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OFFICE OF INSPECTOR GENERAL

2021-0009-INVI-P – Suspected Violations of the Architect of the Capitol (AOC) Government Ethics Policy: **Substantiated; Violation of the AOC Standards of Conduct Policy: **Not Substantiated****

On February 11, 2021, the AOC Office of Inspector General (OIG), received information that an employee held outside employment while simultaneously utilizing paid administrative leave from the AOC due to being in a high risk category for contracting the Coronavirus (COVID-19).

During the COVID-19 pandemic, the AOC placed employees who were potentially affected by the pandemic into one administrative leave category. For example, when telework or other work arrangements could not be made or their work areas were closed (such as U.S. Capitol Visitor Center) they were placed on administrative leave by AOC management. Additionally, there was a large group of employees over the age of 65 or with underlying health issues (making them more at risk from COVID-19) who applied for (with proof from a doctor) this special accommodation in order to protect them from exposure while working at the AOC.

The Chief Administrative Officer for the AOC published a memorandum dated October 6, 2020, clarifying expectations of agency employee's while on administrative leave. The memorandum stated in part, "Per AOC Order 630-1, administrative leave is an excused (administratively authorized) absence from duty without loss of pay and without charge to leave." The memorandum directed that employees on administrative leave "must be available and able to work on short notice." AOC leadership defined an employee as 'available' when, during his or her normal tour of duty, he or she is communicating regularly with and responding promptly to AOC colleagues and supervisors, participating in telework activities as directed by management, and able to return to work in two to three hours, regardless of jurisdictional operating status. In December 2020, the OIG in consultation with the AOC Office of General Counsel, determined there was nothing specific in AOC policy prohibiting AOC employees from working another job (or engaging in other personal activities) while on administrative leave, so long as they were responsive and available to be called back to AOC work on short notice as needed during regular work hours, they received prior approval and the position did not conflict with official duties and responsibilities.

The OIG determined through testimonial and documentary evidence that the employee was provided a special accommodation of administrative leave from March 26, 2020 through December 6, 2020, by AOC management due to a pre-existing medical condition. The employee did not initially seek out the special accommodation provided to them and the OIG found no evidence that the employee intended to defraud the AOC by obtaining outside employment after requesting a special accommodation from the AOC. In a memorandum dated November 16, 2020, the Diversity, Inclusion and Dispute Resolution office denied the employee additional administrative leave following the request



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Investigative Summary

2021-0009-INVI-P “Violation of COVID-19 Administrative Leave”

for all AOC employees to submit medical documentation and a COVID-19 High Risk Identification Form.

Upon receipt of the denial memorandum, the employee was placed back in the work rotation and permitted to utilize their own leave during their scheduled work rotations.

The investigation determined that the employee was also employed at a large grocery chain with locations throughout the District of Columbia, Maryland and Virginia. The employee was forthcoming during an interview with the OIG and admitted they had outside employment but were unaware of the policy. The employee immediately filed the proper paperwork upon their return to work.

The investigation disclosed that the employee violated AOC Order 38-1 Government Ethics, November 1, 2018, Section I - Outside and Post-Government Employment, 39. Outside Employment: 39.3 by not obtaining advance permission from their Agency Designee in writing or by email using a “Notice of Outside Employment or Self-Employment Form.”

Final Management Action: The employee received a letter of counseling. The investigation is closed.