (including those from the OSC investigation) that were underway concerning Lockheed Martin to facilitate settlement negotiations with Lockheed Martin.

I am requesting that you grant an extension so that the Department of the Army's CIDC and AUSA can continue these efforts to complete their investigation into these allegations in a thorough and complete manner. Certainly, when the CIDC/AUSA investigation effort is completed, the Department of the Army will need additional time to address the issues presented in the final CIDC/USAO report/effort. Should you grant

this extension, please advise me as to length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)

Enclosures



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
9301 CHAPEK ROAD  
FORT BELVOIR, VA 22060-5527

AMCCC-B-BI

19 April 2004

MEMORANDUM FOR Department of the Army, Office of the General Counsel,  
ATTN: [REDACTED] 104 Army Pentagon, Washington D.C. 20310-0104

SUBJECT: Whistleblower Investigation-U.S. Army Aviation and Missile Command  
(AMCOM) (OSC File No DI-00-1499)

1. The U.S. Army Materiel Command (AMC) is requesting an additional extension in connection with the Office of Special Counsel (OSC) case referenced above.
2. The U.S. Army Criminal Investigation Command (CID), 701<sup>st</sup> Military Police Group, Fort Belvoir, VA is still conducting an active and on-going investigation in conjunction with the Assistant United States Attorney's (AUSA) office regarding all of the allegations contained in the OSC's original letter. CID's latest progress report is enclosed.
3. [REDACTED] the AUSA in charge of the case for the Northern District of Alabama, is awaiting a response to a demand letter that he sent to Lockheed Martin. The AUSA's demand letter addressed all three on-going investigations that encompass all of the allegations contained in the original OSC case. We do not have an expected date of completion due to the factors outside of AMC's control. We request an extension until the AUSA completes action on this case. We will update the General Counsel's Office and OSC as soon as we receive any new information from either the AUSA or Army CID.
4. If you need any further assistance on this matter, please contact [REDACTED] at [REDACTED]

Enclosure

[REDACTED]  
COL, JA  
Deputy Command Counsel

**PROGRESS REPORT**  
As of 19 April 2004

1. **Applicable DOD Component:** ARMY
2. **CASE NUMBERS:** 0038-99-CID113-20797 (original case); 0024-03-CID113-34960 and 0025-03-CID113-34961 (both Office of Special Counsel referred Whistleblower allegations).
3. **Date Referral Initially Received:** 26 Mar 02
4. **Status:**
  - a. **Organization conducting:** Major Procurement Fraud Unit, Huntsville Fraud Resident Agency
  - b. **Type of Examination:** Economic Crime
  - c. **Results to Date:** Between 29 Jan 04 and 19 Apr 04, the following activity was conducted:

Assistant United States Attorney (AUSA) [REDACTED] (WP 205.244.2104), Civil Division, US Attorney's Office, Northern District of Alabama, Birmingham, AL, prepared a demand letter and forwarded to Lockheed Martin. AUSA [REDACTED] has chosen to combine the allegations on all three investigations to facilitate settlement negotiations with Lockheed Martin. On 20 Feb 04, a meeting was held at the US Attorney's Office, Birmingham, AL. Attendees included AUSA [REDACTED], SA [REDACTED], SA [REDACTED], Contracting Office [REDACTED], Defense Contract Audit Agency (DCAA) Investigative Auditor [REDACTED], Barton DAVIS, Vice President-General Counsel, Lockheed Martin (WP 972.603.1903) and [REDACTED] Associate General Counsel for Litigation and Compliance, Lockheed Martin (WP 301.897.6153). SA [REDACTED] and SA [REDACTED] discussed four allegations totaling \$7 million dollar fraud. After briefing, AUSA [REDACTED] directed Lockheed Martin Attorneys to prepare a rebuttal to the allegations. Investigation is pending rebuttal by Lockheed Martin.
5. **Expected Date of Completion:** unable to determine at this time
6. **Action Agency Point of Contact:** SA [REDACTED] Huntsville Fraud RA.  
Commercial Ph: [REDACTED] DSN: [REDACTED]

//signed//

[REDACTED]  
Special Agent in Charge



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

21 July 2004

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant a fourth extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

This request is being made pending the outcome of an ongoing criminal investigation being conducted by the Army's Criminal Investigation Division Command (CIDC) in conjunction with the Assistant United States Attorney's (AUSA) office for the Northern District of Alabama. You had granted the third request for an extension for ninety days on 21 April 2004 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel.

As reflected in the enclosed status report from Mr. Robert Paschal, Associate Counsel, U.S. Army Materiel Command, Mr. John Bell, the AUSA in charge of the case for the Northern District of Alabama, is in negotiations with Lockheed Martin regarding all three on-going investigations that encompass all of the allegations contained in the original OSC case. Since the AUSA has set a final date of 1 October 2004 to have the complaints resolved or the AUSA will file charges, an extension is being requested to allow the AUSA to finalize these negotiations with Lockheed Martin and determine their course of action.

Therefore, I am requesting that you grant an extension so that the Department of the Army's CIDC and AUSA can continue these efforts to complete their investigation into these allegations in a thorough and complete manner. When the CIDC/AUSA investigation effort is completed, the Department of the Army will need additional time



to address the issues presented in the final CIDC/USAO report/effort. Should you grant this extension, please advise me as to length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
9301 CHAPEK ROAD  
FORT BELVOIR, VA 22060-5527

AMCCC-B-BI

21 July 2004

MEMORANDUM FOR Department of the Army, Office of the General Counsel,  
ATTN: [REDACTED] 104 Army Pentagon, Washington D.C. 20310-0104

SUBJECT: Whistleblower Investigation-U.S. Army Aviation and Missile Command  
(AMCOM) (OSC File No DI-00-1499)

1. The U.S. Army Materiel Command (AMC) is requesting an additional extension in connection with the Office of Special Counsel (OSC) case referenced above.
2. The U.S. Army Criminal Investigation Command (CID), 701<sup>st</sup> Military Police Group, Fort Belvoir, VA is still conducting an active and on-going investigation in conjunction with the Assistant United States Attorney's (AUSA) office regarding all of the allegations contained in the OSC's original letter.
3. [REDACTED] the AUSA in charge of the case for the Northern District of Alabama, is in negotiations with Lockheed Martin regarding all three on-going investigations that encompass all of the allegations contained in the original OSC case. The AUSA has set a final date of 1 October 2004 to have the complaints resolved or the AUSA will file charges. We are requesting an extension until the AUSA finalizes these negotiations with Lockheed Martin and determines their course of action. We will continue to update the General Counsel's Office and OSC as soon as we receive any new information from either the AUSA or Army CID.
4. If you need any further assistance on this matter, please contact the undersigned at [REDACTED]

[REDACTED]

Associate Counsel



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

19 October 2004

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant a fifth extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

This request is being made pending the outcome of an ongoing criminal investigation being conducted by the Army's Criminal Investigation Division Command (CIDC) in conjunction with the Assistant United States Attorney's (AUSA) office for the Northern District of Alabama. You had granted the fourth request for an extension for ninety days on 22 July 2004 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel.

As reflected in the enclosed status report from Mr. Robert Paschall, Associate Counsel, U.S. Army Materiel Command, Mr. John Bell, the AUSA initially in charge of the case for the Northern District of Alabama, was reassigned and Mr. Lloyd Pebbles replaced him. Mr. Pebbles has reevaluated the prosecution of all pending investigations of Lockheed Martin and has directed CID to conduct additional investigations against Lockheed Martin.

Therefore, I am requesting that you grant an extension so that the Department of the Army's CIDC and AUSA can continue these efforts to complete their investigation into these allegations in a thorough and complete manner. When the CIDC/AUSA investigation effort is completed, the Department of the Army will need additional time to address the issues presented in the final CIDC/USAO report/effort. Should you grant this extension, please advise me as to length of the extension. Within that allotted time, I

*Extension 5*

will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
9301 CHAPEK ROAD  
FORT BELVOIR, VA 22060-5527

AMCCC-B-BI

18 October 2004

MEMORANDUM FOR Department of the Army, Office of the General Counsel,  
ATTN: [REDACTED] 104 Army Pentagon, Washington D.C. 20310-0104

SUBJECT: Whistleblower Investigation-U.S. Army Aviation and Missile Command  
(AMCOM) (OSC File No DI-00-1499)

1. The U.S. Army Materiel Command (AMC) is requesting an additional extension in connection with the Office of Special Counsel (OSC) case referenced above.
2. The U.S. Army Criminal Investigation Command (CID), 701<sup>st</sup> Military Police Group, Fort Belvoir, VA is still conducting an active and on-going investigation in conjunction with the Assistant United States Attorney's (AUSA) office regarding all of the allegations contained in the OSC's original letter.
3. In August of 2004, there was a reassignment of the responsible AUSA, [REDACTED] to a new AUSA [REDACTED] and AUSA [REDACTED] has reevaluated the prosecution of all pending investigations of Lockheed Martin and has directed CID to conduct additional investigations against Lockheed Martin. Due to the AUSA's direction, we are requesting an extension until CID can complete the additional investigative tasks. We will continue to update the General Counsel's Office and OSC as soon as we receive any new information from either the AUSA or Army CID.
4. I have enclosed the CID Report of Investigation status update submitted by Special Agent [REDACTED]. This report delineates the case progress to date. Please note that on page 4, the report misidentifies the undersigned as being from OSC and not Army Materiel Command. I have asked Special Agent [REDACTED] to correct that error.
5. If you need any further assistance on this matter, please contact the undersigned at [REDACTED].

[REDACTED]  
Associate Counsel



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

21 January 2005

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant a sixth extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

This request is being made pending residual issues stemming from a settlement agreement that was reached in an ongoing criminal investigation conducted by the Army's Criminal Investigation Division Command (CIDC) in conjunction with the Assistant United States Attorney's (AUSA) office for the Northern District of Alabama. You had granted the fifth request for an extension for ninety days on 22 October 2004 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel.

As reflected in the enclosed status report from Mr. Robert Paschall, Associate Counsel, U.S. Army Materiel Command, and Ms. Laura Bell, Special Agent, they advised that in November 2004, a settlement was reached with the subject of the investigation, Lockheed Martin Missiles and Fire Control, regarding particular allegations while it was agreed by the U.S. Government that the remaining issues with Lockheed Martin (the subject of the instant OSC investigation) would be "fast tracked" and either closed with no findings, administrative action recommended or referred to the U.S. Attorney's Office in Birmingham, Alabama for civil action by 31 March 2005.

Therefore, I am requesting that you grant an extension so that the Department of the Army's CIDC and AUSA can continue these efforts to complete their determination as to what they intend to do to address the issues presented in the OSC investigation. When the

*Extension 6*



CIDC/AUSA effort is completed, the Department of the Army will need additional time to address the issues presented in that final CIDC/AUSA effort. Should you grant this extension, please advise me as to length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

28 April 2005

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant a seventh extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

This request is being made pending the anticipated completion of residual issues stemming from a settlement agreement that was reached in an ongoing criminal investigation conducted by the Army's Criminal Investigation Division Command (CIDC) in conjunction with the Assistant United States Attorney's (AUSA) office for the Northern District of Alabama. You had granted the sixth request for an extension for ninety days on January 24, 2005 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel.

