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Office of Inspector General  
United States Department of State

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ESP-21-02

Office of Evaluations and Special Projects

April 2021

# **Review of Allegations of Misuse of Department of State Resources**

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# HIGHLIGHTS

Office of Inspector General  
United States Department of State

ESP-21-02

## What OIG Reviewed

In response to a whistleblower complaint, OIG reviewed allegations that Department staff members were asked to complete tasks of a personal nature by U.S. Secretary of State Michael Pompeo (the "Secretary") and his spouse, Susan Pompeo (Mrs. Pompeo).

## What OIG Recommends

OIG made three recommendations to the Department. OIG recommended that the Office of the Legal Adviser update its guidance to the Office of the Secretary to include guidance on the use of Department funds to pay for gifts to U.S. citizens and the use of Department employees to arrange personal dinners and entertainment. OIG recommended that the Bureau of Diplomatic Security amend its Protection Handbook to include examples of appropriate and inappropriate requests to agents performing protective functions, and direction concerning what to do when an agent is tasked with an inappropriate request and who to contact to address concerns. Finally, OIG recommended that the Under Secretary for Management draft and publish guidance on the use of a subordinate's time for tasks of a personal nature, including direction concerning what to do and who to contact when a Department employee is tasked with an inappropriate request. The Department concurred with all three recommendations.

April 2021

OFFICE OF EVALUATIONS AND SPECIAL PROJECTS

## Review of Allegations of Misuse of Department of State Resources

### What OIG Found

OIG reviewed allegations that former U.S. Secretary of State Michael Pompeo directed Department of State (Department) employees to carry out tasks of a personal nature to benefit him and Mrs. Pompeo. The allegations stated that the Secretary hired a political appointee to complete such tasks and assigned such work to other employees in the Office of the Secretary and the Bureau of Diplomatic Security.

OIG found that both Secretary and Mrs. Pompeo requested that the political appointee and other employees in the Office of the Secretary undertake work of a personal nature, such as picking up personal items, planning events unrelated to the Department's mission, and conducting such personal business as pet care and mailing personal Christmas cards. OIG found that such requests were inconsistent with Department ethics rules and the Standards of Ethical Conduct for Employees of the Executive Branch.

However, with only a few exceptions, OIG did not find that Secretary and Mrs. Pompeo made personal requests to the special agents in the Bureau of Diplomatic Security who were protecting them. These agents generally told OIG that the Pompeos did not ask them to undertake tasks of a personal nature.

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## BACKGROUND

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In 2019, the Office of Inspector General (OIG) received a whistleblower complaint related to allegations that U.S. Secretary of State Michael Pompeo (the “Secretary”) was misusing U.S. Department of State (Department) resources by, among other things, requesting employees to conduct tasks of a personal nature. Specifically, the complainant alleged that the Department hired an employee as a Senior Advisor who was assigned to assist the Secretary and his spouse, Susan Pompeo (Mrs. Pompeo), in matters of a personal nature. The complainant also alleged that other Department employees in the Office of the Secretary (S) and the Bureau of Diplomatic Security (DS) were assigned such work by the Pompeos.

After receiving the complaint, OIG conducted preliminary work and determined that the Secretary hired a GS-15 Schedule C employee who began work as an advisor to the Secretary in May 2018.<sup>1</sup> The position description for the Advisor to the Secretary (Senior Advisor) states that she reports directly to the Secretary and that her official duties include: attending meetings held by the Secretary and serving as a point of contact between the Secretary and other officials within the Department, carrying out special and confidential assignments on behalf of the Secretary, and serving as the Secretary’s scheduling coordinator for travel.

The Senior Advisor described her relationship with the Pompeos as dating back to the early 1990s.<sup>2</sup> The Senior Advisor and Mrs. Pompeo initially became acquainted while serving as community volunteers and later they lived in the same neighborhood. The Senior Advisor worked for Secretary Pompeo’s congressional office when he was a member of Congress and at the Central Intelligence Agency when he served as Director. In his interview with OIG, the Secretary described the Senior Advisor as a longtime friend of the Pompeo family.