When our previous extension request was made, it was anticipated by the then CIDC Special Agent Laura Bell, that since a settlement had been reached with the subject of the investigation, Lockheed Martin Missiles and Fire Control, regarding particular allegations, there had also been another agreement by the U.S. Government that the remaining issues with Lockheed Martin (the subject of the instant OSC investigation) would be "fast tracked" and either closed with no findings, administrative action recommended or referred to the U.S. Attorney's Office in Birmingham, Alabama for civil action by 31 March 2005. Unfortunately, these additional actions have not been completed to date. As reflected in the enclosed status report from Ms. Amy Armstrong, Associate Counsel, U.S. Army Materiel Command, the "closeout" actions by the CIDC and the AUSA have not been completed by the previously anticipated date.

*Extension 7*



Therefore, I am requesting that you grant an extension so that the Department of the Army's CIDC and AUSA can continue these efforts to complete their determination as to what they intend to do to address the issues presented in the OSC investigation. When the CIDC/AUSA effort is completed, the Department of the Army will need additional time to address the issues presented in that final CIDC/AUSA effort. Should you grant this extension, please advise me as to length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
9301 CHAPEK ROAD  
FORT BELVOIR, VA 22060-5527

AMCCC-G

28 April 2005

MEMORANDUM FOR Department of the Army, Office of the General Counsel,  
ATTN: [REDACTED] 104 Army Pentagon, Washington D.C. 20310-0104

SUBJECT: Whistleblower Investigation – U.S. Army Aviation and Missile Command  
(AMCOM) (OSC File No DI-00-1499)

1. The U.S. Army Materiel Command (AMC) is requesting an additional extension in connection with the Office of Special Counsel (OSC) case referenced above.
2. The U.S. Army Criminal Investigation Command (CID), 701<sup>st</sup> Military Police Group, Fort Belvoir, VA is in the process of closing out their investigation regarding this matter. It is anticipated that the investigation will be closed out by the end of the week and that the Assistant United States Attorney's (AUSA) office will decline to prosecute the matter.
3. If you need any further assistance on this matter, please contact the undersigned at 703-806-8277.





DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

25 July 2005

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

This request is being made in order to address the administrative aspects of the OSC referred allegations now that the criminal portion has been completed by the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama. Previously, you had granted seven extensions in order to complete the criminal investigation, the execution of a settlement agreement and the resolution of residual issues stemming from the criminal investigation conducted by the Army's Criminal Investigation Division Command (CIDC) in conjunction with the AUSA. You had granted the seventh request for an extension for ninety days on April 25, 2005 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel.

When our previous extension request was made, it was anticipated by CIDC Special Agent Laura Baddley that since a settlement had been reached with the subject of the investigation, Lockheed Martin Missiles and Fire Control, regarding particular allegations, there had also been another agreement by the U.S. Government that the remaining issues with Lockheed Martin (the subject of the instant OSC investigation) would be "fast tracked" and either closed with no findings, administrative action recommended or referred to the U.S. Attorney's Office in Birmingham, Alabama for civil action. As reflected in the attached correspondence to Agent Baddley dated March 16, 2005, the AUSA concluded its portion of the matter with a settlement agreement and

*Extension 8*

advised Agent [REDACTED] that the remaining issues would be more adequately addressed through the various administrative remedies available to the Department of Defense." At this point, though the CIDC initially closed out their investigation on 27 April 2005, residual issues still remain to be addressed by the CIDC. Consequently, I am in the process of coordinating with the CIDC, the Army's Procurement Fraud Branch and U.S. Army Materiel Command and subordinate legal offices to determine the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees and corrective actions. The Army has been diligently working toward this end. Unfortunately, as reflected in the enclosed status report from [REDACTED] Acting Command Counsel, U.S. Army Materiel Command, this coordination effort has not been completed to date.

Therefore, I am requesting that you grant an extension so that we can continue these efforts to determine a course of action to address the issues presented in the OSC referred allegations and provide the final Department of the Army report addressing these allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

Enclosures



DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
9301 CHAPEK ROAD  
FORT BELVOIR, VA 22060-5527

REPLY TO  
ATTENTION OF

AMCCC-G

21 July 2005

MEMORANDUM FOR [REDACTED] Department of the Army,  
Office of General Counsel, 104 Army Pentagon, Washington, D.C. 20310-0104

SUBJECT: Whistleblower Investigation – U.S. Army Aviations and Missile Life Cycle  
Management Command (AMLCMC) (OSC File No DI-00-1499)

1. The U.S. Army Material Command (AMC) requests a sixty (60) day extension in connection with the Office of Special Counsel (OSC) case referenced above.
2. The U.S. Army Criminal Investigation Command (CID), 701<sup>st</sup> Military Police Group, Fort Belvoir, VA closed out their investigation regarding this matter on 27 April 2005. The Assistant United States Attorney's (AUSA) office declined to prosecute the matter and recommended administrative action by the U.S. Government. (Enclosure 1)
3. AMC was informed the case had been closed and to submit a written request for a copy of the reports. (Enclosure 2) Copies of the reports were provided to AMC on 24 June 2005.
4. We are in the process of reviewing the reports and determining the appropriate administrative action. We are coordinating our efforts with various Army components that have subject matter interest in these allegations and will require an extension of the 25 July 2005 deadline.
5. If you need further assistance on this matter, please contact [REDACTED] at [REDACTED]

[REDACTED]  
Acting Command Counsel



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

24 October 2005

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

This request is being made in order to allow the Army to continue to investigate the allegations referred to above. This is the ninth request for an extension. You had granted the eighth request for an extension for ninety days on July 25, 2005 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. Since that time, the following actions have been taken on this case. The criminal portion of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama, in conjunction with the criminal investigation conducted by the Army's Criminal Investigation Division Command (CIDC), was completed and a settlement agreement was reached with the AUSA.

In correspondence to CIDC Special Agent Laura Baddley dated March 16, 2005, the AUSA concluded its portion of the matter with a settlement agreement and advised Agent Baddley that the remaining issues "would be more adequately addressed through the various administrative remedies available to the Department of Defense." As a result, the CIDC initially closed out their investigation on 27 April 2005 but residual issues still remained to be addressed by the CIDC. Pursuant to further discussions with the CIDC, the Army's Procurement Fraud Branch and U.S. Army Materiel Command and subordinate legal offices, the CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so

*Extension 9*

that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees and corrective actions.

As reflected in the attached correspondence from [REDACTED] Acting AMC Command Counsel, due to the complexity of the matter, CIDC needs additional time to continue its investigative effort. Therefore, I am requesting that you grant an extension so that we can continue these efforts to bring Army's investigation to closure, determine a course of action to address the issues presented in the OSC referred allegations and provide the final Department of the Army report addressing these allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

Enclosure



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
HEADQUARTERS, U.S. ARMY MATERIEL COMMAND  
9301 CHAPEK ROAD  
FORT BELVOIR, VA 22060-5527

AMUCC-G

20 October 2005

MEMORANDUM FOR Department of the Army, Office of the General Counsel,  
ATTN: [REDACTED] 104 Army Pentagon, Washington D.C. 20310-0104

SUBJECT: Whistleblower Investigation – U.S. Army Aviation and Missile Command  
(AMCOM) (OSC File No DI-00-1499)

1. The Office of Special Counsel (OSC) has directed the Army to conduct an investigation, in accordance with 5 U.S.C. 1213(c)(1) and (g), into violations of law, rule or regulation, fraud, waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, Multiple Launch Rocket System (MLRS), Division, Huntsville, Alabama.
2. AMC forwarded the 20 August 2003 letter directing the Department of the Army to the U.S. Army Criminal Investigation Division (CID) and the CID agreed to investigate all allegations. In April 2005, CID closed out their investigation.
3. Due to the complexity of the matter, CID has reopened their investigation regarding all allegations contained in the OSC's original letter. Due to the time need by CID to reinvestigate, this office is requesting an extension from OSC.
4. If you need any further assistance on this matter, please contact [REDACTED] at 703-806-8277.

[REDACTED]  
Acting Command Counsel





DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

January 24, 2006

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

This request is being made in order to allow the Army to continue to investigate the allegations referred to above. This is the ninth request for an extension. You had granted the ninth request for an extension for ninety days on October 25, 2005 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. Since that time, the following actions have been taken on this case.

With the closure of the criminal portion of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama and had been conducted in conjunction with the criminal investigation conducted by the Army's Criminal Investigation Division Command (CIDC), CIDC had initially closed out their investigation on 27 April 2005. However, residual issues still remained to be addressed by the CIDC. CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees, and corrective actions.

As reflected in the attached correspondence from [REDACTED] CIDC Resident Agent-In-Charge, CIDC is requesting an extension of time to complete the CIDC investigation. Though they have been working diligently in furtherance of their investigation including interviewing witnesses, they have been unable to complete their efforts within the allotted time. Therefore, I am requesting that you grant an extension so that we can continue these efforts to bring Army's investigation to closure, determine a course of action to address the issues presented in the OSC referred allegations and provide the final Department of the Army report addressing these allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY CRIMINAL INVESTIGATION COMMAND  
701ST MP GROUP  
HUNTSVILLE FRAUD RESIDENT AGENCY  
BUILDING 3421 GRAY ROAD  
REDSTONE ARSENAL, ALABAMA 35898-7245

REPLY TO  
ATTENTION OF  
CISA-MHU

23 Jan 06

MEMORANDUM FOR OFFICE OF THE ARMY GENERAL COUNSEL, ATTN: [REDACTED]  
[REDACTED] 104 ARMY PENTAGON, ROOM 3C546,  
WASHINGTON, DC 20310-0104

SUBJECT: AMCOM WHISTLEBLOWER COMPLAINT

1. This memorandum is being prepared to request an extension regarding the investigation being conducted by this office on the subject complaint.
2. This office is currently investigating the whistleblower complaints under two separate case files, 0024-03-CID113-34960 and 0025-03-CID113-34961. Case number 0025-03-CID113-34961 deals solely with the allegations surrounding the safety of the Multiple Launch Rocket System (MLRS) and the Safety Assessment Report (SAR) that was to have been prepared by LOCKHEED MARTIN, prime contractor for the MLRS.
3. Upon the reopening of the investigations by this office an investigative plan was prepared that consists of about 35 items which are being completed as quickly as possible. Although these cases are priorities, this office needs additional time granted in order for the case agent to complete the investigative plans for each of the open cases.
4. Allegations on case 0025-03-CID113-34961 are being investigated and an interview is scheduled for February 2006 with the Deputy, Program Executive Office regarding the safety assessment report delivered by LOCKHEED.
5. Allegations on case 0024-03-CID113-34960 are being investigated and interviews have been conducted which have resulted in other interviews being scheduled in the near future.

*Enclosure 1*

CISA-MHU

23 Jan 06

SUBJECT: AMCOM WHISTLEBLOWER COMPLAINT

6. The point of contact for these investigations is SA [REDACTED]  
[REDACTED], who may be reached either via email:  
[REDACTED] or telephone  
[REDACTED]

[REDACTED]  
[REDACTED] [REDACTED]  
RESIDENT AGENT-IN-CHARGE



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

April 21, 2006

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

This request is being made in order to allow the Army to continue to investigate the allegations referred to above. You had granted the previous request for an extension for ninety days on January 25, 2006 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. Since that time, the following actions have been taken on this case.

With the closure of the criminal portion of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama and had been conducted in conjunction with the criminal investigation conducted by the Army's Criminal Investigation Division Command (CIDC), CIDC had initially closed out their investigation on 27 April 2005. However, residual issues still remained to be addressed by the CIDC. CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees, and corrective actions.

As reflected in the attached correspondence from Mr. James Wallis, CIDC Resident Agent-In-Charge, CIDC is requesting an extension of time to complete the CIDC investigation. Though they have been working diligently to complete the 35 items

*Extension 11*

they have delineated to be done as part of their investigative plan for the AMCOM case, and a number of these issues have been completed. since February 2006, the CIDC case agent for this AMCOM case has been exclusively dedicated to a task force for another investigative effort and has been unable to devote her time to the instant case. Therefore, I am requesting that you grant an extension so that we can continue these efforts to bring Army's investigation to closure, determine a course of action to address the issues presented in the OSC referred allegations and provide the final Department of the Army report addressing these allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY CRIMINAL INVESTIGATION COMMAND  
701ST MP GROUP  
HUNTSVILLE FRAUD RESIDENT AGENCY  
BUILDING 3421 GRAY ROAD  
REDSTONE ARSENAL, ALABAMA 35896-7245

REPLY TO  
ATTENTION OF  
CISA-MHU

21 Apr 06

MEMORANDUM FOR OFFICE OF THE ARMY GENERAL COUNSEL, ATTN: [REDACTED]  
[REDACTED] 104 ARMY PENTAGON, ROOM 3C546, WASHINGTON, DC 20310-0104

SUBJECT: AMCOM WHISTLEBLOWER COMPLAINT

1. This memorandum is being prepared to request an extension regarding the investigation being conducted by this office on the subject complaint.
2. This office is currently investigating the whistleblower complaints under two separate case files, 0024-03-CID113-34960 and 0025-03-CID113-34961. Case number 0025-03-CID113-34961 deals solely with the allegations surrounding the safety of the Multiple Launch Rocket System (MLRS) and the Safety Assessment Report (SAR) that was to have been prepared by LOCKHEED MARTIN, prime contractor for the MLRS.
3. Upon the reopening of the investigations by this office an investigative plan was prepared that consists of about 35 items which are being completed as quickly as possible. Although these cases are priorities, this office needs additional time granted in order for the case agent to complete the investigative plans for each of the open cases.
4. Due to the workload of the case agent, further time is needed in order to fully complete the investigative plans for each investigation. Since February 2006, the agent has been solely dedicated to a task force and investigative work on other cases has been held in abeyance.
5. The point of contact for these investigations is [REDACTED] who may be reached either via email: [REDACTED] or telephone [REDACTED].

////original signed by////

[REDACTED]  
RESIDENT AGENT-IN-CHARGE



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

June 26, 2006

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

This request is being made in order to allow the Army to continue to investigate the allegations referred to above. You had granted the previous request for an extension for sixty days on April 24, 2006 and had agreed that I would provide a status update on this pending action within sixty days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. Since that time, the following actions have been taken on this case.

With the closure of the criminal portion of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama and had been conducted in conjunction with the criminal investigation conducted by the Army's Criminal Investigation Division Command (CIDC), CIDC had initially closed out their investigation on 27 April 2005. However, residual issues still remained to be addressed by the CIDC. CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees, and corrective actions.

As reflected in the attached correspondence from Mr. David Balwinsky, Acting CIDC Resident Agent-In-Charge, CIDC is requesting an extension of time to complete the CIDC investigation. Though they have been working diligently to complete the 35



items they have delineated to be done as part of their investigative plan for the AMCOM case, and a number of these issues have been completed, since February 2006, the CIDC case agent for this AMCOM case has been exclusively dedicated to a task force for alleged crimes that have occurred in Iraq, and all her other investigative work has been held in abeyance. However, recently, the AMCOM MLRS cases have been given a higher priority and she has been able to direct her attention to these cases once again. Therefore, I am requesting that you grant an extension so that we can continue these efforts to bring Army's investigation to closure, determine a course of action to address the issues presented in the OSC referred allegations and provide the final Department of the Army report addressing these allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY CRIMINAL INVESTIGATION COMMAND  
701ST MP GROUP  
HUNTSVILLE FRAUD RESIDENT AGENCY  
BUILDING 3421 GRAY ROAD  
REDSTONE ARSENAL, ALABAMA 35896-7245

REPLY TO  
ATTENTION OF  
CISA-MHU

26 Jun 06

MEMORANDUM FOR OFFICE OF THE ARMY GENERAL COUNSEL, ATTN: [REDACTED]  
[REDACTED] 104 ARMY PENTAGON, ROOM 3C546, WASHINGTON, DC 20310-0104

SUBJECT: AMCOM WHISTLEBLOWER COMPLAINT

1. This memorandum is being prepared to request an extension regarding the investigation being conducted by this office on the subject complaint.
2. This office is currently investigating the whistleblower complaints under two separate case files, 0024-03-CID113-34960 and 0025-03-CID113-34961. Case number 0025-03-CID113-34961 deals solely with the allegations surrounding the safety of the Multiple Launch Rocket System (MLRS) and the Safety Assessment Report (SAR) that was to have been prepared by LOCKHEED MARTIN, prime contractor for the MLRS.
3. Upon the reopening of the investigations by this office an investigative plan was prepared that consists of about 35 items which are being completed as quickly as possible. Although these cases are priorities, this office needs additional time granted in order for the case agent to complete the investigative plans for each of the open cases.
4. Due to the workload of the case agent, further time is needed in order to fully complete the investigative plans for each investigation. Since February 2006, the agent has been solely dedicated to a task force investigating crimes that occurred in Iraq and investigative work on all other cases has been held in abeyance.
5. As of this date, cases 0024-03-CID113-34960 and 0025-03-CID113-34961 have been shifted to a higher visibility in this office. Investigative work has resumed on these cases by the assigned case agent and travel to Ft. Sill, OK is scheduled for 27-28 Jun 06 to meet with the actual users and trainees of the MLRS. Interviews pertaining to the safety of the MLRS will also occur this week. Investigative work on these cases should be completed within the next 60 days.
6. The point of contact for these investigations is [REDACTED] who may be reached either via email [REDACTED] or telephone [REDACTED].

////original signed by////

[REDACTED]  
ACTING RESIDENT AGENT-IN-CHARGE

August 25, 2006

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter provides a status report in the above captioned case in which the Office of Special Counsel determined that there existed substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

Pursuant to the request of Ms. Cassandra Johnson of this office, you had previously granted an extension of time, through and including August 28, 2006, by which date the Army would be required either to submit its final report to the Special Counsel pursuant to Title 5, United States Code, Section 1213, or to provide you a status update justifying further extension of time to complete action in this case. Accordingly, I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army, in coordination with the Office of the United States Attorney, Northern District of Alabama, in Birmingham, to initiate appropriate civil action with regard to the matters raised by this case.


As you know, on April 27, 2006, the Army's Criminal Investigation Division Command (CID) closed its investigation into allegations of criminal misconduct raised by this case. CID later agreed to reopen its investigation in an effort to provide the Army with additional evidence required make an informed decisions regarding invoking available procurement fraud remedies, initiating disciplinary action against certain Government employee, and/or undertaking other corrective action. In May 2006, concurrent with its decision to reopen its review of these matters, CID reassigned to the case the original Special Agent investigator who long had been detailed exclusively to a task force investigating crime in Iraq.

*Extension 13*

As reflected in the attached correspondence from [REDACTED] Acting CIDC Resident Agent-In-Charge, Huntsville Fraud Resident Agency, the Special Agent investigator has presented the findings of her follow-on investigation to the Assistant United States Attorney (AUSA), Northern District of Alabama, who has agreed to assist the Army in pursuing civil remedies in this case. The intricacies of any such civil proceedings will require the AUSA, with the assistance of CID, should additional investigation be required, to notify the subject of the investigative findings and potentially, to initiate settlement negotiations. In the event negotiations are not successful, civil suit may be an appropriate option. A further extension of time is crucial to permit Army to proceed on these key matters.

Within the period of any extension granted, our office either will provide you another status update on this case or submit the final Department of the Army report to the Special Counsel.

Thank you for your assistance and consideration in this matter. Should you have any questions or concerns, please do not hesitate to contact me at [REDACTED]. Notification regarding your action on our request for extension, as well as the length of any extension, if granted, would be much appreciated.

  
Stephanie Barna  
Acting Deputy General Counsel  
(Operations and Personnel)

Enclosure



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104



November 28, 2006

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army through the Army's Criminal Investigation Division Command (CID), in coordination with the Office of the United States Attorney, Northern District of Alabama, in Birmingham, to initiate appropriate civil action with regard to the matters raised by this case. You had granted the previous request for an extension for ninety days on August 28, 2006 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. Since that time, the following actions have been taken on this case.

As you may recall, with the closure of the criminal proceedings of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama and had been conducted in conjunction with the criminal investigation conducted by the Army's CID, CID had initially closed out their investigation on 27 April 2005. However, residual issues still remained to be addressed by the CIDC. CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees, and corrective actions.

Since that time, the CID and the assigned Special Agent, [REDACTED] had been working diligently to complete the 35 items they had delineated to be done as part of their investigative plan for the AMCOM case. A number of these issues have been completed even though [REDACTED] has also been a member of a task force for alleged crimes that have occurred in Iraq.

As reflected in the attached correspondence from [REDACTED] she presented her findings from her follow-on investigation to the Assistant United States Attorney (AUSA), Northern District of Alabama, on August 22, 2006. The AUSA office agreed to assist the Army in pursuing civil remedies in this case. Due to the workload of [REDACTED] and the AUSA, efforts to engage Lockheed Martin in settlement negotiations have been delayed. Though not yet scheduled, it is anticipated that the meeting will occur within the next 90 days. In the event negotiations are not successful, civil suit may be an appropriate option. A further extension of time is crucial to permit the Army to proceed on these key matters.

After the completion of these efforts with the AUSA, additional time will be needed so that the Army can determine a course of action to address the remaining issues presented in the OSC referred allegations and provide the final Department of the Army report addressing all of the allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY CRIMINAL INVESTIGATION COMMAND  
701ST MP GROUP  
HUNTSVILLE FRAUD RESIDENT AGENCY  
BUILDING 3421 GRAY ROAD  
REDSTONE ARSENAL, ALABAMA 35895-7245

REPLY TO  
ATTENTION OF  
CISA-MHU

28 Nov 06

MEMORANDUM FOR OFFICE OF THE ARMY GENERAL COUNSEL, ATTN: [REDACTED]  
[REDACTED] 104 ARMY PENTAGON, ROOM 3C546, WASHINGTON, DC 20310-0104

SUBJECT: AMCOM WHISTLEBLOWER COMPLAINT

1. This memorandum is being prepared to request an extension regarding the investigation being conducted by this office on the subject complaint.