OIG’s investigative work revealed that while the Senior Advisor performed the duties listed in her position description, she also received many additional assignments that were communicated through (on behalf of the Secretary) or directed by Mrs. Pompeo, who was not a Department employee.<sup>3</sup> Specifically, OIG’s review of email records showed that on an almost daily basis since the start of the Senior Advisor’s employment, Mrs. Pompeo would email the Senior Advisor’s official Department email account, asking her to undertake various tasks. Most of these tasks involved adding events to Mrs. Pompeo’s personal electronic calendar. While some of these events related directly to the Department (such as meetings with foreign delegations in which Mrs. Pompeo would accompany the Secretary), others were purely personal (such as meals with friends).

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<sup>1</sup> Schedule C positions are “positions which are policy-determining or which involve a close and confidential working relationship with the head of an agency or other key appointed officials.” 5 C.F.R. § 213.3301(a).

<sup>2</sup> During the course of this review, the Senior Advisor testified before the House Committee on Foreign Affairs. During this testimony, the Senior Advisor answered questions on some of the same issues covered by this review.

<sup>3</sup> The Senior Advisor testified before Congress that “the work that I get assigned is from the Secretary. There are times that Mrs. Pompeo relays that work to me.” The Secretary corroborated this in his interview with OIG, explaining that when Mrs. Pompeo interacted with the Department “team,” she did so “at my direction,” though he suggested that there may have been instances when that was not the case.

Mrs. Pompeo often asked the Senior Advisor to carry out other tasks as well. Some of these clearly related to the business of the Department, such as selecting gifts to present to foreign leaders, creating a challenge coin<sup>4</sup> for the Secretary, and selecting the Secretary's meals on official travel. However, OIG found that some of the requests from Mrs. Pompeo included taking care of personal duties for the Secretary and Mrs. Pompeo, which generally fell into several broad categories: requests to pick up personal items, planning of events unrelated to the Department's mission, and miscellaneous personal requests. OIG further found that in addition to the Senior Advisor, several other employees of the Department were asked by the Secretary and Mrs. Pompeo to undertake tasks of a personal nature.

The Standards of Ethical Conduct for Employees of the Executive Branch, described in greater detail below, limit the personal use of Department resources. After OIG's preliminary review revealed that the Pompeos had asked Department employees to undertake work of a personal nature, OIG conducted an in-depth review of the allegations, the findings of which are reported in the following sections. OIG completed most of its fieldwork for this review by August 2020. On September 11, 2020, OIG requested an interview with Secretary Pompeo. OIG made multiple follow-up requests over the next three months. In mid-December, Secretary Pompeo finally agreed to sit for an interview, which was conducted on December 23, 2020. The delay in obtaining an interview with the Secretary delayed completion of the review and this report.

## RELEVANT LAWS AND POLICIES

### **Standards of Ethical Conduct for Employees of the Executive Branch**

Both federal ethics regulations and Department policies limit the personal use of Department resources. The Office of Government Ethics promulgates the Standards of Ethical Conduct for Employees of the Executive Branch, which apply to executive branch employees, including Presidential appointees (hereinafter the Standards of Ethical Conduct or the Standards).<sup>5</sup> These standards are also in great part contained in the Foreign Affairs Manual (FAM).<sup>6</sup>

Several of the Standards of Ethical Conduct concern misuse of position.<sup>7</sup> One provision states:

an employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or

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<sup>4</sup> A challenge coin is a coin or medallion that contains an organization's seal or distinctive emblem. Traditionally, a high-ranking official of an organization will give challenge coins to a member of the same organization in recognition of a special achievement or to a visiting dignitary as a memento of the official visit.

<sup>5</sup> 5 C.F.R. Part 2635.

<sup>6</sup> 11 FAM 610 (April 2, 2019) *et. seq.*

<sup>7</sup> 5 C.F.R. Part 2635, Subpart G.

persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations.<sup>8</sup>

Another provision concerning the use of subordinate's time states that "an employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation."<sup>9</sup> As an example, it states:

An employee . . . may not ask his secretary to type his personal correspondence during duty hours. Further, directing or coercing a subordinate to perform such activities during nonduty hours constitutes an improper use of public office for private gain in violation of § 2635.702(a). Where the arrangement is entirely voluntary and appropriate compensation is paid, the secretary may type the correspondence at home on her own time. Where the compensation is not adequate, however, the arrangement would involve a gift to the superior in violation of [the prohibition on gifts between employees].<sup>10</sup>

The prohibition on gifts referenced in this section refers to a separate standard that states, "an employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself unless: (1) The two employees are not in a subordinate-official superior relationship; and (2) There is a personal relationship between the two employees that would justify the gift."<sup>11</sup>

In July 2020, the Office of the Legal Adviser (L) prepared a Reference Guide on Ethics and Travel Questions for the Office of the Secretary in response to common questions they had received from S employees on travel, gift, and ethics issues. The guide cites the Standards of Ethical Conduct and notes that "Federal ethics rules specifically prohibit employees from using their public office, government property, or official time for personal purposes or for their private gain or the private gain of another."