2. This office is currently investigating the whistleblower complaints under two separate case files, 0024-03-CID113-34960 and 0025-03-CID113-34961. Case number 0025-03-CID113-34961 deals solely with the allegations surrounding the safety of the Multiple Launch Rocket System (MLRS) and the Safety Assessment Report (SAR) that was to have been prepared by LOCKHEED MARTIN, prime contractor for the MLRS.

3. On 22 Aug 06, two issues were presented to the US Attorney's Office, Northern District of Alabama, Birmingham, AL and were accepted for prosecution. The issues presented included the fraudulent use of warranty spare parts and the non-compliance of contractual terms on behalf of LOCKHEED MARTIN not submitting a contracted safety assessment report which necessitated the US Government spending an additional \$1,000,000.00 to meet a milestone decision.

4. An extension is needed due to the fact that settlement negotiations will have to be scheduled with LOCKHEED MARTIN once the company is notified of the pending litigation. Due to the workload of the case agent and the assistant US Attorney, the meeting has not yet been scheduled but it is anticipated to occur within the next 90 days.

5. The point of contact for these investigations is [REDACTED] who may be reached either via email [REDACTED] or telephone [REDACTED]

////original signed////

[REDACTED]  
SPECIAL AGENT



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104

February 28, 2007

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army through the Army's Criminal Investigation Division Command (CID), in coordination with the Office of the United States Attorney, Northern District of Alabama, in Birmingham, to complete appropriate civil action with regard to the matters raised by this case. You had granted the previous request for an extension for ninety days on November 28, 2006 and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. Since that time, the following actions have been taken on this case.

As you may recall, with the closure of the criminal proceedings of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama and had been conducted in conjunction with the criminal investigation conducted by the Army's CID, CID had initially closed out their investigation on 27 April 2005. However, residual issues still remained to be addressed by the CIDC. CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees, and corrective actions.





Since that time, the CID and the assigned Special Agent, [REDACTED] had been working diligently to complete the 35 items they had delineated to be done as part of their investigative plan for the AMCOM case. A number of these issues have been completed even though [REDACTED] has also been a member of a task force for alleged crimes that have occurred in Iraq.

As reflected in the attached correspondence from [REDACTED] she presented her findings from her follow-on investigation to the Assistant United States Attorney (AUSA), Northern District of Alabama, on August 22, 2006. The AUSA office agreed to assist the Army in pursuing civil remedies in this case. The AUSA had initially agreed to accept two issues for prosecution, including the fraudulent use of warranty spare parts and the non-compliance of contractual terms on behalf of Lockheed Martin for not submitting a contracted safety assessment report which necessitated the federal government spending an additional \$1,000,000.00 to meet a milestone decision. It wasn't until just recently, on January 27, 2007, that the AUSA determined to only pursue the issue of the fraudulent warranty spare parts. Given the change in posture, additional time is needed for the AUSA to notify Lockheed Martin and begin settlement negotiations. In the event negotiations are not successful, civil suit may be an appropriate option. A further extension of time is crucial to permit the Army to proceed on these key matters.

After the completion of these efforts with the AUSA, additional time will be needed so that the Army can determine a course of action to address the remaining issues presented in the OSC referred allegations and provide the final Department of the Army report addressing all of the allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY CRIMINAL INVESTIGATION COMMAND  
701ST MP GROUP  
HUNTSVILLE FRAUD RESIDENT AGENCY  
BUILDING 3421 GRAY ROAD  
REDSTONE ARSENAL ALABAMA 35898-7245

REPLY TO  
ATTENTION OF  
CISA-MHU

27 Jan 07

MEMORANDUM FOR OFFICE OF THE ARMY GENERAL COUNSEL, ATTN: [REDACTED]  
[REDACTED] 104 ARMY PENTAGON, ROOM 3C546, WASHINGTON, DC 20310-0104

SUBJECT: AMCOM WHISTLEBLOWER COMPLAINT

1. This memorandum is being prepared to request an extension regarding the investigation being conducted by this office on the subject complaint.
2. This office is currently investigating the whistleblower complaints under two separate case files, 0024-03-CID113-34960 and 0025-03-CID113-34961. Case number 0025-03-CID113-34961 deals solely with the allegations surrounding the safety of the Multiple Launch Rocket System (MLRS) and the Safety Assessment Report (SAR) that was to have been prepared by LOCKHEED MARTIN, prime contractor for the MLRS.
3. On 22 Aug 06, two issues were presented to the US Attorney's Office, Northern District of Alabama, Birmingham, AL and were accepted for prosecution. The issues presented included the fraudulent use of warranty spare parts and the non-compliance of contractual terms on behalf of LOCKHEED MARTIN not submitting a contracted safety assessment report which necessitated the US Government spending an additional \$1,000,000.00 to meet a milestone decision. On 27 Jan 07, it was determined that the only issue that will be pursued by the US Attorney's Office will be that of the fraudulent warranty spare parts. The MLRS Program Manager's Office does not support the pursuit of allegations regarding the safety assessment report; therefore, this issue will not be pursued by the US Attorney's Office.
4. An extension is needed due to the fact that settlement negotiations will have to be scheduled with LOCKHEED MARTIN once the company is notified of the pending litigation. Due to the travel schedule of the assigned case agent and workload of the assistant US Attorney, the meeting has not yet been scheduled but will occur as soon as feasible.
5. The point of contact for these investigations is [REDACTED] who may be reached either via email [REDACTED] or telephone [REDACTED].

////original signed////

[REDACTED]  
SPECIAL AGENT



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104

May 31, 2007

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army through the Army's Criminal Investigation Division Command (CID), in coordination with the Office of the United States Attorney, Northern District of Alabama, in Birmingham, to complete appropriate civil action with regard to the matters raised by this case. You had granted the previous request for an extension for ninety days on February 28, 2007, and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. Since that time, the following actions have been taken on this case.

As you may recall, with the closure of the criminal proceedings of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama and had been conducted in conjunction with the criminal investigation conducted by the Army's CID, CID had initially closed out their investigation on 27 April 2005. However, residual issues still remained to be addressed by the CIDC. CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees, and corrective actions.

*Extension 16*

Since that time, the CID and the assigned Special Agent, [REDACTED], had been working diligently to complete the 35 items they had delineated to be done as part of their investigative plan for the AMCOM case. A number of these issues have been completed even though [REDACTED] has also been a member of a task force for alleged crimes that have occurred in Iraq.

[REDACTED] presented her findings from her follow-on investigation to the Assistant United States Attorney (AUSA), Northern District of Alabama, on August 22, 2006. The AUSA office agreed to assist the Army in pursuing civil remedies in this case. The AUSA had initially agreed to accept two issues for prosecution, including the fraudulent use of warranty spare parts and the non-compliance of contractual terms on behalf of Lockheed Martin for not submitting a contracted safety assessment report which necessitated the federal government spending an additional \$1,000,000.00 to meet a milestone decision. On January 27, 2007, the AUSA determined to only pursue the issue of the fraudulent warranty spare parts.

As reflected in the attached extension request from [REDACTED] at this point, the CID and the AUSA are anticipating closing the safety assessment report case. CID is prepared to assist the AUSA in the prosecution of Lockheed Martin. An extension is needed due to the fact the settlement negotiations will have to be scheduled with Lockheed Martin once the company is notified of the pending litigation. The CID is awaiting action by the AUSA. In the event negotiations are not successful, civil suit may be an appropriate option. A further extension of time is crucial to permit the Army to proceed on these key matters.

After the completion of these efforts with the AUSA, additional time will be needed so that the Army can determine a course of action to address the remaining issues presented in the OSC referred allegations and provide the final Department of the Army report addressing all of the allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY CRIMINAL INVESTIGATION COMMAND  
701ST MP GROUP  
HUNTSVILLE FRAUD RESIDENT AGENCY  
BUILDING 3421 GRAY ROAD  
REDSTONE ARSENAL, ALABAMA 35898-7245

REPLY TO  
ATTENTION OF  
CISA-MHU

31 May 07

MEMORANDUM FOR OFFICE OF THE ARMY GENERAL COUNSEL, ATTN: [REDACTED]  
[REDACTED] 104 ARMY PENTAGON, ROOM 3C546, WASHINGTON, DC 20310-0104

SUBJECT: AMCOM WHISTLEBLOWER COMPLAINT

1. This memorandum is being prepared to request an extension regarding the investigation being conducted by this office on the subject complaint.
2. This office is currently investigating the whistleblower complaints under two separate case files, 0024-03-CID113-34960 and 0025-03-CID113-34961. Case number 0025-03-CID113-34961 deals solely with the allegations surrounding the safety of the Multiple Launch Rocket System (MLRS) and the Safety Assessment Report (SAR) that was to have been prepared by LOCKHEED MARTIN, prime contractor for the MLRS.
3. As of this date, case number 0025-03-CID113-34961 is being closed without further action by either CID or the US Attorney's Office due to the expiration of the statutes. The remaining one issue of the fraudulent use of warranty spare parts is being pursued by the US Attorney's Office. At this time, all known investigative actions by CID are complete. Further direction will be taken at the behest of the US Attorney to assist in the prosecution of LOCKHEED MARTIN. This particular incident is estimated to be \$1.5 million in damages against the US Army.
4. An extension is needed due to the fact that settlement negotiations will have to be scheduled with LOCKHEED MARTIN once the company is notified of the pending litigation. CID is awaiting action by the assigned US Attorney.
5. The point of contact for these investigations is SA [REDACTED] who may be reached either via email [REDACTED] or telephone [REDACTED].

////original signed////

[REDACTED]  
SPECIAL AGENT



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON, DC 20310-0104



REPLY TO  
ATTENTION OF

September 4, 2007

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army through the Army's Criminal Investigation Division Command (CID), in coordination with the Office of the United States Attorney, Northern District of Alabama, in Birmingham, to complete appropriate civil action with regard to the matters raised by this case. You had granted the previous request for an extension for ninety days on May 31, 2007, and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. Since that time, the following actions have been taken on this case.

As you may recall, with the closure of the criminal proceedings of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama and had been conducted in conjunction with the criminal investigation conducted by the Army's CID, CID had initially closed out their investigation on 27 April 2005. However, residual issues still remained to be addressed by the CIDC. CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees, and corrective actions.

The CID completed its investigation. [REDACTED] presented her findings from her follow-on investigation to the Assistant United States Attorney (AUSA), Northern District of Alabama, on August 22, 2006. The AUSA office agreed to assist the Army in pursuing civil remedies in this case. The AUSA had initially agreed to accept two issues for prosecution, including the fraudulent use of warranty spare parts and the non-compliance of contractual terms on behalf of Lockheed Martin for not submitting a contracted safety assessment report which necessitated the federal government spending an additional \$1,000,000.00 to meet a milestone decision. On January 27, 2007, the AUSA determined to only pursue the issue of the fraudulent warranty spare parts.

As reflected in the attached correspondence, CID has been assisting the AUSA in the prosecution of Lockheed Martin with respect to the allegation of fraudulent use of warranty spare parts. This particular matter is estimated to be \$1.6 million in damages against the U.S. Army. An extension is needed due to the fact the settlement negotiations are currently underway between the U.S. Government and Lockheed Martin. Additional meetings will be forthcoming to discuss the allegations and remedies available. In the event negotiations are not successful, civil suit may be an appropriate option. A further extension of time is crucial to permit the Army to proceed on these key matters.

After the completion of these efforts with the AUSA, additional time will be needed so that the Army can determine a course of action to address the remaining issues presented in the OSC referred allegations and provide the final Department of the Army report addressing all of the allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
UNITED STATES ARMY CRIMINAL INVESTIGATION COMMAND  
701ST MP GROUP  
HUNTSVILLE FRAUD RESIDENT AGENCY  
BUILDING 3421 GRAY ROAD  
REDSTONE ARSENAL, ALABAMA 35898-7245

REPLY TO  
ATTENTION OF  
CISA-MHU

4 Sep 07

MEMORANDUM FOR OFFICE OF THE ARMY GENERAL COUNSEL, ATTN: [REDACTED]  
[REDACTED] 104 ARMY PENTAGON, ROOM 3C546, WASHINGTON, DC 20310-0104

SUBJECT: AMCOM WHISTLEBLOWER COMPLAINT

1. This memorandum is being prepared to request an extension regarding the investigation being conducted by this office on the subject complaint.
2. This office is currently investigating the whistleblower complaints under two separate case files, 0024-03-CID113-34960 and 0025-03-CID113-34961. Case number 0025-03-CID113-34961 deals solely with the allegations surrounding the safety of the Multiple Launch Rocket System (MLRS) and the Safety Assessment Report (SAR) that was to have been prepared by LOCKHEED MARTIN, prime contractor for the MLRS.
3. LOCKHEED MARTIN has been notified via a demand letter from the US Attorney's Office regarding the allegation of fraudulent use of warranty spare parts. At this time, all known investigative actions by CID are complete. Further direction will be taken at the behest of the US Attorney to assist in the prosecution of LOCKHEED MARTIN. This particular incident is estimated to be \$1.6 million in damages against the US Army. Meetings between the US Government and LOCKHEED MARTIN have begun and additional meetings are being scheduled to discuss the allegations and remedies available.
4. An extension is needed due to the fact that settlement negotiations are ongoing with LOCKHEED MARTIN and additional meetings will be scheduled. This is pending litigation and actions are being directed by the US Attorney's Office.
5. The point of contact for these investigations is [REDACTED] who may be reached either via email: [REDACTED] or telephone [REDACTED].

////original signed////

[REDACTED]  
SPECIAL AGENT





DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104

November 23, 2007

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army through the Army's Criminal Investigation Division Command (CID), in coordination with the Office of the United States Attorney, Northern District of Alabama, in Birmingham, to complete appropriate civil action with regard to the matters raised by this case. You had granted the previous request for an extension for ninety days on May 31, 2007, and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. Since that time, the following actions have been taken on this case.

As you may recall, with the closure of the criminal proceedings of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama and had been conducted in conjunction with the criminal investigation conducted by the Army's CID, CID had initially closed out their investigation on 27 April 2005. However, residual issues still remained to be addressed by the CIDC. CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees, and corrective actions.


*Extension 18*

The CID completed its investigation [REDACTED] presented her findings from her follow-on investigation to the Assistant United States Attorney (AUSA), Northern District of Alabama, on August 22, 2006. The AUSA office agreed to assist the Army in pursuing civil remedies in this case. The AUSA had initially agreed to accept two issues for prosecution, including the fraudulent use of warranty spare parts and the non-compliance of contractual terms on behalf of Lockheed Martin for not submitting a contracted safety assessment report which necessitated the federal government spending an additional \$1,000,000.00 to meet a milestone decision. On January 27, 2007, the AUSA determined to only pursue the issue of the fraudulent warranty spare parts.

Since that time, CID has been assisting the AUSA in the prosecution of Lockheed Martin with respect to the allegation of fraudulent use of warranty spare parts. This particular matter is estimated to be \$1.6 million in damages against the U.S. Army. An extension is needed due to the fact the settlement negotiations are currently underway between the U.S. Government and Lockheed Martin. Additional meetings will be forthcoming to discuss the allegations and remedies available. In the event negotiations are not successful, civil suit may be an appropriate option. A further extension of time is crucial to permit the Army to proceed on these key matters.

While the AUSA and CID continue to address the fraudulent warranty spare parts matter, we are undertaking a parallel effort with CID to determine the appropriate course of action that Army should pursue with respect to the remaining OSC referred allegations not before the AUSA that had been held in abeyance pending the completion of the AUSA efforts. That effort is underway to ensure valuable time is not lost while we await the resolution of the AUSA/CID efforts. The end result is to fully staff the final Army report that will be addressing all of the OSC referred allegations. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

  
[REDACTED]  
[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

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TAB 5

Tab 5 – Findings of the U.S. Army Criminal Investigation Command (CID) in Whistleblower Investigation - Department of the Army Aviation and Missile Lifecycle Management Command, Redstone Arsenal, Huntsville, Alabama (Office of Special Counsel Case File Number DI-00-1499)

This tab was prepared by [REDACTED] [REDACTED], Attorney-Adviser, U.S. Army Criminal Investigation Command, Fort Belvoir, Virginia, [REDACTED] [REDACTED] July 9, 2008

Introduction. Army CID's procurement fraud agents investigate allegations of fraud arising from major military acquisitions. The crimes encountered in such cases include bribery, illegal gratuities, false statements, false claims, misrepresentation of material facts, and knowingly providing substituted materials not meeting contract requirements.<sup>1</sup> Each of these offenses includes an element of deception or misrepresentation by a contractor in its dealings with the government.

In hindsight, a criminal investigation probably was not the most effective way to investigate Mr. Daniels' allegations. The allegations, as framed by the Office of Special Counsel and the Army, raise issues more of contract interpretation and administration than violations of criminal laws. The findings summarized below and the Army's partial reply support this point. The important questions were 1) what the applicable contracts provided, 2) what the contract provisions meant, 3) what the obligations of the parties were, and 4) how the contract terms were actually applied, rather than whether a crime had occurred.

In my view, a more effective approach would have been to conduct an administrative investigation of Mr. Daniels' allegations and refer to Army CID any matters that appeared to be criminal in nature.

Standard used in CID investigations. For purposes of report writing, Army CID uses a probable cause standard when determining whether a criminal offense has been committed. Offenses are characterized as:

- a. Founded if CID makes a determination that a criminal offense has been committed.
- b. Unfounded if CID determines that a criminal offense did not occur.
- c. Insufficient evidence if the investigation was unable to determine that a reported or alleged criminal offense did or did not occur.

CID's approach to the allegations. Special Agent [REDACTED] characterized each allegation in terms of a potential criminal offense, primarily using the offenses of False

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<sup>1</sup> DOD Instruction 5505.2, Criminal Investigations of Fraud Offenses, Enclosure 2, 2003.

Claims (Title 18, United States Code, Section 287)<sup>2</sup> or False Statements (Title 18, United States Code, Section 1001)<sup>3</sup>. As such, Special Agent [REDACTED] characterizations of the allegations differ from those of OSC and the Army.

The criminal investigation ended in November 2007. Since then, Mr. Daniels' allegations have undergone additional administrative analysis, inquiry, and review apart from the criminal investigation. The following summary describes CID's findings based solely on the evidence acquired during the course of the criminal investigation.

**OSC Allegation 1:** The MLRS Project Office used Technical Direction Letters (TDLs) to assign work against the wrong contract to enhance Lockheed Martin profits.

**The allegation as stated by CID:** Whether Lockheed Martin submitted false claims against cost-plus contracts when the costs should have been against firm-fixed price contracts.

CID interviewed Mr. Daniels, AMCOM program management and procurement officials, and AMCOM legal counsel on this issue. CID also consulted the Defense Contract Audit Agency on Lockheed Martin's accounting procedures. In addition, CID worked with the Justice Department from the early stages of the investigation and participated in meetings between the U.S. Attorney's Office for the Northern District of Alabama and officials of Lockheed Martin in which both sides presented their positions on this issue.

Initially, in final a report dated April 27, 2005, CID concluded that Lockheed Martin committed the offenses of False Claims and False Statements by having the MLRS Program Office authorize technical direction letters approving costs already paid under other contracts. On March 16, 2005, the U.S. Attorney's Office for the Northern

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<sup>2</sup> The elements of this offense are:

1. The subject made or presented a claim that is false, fictitious, or fraudulent;
2. The subject made the claim to a department or agency of the US;
3. The subject knew the claim was false, fictitious, or fraudulent.

A "claim" includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient, if the United States government provides any portion of the money or property which is requested or demanded, or if the government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or granted.

<sup>3</sup> The elements of this offense are:

1. The subject knowingly and willfully.
  - a. Falsified or concealed a material fact, or
  - b. Made a materially false statement or representation, or
  - c. Made or used a writing or document that is false in a material matter;
2. In any matter within the jurisdiction of one of the three branches of the federal government.

District of Alabama (Assistant U.S. Attorney ██████████) declined to accept this case for prosecution (Tab 6A). ██████████ suggested that the issue would be more adequately addressed through administrative remedies available to the Department of Defense.

The case involving this allegation was reopened on August 8, 2005 at the request of the Office of the Army General Counsel. Between August 8, 2005, and 29 May 2007, CID gathered additional evidence and interviewed additional witnesses.

After further investigation, CID found no criminal offense and unfounded this allegation in a supplemental report dated November 30, 2007. This finding was made based on evidence that the Government approved the technical direction letters which authorized additional funds under the various contracts awarded to Lockheed Martin in support of fielded Multiple Launch Rocket Systems as well as new production of the MLRS. CID noted that acquisition center personnel and program office personnel differed in their understanding of the correct review process of the technical direction letters.

**OSC Allegation 2:** Lockheed Martin mischaracterized costs it incurred in developing Value Engineering Change Proposals (VECP), for which costs it was solely responsible under the Reduced Range Practice Rocket (RRPR) and Low Cost Reduced Range Practice Rocket (LCRRPR) contracts, as Engineering Change Proposals (ECP), which were reimbursable by the government. Further, the Army failed to assert proprietary rights over the RRPR and LCRRPR as required by the Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS).

**The allegation as stated by CID:** Whether Lockheed Martin submitted false claims for the reimbursement of value engineering concepts.

Like allegation 1, Special Agent ██████████ interviewed Mr. Daniels, AMCOM program management and procurement officials, and AMCOM legal counsel on this issue, coordinated with the Justice Department and participated in meetings between the U.S. Attorney's Office for the Northern District of Alabama and officials of Lockheed Martin in which both sides presented their positions on this issue.

Initially, in a report dated April 27, 2005, CID concluded that Lockheed Martin committed the offenses of False Claims and False Statements by submitting a claim for costs incurred on a voluntary value engineering change proposal which had previously been paid on another contract. On March 16, 2005, the U.S. Attorney's Office for the Northern District of Alabama (Assistant U.S. Attorney ██████████) declined to accept this case for prosecution (Tab 6A). ██████████ suggested that the issue would be more adequately addressed through administrative remedies available to the Department of Defense.

Ultimately, further investigation led to the conclusion that there was no criminal offense. A cost-sharing equation in the contracts allowed Lockheed Martin and the

government to share the savings of any value engineering concept submitted. The offenses were unfounded in a report dated November 30, 2007.