## **Protective Authorities of the Bureau of Diplomatic Security**

The State Department Basic Authorities Act authorizes DS to "protect and perform protective functions directly related to maintaining the security and safety" of the Secretary of State and "members of [his or her] immediate family."<sup>12</sup> Department policy generally defines the duty of a protective agent as preventing "physical harm or embarrassment" to the individuals they

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<sup>8</sup> 5 C.F.R. § 2635.702. *See also* 11 FAM 616.1 (September 3, 2015).

<sup>9</sup> 5 C.F.R. § 2635.705(b).

<sup>10</sup> 5 C.F.R. § 2635.705(b), Example 1.

<sup>11</sup> 5 C.F.R. § 2635.302(b). *See also* 5 U.S.C. § 7351(a)(3).

<sup>12</sup> 22 U.S.C. § 2709(a)(3).

protect.<sup>13</sup> The DS Protection Handbook provides guidance to DS agents protecting the Secretary and his family, including specific guidance with respect to the use of DS protective vehicles. It states that protective vehicles “will only be used for transportation of the protectee” and that “the protectee may not delegate its use to another member of the party.”<sup>14</sup>

## FINDINGS

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After receiving a complaint that the Pompeos directed staff in the Office of the Secretary and the Bureau of Diplomatic Security to conduct tasks of a personal nature, OIG opened a review of these allegations. In doing so, OIG found evidence of over 100 requests to Department employees that are inconsistent with the Standards of Ethical Conduct for Employees of the Executive Branch or raised questions about the proper use of Department resources.<sup>15</sup> The majority of these requests were from the Secretary and Mrs. Pompeo to employees in S. With the exception of three identified requests to DS agents, OIG found that the Pompeos generally did not make similar requests to the DS agents who served on their protective details.

### **The Pompeos Made Over 100 Requests to Employees in the Office of the Secretary to Conduct Work that Appeared to be Personal in Nature**

Both Secretary Pompeo and Mrs. Pompeo made requests to employees in S that involved items of a personal nature. All employees assigned such work reported that they considered tasks from Mrs. Pompeo to be at the direction of Secretary Pompeo. These requests from the Pompeos, which fell into three broad categories—requests to pick up personal items, planning of events unrelated to the Department’s mission, and miscellaneous personal requests—had no apparent connection to the official business of the Department and, thus, appear inconsistent with the Standards of Ethical Conduct regarding use of a subordinate employee’s time.<sup>16</sup> These requests, examples of which are described in the subsections below, were handled by S employees both during duty and non-duty hours and were not separately compensated by Secretary Pompeo.<sup>17</sup> As previously stated, directing a subordinate to “perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation” during duty hours is a violation of 5 C.F.R. § 2635.705. Furthermore, directing a subordinate to “perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation” during non-duty hours without

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<sup>13</sup> 12 FAH-2 H-241 (June 16, 1993).

<sup>14</sup> 12 FAH-2 H-166.2 (March 18, 2019).

<sup>15</sup> For purposes of this calculation, OIG counted each general request once, even if the request required numerous tasks or follow-up items. For example, the request to plan the YPO visit described below was counted as one request, even though it involved multiple taskings and follow-up emails from Mrs. Pompeo.

<sup>16</sup> 5 C.F.R. § 2635.705(b).

<sup>17</sup> Secretary Pompeo told OIG that the employees were not compensated for this work beyond their Department salaries.

appropriate compensation is an improper use of public office for private gain in violation of 5 C.F.R. § 2635.705(b). While these standards are important to minimize the risk of coercion in any supervisor-employee relationship, compliance with them is especially critical when the supervisor is the senior-most official in an organization, like the Secretary of State, who is imbued with considerable power and authority.