**OSC Allegations 3 and 4:** The government accepted non-conforming and unsafe M2701A MLRS launchers from Lockheed Martin without reducing the price paid to reflect the launchers' defects. The Army deployed these launchers, placing soldiers at risk. Lockheed Martin failed to provide a safety assessment report for the M270A1 launcher as it was contractually obligated to do. The Army expended additional funds to hire another contractor to prepare that report. The MLRS Project Office failed to notify the AMCOM Acquisition Center that the launchers were noncompliant with contract performance specifications. Subsequently, the Project Office failed to follow the Acquisition Center's advice to seek corrective action before accepting more launchers. The Army expended additional appropriated funds to render the launchers safe, a cost that Lockheed Martin should have borne.

**The allegations as stated by CID:**

1) Whether Lockheed Martin shipped nonconforming MLRS launchers to the U.S. Government.

CID interviewed a former instructor on the MLRS system, reviewed safety assessments on the MLRS system, consulted with AMCOM legal counsel, interviewed a Lockheed Martin senior program manager, met with AMCOM acquisition center specialists, reviewed Lockheed Martin's initial safety assessment report, attended meetings between the Justice Department and Lockheed Martin regarding this issue, and consulted with Defense Contract Management Agency investigative auditors.

CID concluded that there was no criminal offense. The launchers provided by Lockheed Martin conformed to the contract and were not deemed to be a danger to the operators of the equipment based on the production of the product. Cautions and warnings were given to the users of the equipment. There were no documented instances of any soldier being hurt due to faulty equipment. On March 16, 2005, the U.S. Attorney's Office for the Northern District of Alabama declined to prosecute this allegation (Tab 6B). The case involving this allegation was reopened on August 8, 2005 at the request of Army General Counsel. Between August 8, 2005, and May 29, 2007, CID gathered additional evidence and interviewed additional witnesses. CID again concluded that no criminal offense had occurred. On April 27, 2007, the U.S. Attorneys Office for the Northern District of Alabama again declined to prosecute the case. The offense was unfounded in a final supplemental report dated June 15, 2008.

2) Whether Lockheed Martin submitted false statements and false claims based on the contractually required Safety Assessment Report submission.

The investigative activity for this allegation was similar to that described under Allegation 3, above.



CID found that Lockheed Martin was paid in advance (along with other monies due under the contract) for preparation of a Safety Assessment Report that was unsatisfactory to the government. Rather than requiring Lockheed Martin to submit a satisfactory report, the program manager contracted with another contractor to produce the report. When this other contractor completed the report, Lockheed Martin claimed the report as its own work product. CID concluded that Lockheed Martin had violated the false claims statute (Title 18, U.S. Code, Section 287), and the false statements statute (Title 18, U.S. Code, Section 1001). On March 16, 2005, the U.S. Attorney's Office for the Northern District of Alabama declined to prosecute the case based on the predominant administrative issues of the case, the age of the allegations, and the knowledge of government officials (Tab 6B). The case involving this allegation was reopened on August 8, 2005 at the request of the Army General Counsel. Between August 8, 2005, and 29 May 2007, CID gathered additional evidence. CID again concluded that criminal offenses had been committed, but on April 27, 2007, the U.S. Attorneys Office for the Northern District of Alabama again declined to prosecute the case because the statute of limitations had expired (five years for false statements and false claims). The statute of limitations starts when the United States first becomes aware that a criminal offense may have occurred.

The Army's policy is to pursue all available remedies in significant cases of procurement fraud.<sup>4</sup> Among those remedies is debarment from government contracting. In theory, the law violation found by CID might have served as a basis for debarring Lockheed Martin, or at least the offending division or element of Lockheed Martin, from government contracting. As a practical matter, debarment is appropriate if the government determines that a contractor is not *presently* responsible. Because the violation identified here occurred so long ago, it is highly unlikely that a case could have been made for debarring Lockheed Martin on this violation alone.

**OSC Allegation 5:** The Army accepted five M270A1 launchers lacking Fire Control Systems (FCSs) but failed to reduce payments to Lockheed Martin to reflect the launchers' diminished value.

**The allegation as stated by CID:** Whether Lockheed Martin submitted false claims for delivery of M270A1 MLRS launchers which lacked the fire control systems.

Initially, in a report dated April 27, 2005, Special Agent ██████████ concluded that Lockheed Martin committed the offenses of False Claims and False Statements. On March 16, 2005, the U.S. Attorney's Office for the Northern District of Alabama (Assistant U.S. Attorney ██████████) declined to accept this case for prosecution (Tab 6A).

The portion of the case involving this allegation was reopened on August 8, 2005, at the request of the Office of the Army General Counsel. Between August 8,

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<sup>4</sup> See Chapter 8, Army Regulation 27-40, Litigation.

2005, and May 29, 2007, CID gathered additional evidence which led to the conclusion that no criminal offense had been committed. The investigation revealed that there were no launchers accepted by the U.S. government that lacked the fire control systems. Once the launchers were accepted by the U.S. government, they became U.S. property and could be managed and used with other compatible systems to meet mission requirements. As a result of this further investigation, the offenses founded in the April 2005 report were changed to unfounded.

**OSC Allegation 6:** Lockheed Martin improperly used and failed to account for warranty spare launcher parts that rightfully belonged to the Army.

**The allegation as stated by CID:** Lockheed Martin submitted false claims for the use of warranty spare launcher parts.

Initially, the evidence indicated that the spare launcher parts had been purchased by the United States and furnished to Lockheed Martin as part of the production contract. There was speculation that Lockheed Martin used the spare parts for foreign military sales items rather than for items sold to the United States. A final report dated April 27, 2005, stated that Lockheed Martin committed the offenses of False Claims and False Statements, but the U.S. Attorney's office in Birmingham, Alabama, declined to prosecute due to the predominantly administrative issues of the case as well as the age of the allegations and the culpability of the U.S. Government (Tab 6A).

The portion of the case involving this allegation was reopened on August 8, 2005, at the request of the Office of the Army General Counsel. Between August 8, 2005, and 29 May 2007, CID gathered additional evidence and interviewed additional witnesses. CID, AMCOM counsel, and AMCOM Acquisition Center personnel reviewed contract DAAH01-94-C-A005 which provides that the rotatable spares were the property of Lockheed Martin. Lockheed Martin purchased the spares and was free to use the spares as it chose during the performance of the contract. The contract terms specified that the spares were to be transferred to the U.S. government at the conclusion of the contract "as is", that is, in the condition in which they existed at the time, whether new or used. The spares were not government property. On November 29, 2007, the U.S. Attorneys Office for the Northern District of Alabama again declined to prosecute the case. The offense was changed from founded to unfounded in a supplemental report dated November 30, 2007.

6

TAB 6

6A



## U.S. Department of Justice

Alice H. Martin  
United States Attorney

Lloyd C. Peeples, III  
Assistant U.S. Attorney  
[Lloyd.Peeples@usdoj.gov](mailto:Lloyd.Peeples@usdoj.gov)

1801 Fourth Avenue North  
Birmingham, AL 35203-2101

Direct (205) 244-2116  
Main (205) 244-2001  
Fax (205) 244-2175

March 16, 2005

**Via Facsimile - (256) 876-0506**

Laura L. Baddley  
Criminal Investigation Command  
Huntsville Fraud Resident Agency  
Building 3217  
Redstone Arsenal, AL 35898-7245

Re: Lockheed Martin Matters

Dear Laura,

After reviewing the information that you and I discussed this morning, this office agrees with your assessment of these matters. Accordingly, based on the information you have obtained, it does not appear that there is sufficient evidence to initiate a fraud investigation against Lockheed Martin. At this time, it would appear that the issues we discussed would be more adequately addressed through the various administrative remedies available to the Department of Defense.

If you disagree with this determination, please call me so that we can discuss this matter further.

Sincerely,

ALICE H. MARTIN  
UNITED STATES ATTORNEY

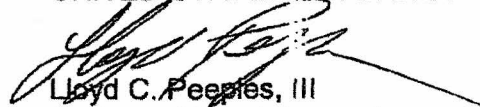
  
Lloyd C. Peeples, III  
Assistant United States Attorney

Exhibit 13

6B



U.S. Department of Justice

Alice H. Martin  
United States Attorney

Lloyd C. Peeples, III  
Assistant U.S. Attorney  
[Lloyd.Peeples@usdoj.gov](mailto:Lloyd.Peeples@usdoj.gov)

1801 Fourth Avenue North  
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March 16, 2005

**Via Facsimile -(256) 876-0506**

Laura L. Baddley  
Criminal Investigation Command  
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Building 3217  
Redstone Arsenal, AL 35898-7245

Re: Lockheed Martin Matters

Dear Laura,

After reviewing the information that you and I discussed this morning, this office agrees with your assessment of these matters. Accordingly, based on the information you have obtained, it does not appear that there is sufficient evidence to initiate a fraud investigation against Lockheed Martin. At this time, it would appear that the issues we discussed would be more adequately addressed through the various administrative remedies available to the Department of Defense.

If you disagree with this determination, please call me so that we can discuss this matter further.

Sincerely,

ALICE H. MARTIN  
UNITED STATES ATTORNEY

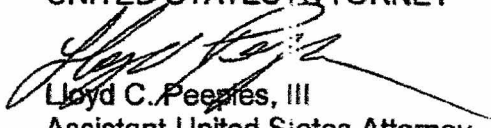
  
Lloyd C. Peeples, III  
Assistant United States Attorney

Exhibit 15



7

TAB 7



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104

February 28, 2008

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army through the Army's Criminal Investigation Division Command (CID), in coordination with the Office of the United States Attorney, Northern District of Alabama, in Birmingham, to complete appropriate civil action with regard to the matters raised by this case. You had granted the previous request for an extension for ninety days on November 28, 2007, and had agreed that I would provide a status update on this pending action within ninety days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. To date, the following actions have been taken on this case.

As you may recall, with the closure of the criminal proceedings of the OSC referred allegations that had been referred to the Assistant United States' Attorney (AUSA) Office for the Northern District of Alabama and had been conducted in conjunction with the criminal investigation conducted by the Army's CID, CID had initially closed out their investigation on 27 April 2005. However, residual issues still remained to be addressed by the CIDC. CIDC agreed to re-open its case to assist the Army in determining the appropriate administrative process for addressing the OSC allegations so that all Army interests are addressed and protected, including procurement fraud remedies, potential disciplinary actions against Government employees, and corrective actions.

The CID completed its investigation. [REDACTED] presented her findings from her follow-on investigation to the Assistant United States Attorney (AUSA), Northern District of Alabama, on August 22, 2006. The AUSA office agreed to assist the Army in pursuing civil remedies in this case. The AUSA had initially agreed to accept two issues for prosecution, including the fraudulent use of warranty spare parts and the non-compliance of contractual terms on behalf of Lockheed Martin for not submitting a contracted safety assessment report which necessitated the federal government spending an additional \$1,000,000.00 to meet a milestone decision. On January 27, 2007, the AUSA determined to only pursue the issue of the fraudulent warranty spare parts. On April 27, 2007, the AUSA declined to prosecute Lockheed Martin on the Safety Assessment Report due to the expiration of the applicable statute of limitations.

During the ensuing months, CID assisted the AUSA in the prosecution of Lockheed Martin with respect to the allegation of fraudulent use of warranty spare parts. This particular matter was estimated to be \$1.6 million in damages against the U.S. Army. Settlement discussions ensued between the U.S. Government and Lockheed Martin. As a result, on November 29, 2007, the AUSA declined the rotatable spares allegations when additional facts were disclosed that addressed the merits of the alleged criminal activity.