In addition to these three categories, S staff were asked to arrange personal dinners and entertainment for the Pompeos, which potentially could have both personal and official aspects to them; thus, it is unclear if they constitute a violation of ethical standards.

### ***Requests to Pick Up Personal Items***

OIG found evidence that Mrs. Pompeo tasked the Senior Advisor with purchasing and/or delivering personal items to her.

Examples of such requests include, but are not limited to:

- In September 2018, *Politico* magazine profiled Secretary Pompeo in its "[Politico 50](#)" issue. Mrs. Pompeo emailed the Senior Advisor's official Department email account and asked, "Not sure if this 'Politico 50' came out as a magazine addition to today's publication or just how. Could you research and figure out a way to purchase four for us? I know Mike's family would get a kick out of seeing this. Thanks (and we will reimburse or use our credit card, if you have the number)."
- On separate occasions in August and September 2019, Mrs. Pompeo emailed the Senior Advisor on her official email account and asked her to arrange for flowers to be sent to her friends who were recovering from illnesses. Secretary Pompeo told OIG that he did not believe that such requests were improper; rather, his wife was asking a longtime friend – i.e., the Senior Advisor – to take on "a small simple task to help her out." He added that it was "perfectly fine for friends to help each other."<sup>18</sup>
- In January 2020, Mrs. Pompeo emailed the Senior Advisor on her official email account and asked her to purchase a T-shirt for a friend: "Would you please purchase a t-shirt in one of the shops inside the building today and send it home with Mike? I am wrapping

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<sup>18</sup> This statement and others made during Secretary Pompeo's interview with OIG suggest that Secretary Pompeo considered some of the tasks performed by the Senior Advisor as having been undertaken based on her friendship with the Pompeos. Unlike other areas of the Standards of Ethical Conduct, the regulation concerning use of a subordinate's time does not include a personal relationship exception. It states that "an employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation." 5 C.F.R. § 2635.705(b); cf. 5 C.F.R. § 2635.304(a) ("On an occasional basis, including any occasion on which gifts are traditionally given or exchanged, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay . . ."). In addition, the Senior Advisor told OIG that, for the most part, she believed she was performing the tasks described in this report as a part of her official duties.

up gifts for a priest in Ukraine, who is a friend. I need a t-shirt to fit his nine-year-old daughter.”

- On at least six occasions, Mrs. Pompeo had personal items, such as cleaning supplies and jewelry, shipped to the Senior Advisor’s home and asked that the items be delivered to the Pompeo residence. Secretary Pompeo explained to OIG that, for security reasons, it was often difficult to get items delivered to his residence, so the Pompeos opted to have such items shipped elsewhere, including the Senior Advisor’s home. He stated that such requests were nothing more than “asking a friend to help out.”
- On at least six occasions, Secretary and Mrs. Pompeo instructed the Senior Advisor to make or request prints of photographs so Mrs. Pompeo could give them as gifts or keep them as family records.

Even assuming the above enumerated tasks were performed during the Senior Advisor’s non-duty hours, the Standards of Ethical Conduct suggest that a person in this position should be paid for this non-duty time. The Secretary stated that the Senior Advisor was not paid for such work.

In addition, Mrs. Pompeo asked the Senior Advisor to purchase hostess gifts<sup>19</sup> for social visits using Department funds. For example, the Pompeos were invited to two separate dinners at the homes of U.S. citizens (one a television news anchor and one a commentator) that were personal in nature and unrelated to Department business. The Senior Advisor relayed Mrs. Pompeo’s request to buy gifts for these occasions to the Office of the Chief of Protocol (S/CPR). Accordingly, the Deputy Director of S/CPR advised the Senior Advisor that “S/CPR funds can-not be used for gifts for private sources or U.S. citizens. Our authority is only to purchase gifts for foreign nationals.” The Deputy Director suggested that the Senior Advisor use S funds to purchase such gifts. Following this exchange, the Senior Advisor used S funds to purchase items, such as gold nut bowls, for when the Pompeos visited the homes of friends or attended dinners held in their honor by private U.S. citizens.

The Deputy Director did not specify the basis for her suggestion that S funds be used for gifts for U.S. citizens, but the Senior Advisor told OIG she believed this advice was based on guidance from L. OIG requested such guidance from both ethics and management attorneys in L and was unable to confirm that such guidance was ever provided. OIG recommends that a formal determination be made as to whether Department funds can be used for such gifts. Such a determination is essential to ensure that Department funds are not improperly expended for personal gifts, as well as that Department employees are not spending official time performing personal tasks.

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<sup>19</sup> A hostess gift is a small gift given to a host or hostess of an event or dinner.

### ***Planning of Events Unrelated to the Department's Mission***

As previously noted, the Standards of Ethical Conduct prohibit employees from using their position to benefit nonprofit organizations of which the employee is an officer or member.<sup>20</sup> Similarly, the FAM states: "An employee shall not use or permit the use of his or her Department position, title, or authority in a manner that is intended to coerce or induce another person (including a subordinate) or entity to provide benefits to . . . persons or entities with whom the employee is affiliated in a nongovernmental capacity."<sup>21</sup>

On several occasions, Mrs. Pompeo tasked the Senior Advisor with planning events for organizations with which the Pompeos were associated in a nongovernmental capacity.

For example, at Mrs. Pompeo's direction, the Senior Advisor spent time over three months preparing for a June 2019 visit to Washington, DC, by the Kansas Chapter of the YPO (formerly the Young Presidents' Organization), an organization of which the Secretary was a member. The list of trip participants prepared by Mrs. Pompeo and provided to the Senior Advisor stressed the prior political support of several members to Secretary Pompeo's campaigns for the House of Representatives, but did not reference any connection between the visit and Departmental business. For example, Mrs. Pompeo's list noted that one attendee "was one of Mike's biggest supporters during his years in Congress, hosting the single largest fundraiser held by Pompeo for Kansas," while another attendee "sat on the Pompeo for Kansas Finance Council."

During her workday and using her Department email account, the Senior Advisor arranged events for the trip participants, including arranging tours of various museums, as well as a visit to the Library of Congress and the U.S. Capitol. OIG found no connection between the organization's visit and official business of the Department.<sup>22</sup>

In another example, in November 2019, Mrs. Pompeo sent an email to the Senior Advisor on her Department email account. The email was titled "Pompeo MS Auction Contribution," and asked for assistance in preparing the Pompeos' donations to a charity auction for the Multiple Sclerosis Association. Mrs. Pompeo wrote: "I wondered if you could help me finish up our contribution to the MS Ambassadors Ball auction? I've attached the item description . . . I wondered if you could do the following: #1, Purchase brandy, dark Creme de Cocoa and Kahlua (smaller bottles are fine) #2, Purchase several 16 oz. Hersheys chocolate candy bars." Mrs. Pompeo promised to reimburse the Senior Advisor for these purchases from personal funds.

Finally, in January 2020, Mrs. Pompeo planned a meeting at her home to support a non-profit foundation for military families. Mrs. Pompeo directed the Senior Advisor to send invitations for the meeting and then to use the Pompeos' personal credit card to order refreshments for the meeting and deliver them to her residence during the Senior Advisor's workday.

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<sup>20</sup> 5 C.F.R. § 2635.702.

<sup>21</sup> 11 FAM 616.1(b) (September 3, 2015).

<sup>22</sup> The Senior Advisor told OIG that the organization paid for the rental of space for its event at the Department.

None of these events were funded by the Department. While not dispositive, the use of personal funds suggests that the events were personal in nature; thus, tasking the Senior Advisor to help plan them suggests it is a misuse of a subordinate's time in violation of the relevant ethical rules.

### ***Other Personal Requests***

On several occasions throughout 2018 and 2019, both Secretary and Mrs. Pompeo asked the Senior Advisor to help provide care for the Pompeos' dog. These requests, most of which were made via email to the Senior Advisor's Department email account, included picking the dog up from their home and dropping it off with a boarder; picking it up from the boarder and returning it to their home; and stopping by their home to let the dog out when they were not at home.