However, while the AUSA and CID were addressing the fraudulent warranty spare parts matter, during the course of several meetings, I brought the Army team comprised of attorneys at the Army (including the Army's Procurement Fraud Division), AMC, and AMCOM levels as well as the CID attorney and CID agent to discuss the appropriate courses of action that Army should pursue with respect to the OSC referred allegations, and to coordinate them with whatever actions the AUSA was planning to take. When the criminal proceedings were brought to a close, we were able to focus on the administrative aspects of handling all of the OSC referred allegations. Since that time, we have been working toward completing the final Army report in satisfaction of the 5 USC § 1213 requirement.

An extension of time is requested in order to continue working toward the completion and submission of the subject final Army report. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104

May 2, 2008

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army to continue a recently initiated investigation into three of the six allegations and address additional documents that it just discovered as it was in the process of finalizing its report on the remaining three allegations. You had granted the previous request for an extension for sixty days on March 28, 2008, and had agreed that I would provide a status update on this pending action within sixty days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. To date, the following actions have been taken on this case.

As you may recall, on November 29, 2007, when the Assistant United States Attorney declined the last of the allegations (on the rotatable spares allegations) when additional facts were disclosed that addressed the merits of the alleged criminal activity, I brought the Army team comprised of attorneys at the headquarters Army (including the Army's Procurement Fraud Division), AMC, and AMCOM levels as well as the CID attorney and CID agent to discuss the appropriate courses of action that Army should pursue with respect to the OSC referred allegations, and to coordinate those actions with whatever actions the AUSA was planning to take. When the criminal proceedings were brought to a close, we were able to focus on the administrative aspects of handling all of

the OSC referred allegations. Since that time, we have been working diligently toward completing the final Army report in satisfaction of the 5 USC § 1213 requirement.

As a result of these ongoing assessments, in early April, 2008, after a series of telephone and video teleconferences, we had decided to split off three of the six allegations and forward the Army report on three of the allegations (2, 5, and 6) to you in a partial submission of the final Army report within the extension of time you had approved (May 5, 2008), and then initiate an investigation into the remaining three allegations (1, 3 and 4) in order to further develop the facts on which to base the rest of the Army report on those allegations. The following are the six OSC referred allegations:

**OSC Allegation 1:** The MLRS Project Office used Technical Direction Letters (TDLs) to assign work against the wrong contract so as to enhance Lockheed Martin profits.

**OSC Allegation 2:** Lockheed Martin mischaracterized costs it incurred in developing Value Engineering Change Proposals (VECP), for which it was solely responsible under the Reduced Range Practice Rocket (RRPR) and Low Cost Reduced Range Practice Rocket (LCRRPR) contracts, as Engineering Change Proposals (ECP), which were reimbursable by the government. Further, the Army failed to assert proprietary rights over the RRPR and LCRRPR as required by the Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations Supplement (DFARS).

**OSC Allegations 3 and 4:** The government accepted non-conforming and unsafe M270A1 MLRS launchers from Lockheed Martin without reducing the price paid to reflect the launchers' defects. The Army's deployment of these launchers to the field placed soldiers at risk. Lockheed Martin failed to provide a safety assessment report for the M270A1 launcher as it was contractually obligated to do. The Army expended additional funds to hire another contractor to prepare that report. The MLRS Project Office failed to notify the AMCOM Acquisition Center that the launchers did not comply with contract performance specifications. Subsequently, the Project Office failed to follow the Acquisition Center's advice to seek corrective action before accepting more launchers. The Army expended additional appropriated funds to render the launchers safe, a cost that Lockheed Martin should have borne.

**OSC Allegation 5:** The Army accepted five M270A1 launchers lacking Fire Control Systems (FCSs) but failed to reduce payments to Lockheed Martin to reflect the launchers' diminished value.

**OSC Allegation 6:** Lockheed Martin improperly used and failed to account for warranty spare launcher parts that rightfully belonged to the Army.

Unfortunately, though we did initiate the Army Regulation 15-6 investigation into Allegations 1, 3, and 4, we recently had a set back with respect to the completion of Allegations 2, 5, and 6 where we discovered a number of documents that were relevant to those allegations. As a result, we are in the process of determining their significance so

we can incorporate them into the Army report covering those allegations. Therefore, an extension of time is requested in order to continue working toward the completion and submission of the subject final Army report. Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I have included documentation from the Chief Counsel, U.S. Army Aviation and Missile Command, that provides a status report on the AR 15-6 investigation it initiated on April 28, 2008, into Allegations 1, 3, and 4. It is projected that completing that investigation will take approximately 45 days. Please note that when that investigation is completed, we will need additional time to consider the investigation's findings and conclusions, and to draft, staff and finalize the final Army report on those allegations. In the interim, we will be working diligently to complete the Army report dealing with Allegations 2, 5, and 6.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)

Enclosure



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104

July 1, 2008

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army to complete a recently initiated investigation into three of the six allegations and finalize its report on the remaining three allegations. You had granted the previous request for an extension for sixty days on May 19, 2008, and had agreed that I would provide a status update on this pending action within sixty days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. To date, the following actions have been taken on this case.

As you may recall, on November 29, 2007, when the Assistant United States Attorney declined the last of the allegations (on the rotatable spares allegations) when additional facts were disclosed that addressed the merits of the alleged criminal activity, I brought the Army team comprised of attorneys at the headquarters Army (including the Army's Procurement Fraud Division), AMC, and AMCOM levels as well as the CID attorney and CID agent to discuss the appropriate courses of action that Army should pursue with respect to the OSC referred allegations, and to coordinate those actions with whatever actions the AUSA was planning to take. When the criminal proceedings were brought to a close, we were able to focus on the administrative aspects of handling all of the OSC referred allegations. Since that time, we have been working diligently toward completing the final Army report in satisfaction of the 5 USC § 1213 requirement.



As a result of these ongoing assessments, in early April, 2008, after a series of telephone and video teleconferences, we had decided to split off three of the six allegations and forward the Army report on three of the allegations (2, 5, and 6) to you in a partial submission of the final Army report within the extension of time you had approved (May 5, 2008), and then initiate an investigation into the remaining three allegations (1, 3 and 4) in order to further develop the facts on which to base the rest of the Army report on those allegations. The following are the six OSC referred allegations:

**OSC Allegation 1:** The MLRS Project Office used Technical Direction Letters (TDLs) to assign work against the wrong contract so as to enhance Lockheed Martin profits.

**OSC Allegation 2:** Lockheed Martin mischaracterized costs it incurred in developing Value Engineering Change Proposals (VECP), for which it was solely responsible under the Reduced Range Practice Rocket (RRPR) and Low Cost Reduced Range Practice Rocket (LCRRPR) contracts, as Engineering Change Proposals (ECP), which were reimbursable by the government. Further, the Army failed to assert proprietary rights over the RRPR and LCRRPR as required by the Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations Supplement (DFARS).

**OSC Allegations 3 and 4:** The government accepted non-conforming and unsafe M270IA MLRS launchers from Lockheed Martin without reducing the price paid to reflect the launchers' defects. The Army's deployment of these launchers to the field placed soldiers at risk. Lockheed Martin failed to provide a safety assessment report for the M270A1 launcher as it was contractually obligated to do. The Army expended additional funds to hire another contractor to prepare that report. The MLRS Project Office failed to notify the AMCOM Acquisition Center that the launchers did not comply with contract performance specifications. Subsequently, the Project Office failed to follow the Acquisition Center's advice to seek corrective action before accepting more launchers. The Army expended additional appropriated funds to render the launchers safe, a cost that Lockheed Martin should have borne.

**OSC Allegation 5:** The Army accepted five M270A1 launchers lacking Fire Control Systems (FCSs) but failed to reduce payments to Lockheed Martin to reflect the launchers' diminished value.

**OSC Allegation 6:** Lockheed Martin improperly used and failed to account for warranty spare launcher parts that rightfully belonged to the Army.

Unfortunately, though we did initiate the Army Regulation 15-6 investigation into Allegations 1, 3, and 4, we had a set back with respect to the completion of Allegations 2, 5, and 6 where we discovered a number of documents that were relevant to those allegations. As a result, our review of those documents took longer than we had anticipated. Therefore, we are in the process of revising the Army report to reflect the additional evidence gathered and its impact on the merits of Allegations 2, 5, and 6. The

additional extension of time is requested in order to continue working toward the completion and submission of the final Army report on Allegations 2, 5, and 6. Additionally, the AR 15-6 investigation that was initiated on Allegations 1, 3, and 4 is scheduled for completion by mid-July. Thus, this extension request is required to also provide additional time to complete the subject AR 15-6 investigation. However, when that investigation is completed, we will also need additional time to consider the investigation's findings and conclusions, and to draft, staff, and finalize the final Army report on those allegations. In the interim, we will be working diligently to complete the Army report dealing with Allegations 2, 5, and 6. We anticipate sending that portion of the Army report to you within the next few weeks.

Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]

Associate Deputy General Counsel  
(Human Resources)



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104

September 4, 2008

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC § 1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Hunstville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Hunstville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army to complete some additional inquiries that surfaced during its recent investigation into three of the six allegations, and finalize its report on these remaining three allegations. You had granted the previous request for an extension for sixty days on July 9, 2008, and had agreed that I would provide a status update on this pending action within sixty days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. To date, the following actions have been taken on this case.

As you may recall, on November 29, 2007, when the Assistant United States Attorney declined the last of the allegations (on the rotatable spares allegations) when additional facts were disclosed that addressed the merits of the alleged criminal activity, I brought the Army team comprised of attorneys at the headquarters Army (including the Army's Procurement Fraud Division), AMC, and AMCOM levels as well as the CID attorney and CID agent to discuss the appropriate courses of action that Army should pursue with respect to the OSC referred allegations, and to coordinate those actions with whatever actions the AUSA was planning to take. When the criminal proceedings were brought to a close, we were able to focus on the administrative aspects of handling all of the OSC referred allegations. Since that time, we have been working diligently toward completing the final Army report in satisfaction of the 5 USC § 1213 requirement.

As a result of these ongoing assessments, in early April, 2008, after a series of telephone and video teleconferences, we had decided to split off three of the six allegations and forward the Army report on three of the allegations (2, 5, and 6) to you in a partial submission of the final Army report within the extension of time you had approved (May 5, 2008), and then initiate an investigation into the remaining three allegations (1, 3 and 4) in order to further develop the facts on which to base the rest of the Army report on those allegations. The following are the six OSC referred allegations:

**OSC Allegation 1:** The MLRS Project Office used Technical Direction Letters (TDLs) to assign work against the wrong contract so as to enhance Lockheed Martin profits.

**OSC Allegation 2:** Lockheed Martin mischaracterized costs it incurred in developing Value Engineering Change Proposals (VECP), for which it was solely responsible under the Reduced Range Practice Rocket (RRPR) and Low Cost Reduced Range Practice Rocket (LCRRPR) contracts, as Engineering Change Proposals (ECP), which were reimbursable by the government. Further, the Army failed to assert proprietary rights over the RRPR and LCRRPR as required by the Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations Supplement (DFARS).

**OSC Allegations 3 and 4:** The government accepted non-conforming and unsafe M2701A MLRS launchers from Lockheed Martin without reducing the price paid to reflect the launchers' defects. The Army's deployment of these launchers to the field placed soldiers at risk. Lockheed Martin failed to provide a safety assessment report for the M270A1 launcher as it was contractually obligated to do. The Army expended additional funds to hire another contractor to prepare that report. The MLRS Project Office failed to notify the AMCOM Acquisition Center that the launchers did not comply with contract performance specifications. Subsequently, the Project Office failed to follow the Acquisition Center's advice to seek corrective action before accepting more launchers. The Army expended additional appropriated funds to render the launchers safe, a cost that Lockheed Martin should have borne.

**OSC Allegation 5:** The Army accepted five M270A1 launchers lacking Fire Control Systems (FCSs) but failed to reduce payments to Lockheed Martin to reflect the launchers' diminished value.

**OSC Allegation 6:** Lockheed Martin improperly used and failed to account for warranty spare launcher parts that rightfully belonged to the Army.

On July 21, 2008, Army submitted its final agency assessment and report regarding Allegations 2, 5, and 6 to the Special Counsel. In the interests of obtaining and providing to the OSC accurate and complete information regarding the three other allegations (Allegations 1, 3, and 4), the Commander, AMCOM initiated an administrative investigation on April 28, 2008, with respect to Allegations 1, 3, and 4. Though the AR 15-6 investigation is in its final stages of completion, our review of the

preliminary investigative report revealed that there were a number of issues that surfaced during the AR 15-6 investigation that need to be more fully addressed. Therefore, we are in the process of completing those inquiries, finalizing the AR 15-6 report, and revising the Army report to reflect the additional evidence gathered and its impact on the merits of Allegations 1,3, and 4. The additional extension of time will allow us to continue working toward the completion of these outstanding actions, consider the investigation's findings and conclusions, and to draft, staff, and finalize the Army supplemental report on Allegations 1, 3, and 4.

Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)



DEPARTMENT OF THE ARMY  
OFFICE OF THE GENERAL COUNSEL  
104 ARMY PENTAGON  
WASHINGTON DC 20310-0104

November 7, 2008

Ms. Catherine A. McMullen  
Chief, Disclosure Unit  
U.S. Office of Special Counsel  
1730 M Street, N.W., Suite 300  
Washington, D.C. 20036-4505

Re: OSC File No. DI-00-1499

Dear Ms. McMullen:

This letter is a status report for the above captioned case. I am requesting that you grant an extension of time to file the Department of the Army's report required by 5 USC §1213 for the above captioned Office of Special Counsel (OSC) case where OSC determined that there is substantial likelihood that information provided by Mr. Clarence Daniels, Contract Specialist, Program Executive Office, Multiple Launch Rocket System (MLRS), Tactical Missiles, Aviation and Missile Command (AMCOM), Redstone Arsenal, Huntsville, Alabama, disclosed violations of law, rule or regulation, a gross waste of funds, and a substantial and specific danger to public safety by employees at AMCOM, Redstone Arsenal, Program Office, Tactical Missiles, MLRS Division, Huntsville, Alabama.

I respectfully submit the following status report and further request that you grant the Department of the Army an additional extension of time to file its report in this matter. This extension will permit the Army to complete some additional inquiries that surfaced during its recent investigation into three of the six allegations, and finalize its report on these remaining three allegations. You had granted the previous request for an extension for sixty days on September 10, 2008, and had agreed that I would provide a status update on this pending action within sixty days or if the outstanding action had been completed, then the final Department of the Army report would be submitted to the Special Counsel. To date, the following actions have been taken on this case.

As you may recall, in early April, 2008, after a series of telephone and video teleconferences, we had decided to split off three of the six allegations and forward the Army report on three of the allegations (2, 5, and 6) to you in a partial submission of the final Army report within the extension of time you had approved (May 5, 2008), and then initiate an investigation into the remaining three allegations (1, 3 and 4) in order to further develop the facts on which to base the rest of the Army report on those allegations. The following are the six OSC referred allegations:

**OSC Allegation 1:** The MLRS Project Office used Technical Direction Letters (TDLs) to assign work against the wrong contract so as to enhance Lockheed Martin profits.

**OSC Allegation 2:** Lockheed Martin mischaracterized costs it incurred in developing Value Engineering Change Proposals (VECP), for which it was solely responsible under the Reduced Range Practice Rocket (RRPR) and Low Cost Reduced Range Practice Rocket (LCRRPR) contracts, as Engineering Change Proposals (ECP), which were reimbursable by the government. Further, the Army failed to assert proprietary rights over the RRPR and LCRRPR as required by the Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations Supplement (DFARS).

**OSC Allegations 3 and 4:** The government accepted non-conforming and unsafe M2701A MLRS launchers from Lockheed Martin without reducing the price paid to reflect the launchers' defects. The Army's deployment of these launchers to the field placed soldiers at risk. Lockheed Martin failed to provide a safety assessment report for the M270A1 launcher as it was contractually obligated to do. The Army expended additional funds to hire another contractor to prepare that report. The MLRS Project Office failed to notify the AMCOM Acquisition Center that the launchers did not comply with contract performance specifications. Subsequently, the Project Office failed to follow the Acquisition Center's advice to seek corrective action before accepting more launchers. The Army expended additional appropriated funds to render the launchers safe, a cost that Lockheed Martin should have borne.

**OSC Allegation 5:** The Army accepted five M270A1 launchers lacking Fire Control Systems (FCSs) but failed to reduce payments to Lockheed Martin to reflect the launchers' diminished value.

**OSC Allegation 6:** Lockheed Martin improperly used and failed to account for warranty spare launcher parts that rightfully belonged to the Army.

On July 21, 2008, Army submitted its final agency assessment and report regarding Allegations 2, 5, and 6 to the Special Counsel. In the interests of obtaining and providing to the OSC accurate and complete information regarding the three other allegations (Allegations 1, 3, and 4), the Commander, AMCOM initiated an administrative investigation on April 28, 2008, with respect to Allegations 1, 3, and 4. During our review of the preliminary draft AR 15-6 investigative report, it was evident that there were a number of issues that surfaced during the AR 15-6 investigation that needed to be more fully addressed.

As reflected in the enclosed memorandum from [REDACTED] the AMCOM Chief Counsel, the investigating officer is still in the process of completing his investigation because he has had to conduct a number of follow-up interviews with several of the witnesses he had previously interviewed as well as conduct initial interviews with additional witnesses who have relevant information for the remaining open allegations. Therefore, we are in the process of completing those inquiries, finalizing the AR 15-6 report, and revising the Army report to reflect the additional evidence gathered and its impact on the merits of Allegations 1,3, and 4. The additional extension of time will allow us to continue working toward the completion of these

outstanding actions, consider the investigation's findings and conclusions, and to draft, staff, and finalize the Army supplemental report on Allegations 1, 3, and 4.

Should you grant this extension, please advise me as to the length of the extension. Within that allotted time, I will either provide you another status update on this pending action or be able to submit the final Department of the Army report to the Special Counsel.

I appreciate your assistance in considering the extension request. To advise me if this extension will be granted, you can reach me at [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
Associate Deputy General Counsel  
(Human Resources)

Enclosure





DEPARTMENT OF THE ARMY  
UNITED STATES ARMY AVIATION AND MISSILE COMMAND  
5300 MARTIN ROAD  
REDSTONE ARSENAL AL 35898-5000

AMSAM-L

6 November 2008

MEMORANDUM THRU

U.S. Army Materiel Command, Command Counsel, (AMCCC), Headquarters, U.S. Army  
Materiel Command 9301 Chapek Road, Fort Belvoir, Virginia 22060

FOR Department of the Army, Office of the General Counsel, (Attn: [REDACTED])

SUBJECT: Request for Extension - OSC File Number DI-00-1499

1. It is requested that an extension be granted for completion of the Army investigative report pertaining to the above captioned Office of Special Counsel matter.
2. As discussed in your previous request for extension dated 4 September 2008, additional matters needed to be addressed by the AMCOM investigating officer appointed under the provisions of AR 15-6. His investigation of these additional matters is still incomplete. The matters required him to interview witnesses a second time and the responses of these witnesses have led him to even more witnesses. Some of these witnesses are no longer with the government and attempts to locate them initially have met with negative results but the investigating officer is still pursuing leads necessary to contact them. Further, he has been tasked to update some matters that have previously been addressed. Additionally, the investigating officer's mother passed away and he has just returned to duty this week from that misfortune but still is dealing with residual matters associated with her death.
3. The investigating officer is hoping to complete his investigation by the end of next week. That report will then need to be reviewed, approved and its contents integrated into the final Army report along with any other additional matters deemed necessary to be included in the final report as a result of your office's review.
4. It is respectfully requested that an extension be requested from the Office of Special Counsel.

[REDACTED]  
Chief Counsel  
AMCOM

8

TAB 8

8A



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
UNITED STATES ARMY AVIATION AND MISSILE COMMAND  
5300 MARTIN ROAD  
REDSTONE ARSENAL AL 35898-5000

AMSAM-L-G-G

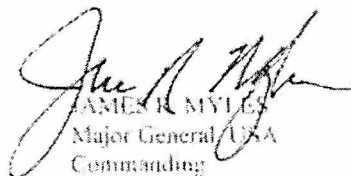
28 April 2008

MEMORANDUM FOR: AMSAM-OB, [REDACTED]

SUBJECT: Appointment as AR 15-6 Investigative Officer

1. You are hereby appointed as Investigative Officer pursuant to AR 15-6 to conduct an investigation into Allegations 1, 3, and 4 as detailed in the attached letter dated August 20, 2003, from the Office of Special Counsel, Re: OSC File No. D1-00-1499.
2. Your investigation will use informal procedures under the provisions of AR 15-6, Chapters 3 and 4. All witness statements will be sworn when possible, preferably on a DA Form 2823, and you will obtain Privacy Act statements from all witnesses who complete a written statement. If in the course of your investigation you come to suspect that an individual may be criminally responsible, you will seek guidance from your legal advisor prior to initiating or continuing questioning of that individual.
3. You are to have the full cooperation of all necessary Redstone Arsenal personnel in the pursuit of this investigation. This is to be your primary duty until completed.
4. Prior to beginning your investigation, you are to contact the General Law Division of the AMCOM Legal Office (842-05310) to receive a briefing on AR 15-6 procedures. A General Law attorney will serve as your legal advisor for the duration of the investigation. You are strongly encouraged to consult your legal advisor if you have any procedural questions. You are to maintain a daily written chronology of your actions during the investigation. You will prepare a report of the investigation to include sworn statements, other pertinent evidence, and a completed DA Form 1574. When completed, two (2) copies of this report are to be delivered to the General Law Division for review and determination of legal sufficiency.
5. At the start of your investigation, you will coordinate with [REDACTED] AMCOM Legal Office, Acquisition Law Division [REDACTED] for existing information pertinent to the investigation.
6. The suspense for completion of this investigation is 12 June 2008. Submit to my attention any requests for extension of this suspense or modification of the scope of this investigation.

Encls

  
JAMES R. MYLES  
Major General, USA  
Commanding