Other examples of assignments of a personal nature given to S employees include:

- In July 2018, Mrs. Pompeo instructed a career staff member to accompany the wife of Department Counselor Ulrich Brechbuhl to help her pick up dinner from a restaurant for the Pompeos and the Brechbuhs prior to a social outing. She stated in an email, "Michelle and I think Farmers, Fishers, Bakers is a good place for us to carry out dinner tonight. Michelle is willing to drive if one of you would just run in (that way . . . she won't have to park!)."
- In January 2019, the Secretary tasked a career staff member in S to contact the Department of Defense to request the military service records of Mrs. Pompeo's stepfather so he would qualify for military protocol at his funeral.
- In July 2019, Mrs. Pompeo tasked the Senior Advisor with helping her draft and submit a letter of recommendation for the medical school application of a personal friend of the Pompeos who had no connection to the Department.
- In September 2019, Mrs. Pompeo asked the Senior Advisor for help in making two hair salon appointments. In his interview with OIG, the Secretary explained this request by stating that this occurred during the United Nations General Assembly, when it was "difficult" to get around New York City and where Mrs. Pompeo would be meeting with several foreign dignitaries.
- In December 2019, Mrs. Pompeo emailed the Senior Advisor and asked, "I'm wondering if we are sending the last of our personal [Christmas] cards out, who will be there to help me?" In response to that email, the Senior Advisor and a Senior Foreign Service Officer came in on the weekend to envelope, address, and mail personal Christmas cards for the Pompeos. In his interview with OIG, Secretary Pompeo stated that he

believed this request was proper because it was only “a tiny task” and that he had reimbursed the Department for the cost of printing the personal Christmas cards.<sup>23</sup>

These tasks, which appear to have had no connection to official Department business, were performed by Department personnel during duty and non-duty hours. The Pompeos did not reimburse the subordinate employees for their non-duty time when performing these tasks.

In his interview with OIG, Secretary Pompeo explained that such requests were either *de minimis* in nature or personal assistance of the type provided to longtime friends (noting the pre-existing relationship between the Senior Advisor and the Pompeo family). While many of the requests took a limited amount of time on an individual basis,<sup>24</sup> other requests, such as event planning, took much longer to execute. Also, the sheer number of such requests, when aggregated, indicates that a non *de minimis* amount of time was expended by Department employees for the personal benefit of the Pompeos.<sup>25</sup> Although the Pompeos and the Senior Advisor had a pre-existing relationship, the Senior Advisor told OIG that she generally performed these tasks not as personal favors to the Pompeos, but rather because she believed she had to as part of her official duties.<sup>26</sup> Her understanding of the situation is corroborated by the fact that Mrs. Pompeo communicated her requests to the Senior Advisor’s Department email account rather than her personal account. Moreover, similar tasks were assigned to other employees in S who did not have a pre-existing relationship with the Pompeos, further suggesting that the requests, though personal in nature, were not personal favors being asked of a friend.

### ***Arranging Personal Dinners and Entertainment***

OIG identified at least 30 instances when the Secretary or Mrs. Pompeo tasked S employees with making restaurant reservations for personal lunches and dinners with Pompeo family members or friends. For example, in June 2018, the Secretary directed a career employee to make a reservation for a Sunday brunch for him and his wife at the Cheesecake Factory. OIG also identified several instances where the Secretary and Mrs. Pompeo requested that S employees purchase or reserve movie, theatre, or event tickets for them. When questioned by OIG about the connection to Department business, S employees told OIG they considered conducting such tasks to be official business even though the activities were personal because DS would have to perform an advance visit to the restaurant or venue, and that by making the

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<sup>23</sup> As noted above, OIG found evidence of numerous similar requests, and these are simply examples to illustrate the types of requests.

<sup>24</sup> Unlike other standards of conduct, the one involving use of a subordinate’s time does not contain a *de minimis* exception. *Compare* 5 C.F.R. § 2635.705(b) *with* 5 C.F.R. § 2635.203(b)(1), (2).

<sup>25</sup> Under the standards of ethical conduct, the rules regarding acceptance of gifts also apply to gifts given to an employee’s immediate family members with the employee’s knowledge and acquiescence. 5 C.F.R. § 2635.203(f).

<sup>26</sup> While the standards of ethical conduct involving gifts have an exception for pre-existing relationships, the ones concerning use of official time do not. *Compare* 5 C.F.R. § 2635.705 *with* 5 C.F.R. § 2635.204(b). The Senior Advisor did tell OIG that she considered dog care and delivery of items shipped to her home as personal favors.

reservation or procuring the tickets, staff would be able to inform DS that an advance visit was necessary. One staff member told OIG that he made similar reservations for prior Secretaries of State. Further, Secretary Pompeo told OIG that DS requested the Pompeos not book movie tickets themselves, but rather allow Department employees to handle the arrangements “for security reasons.” While ensuring that DS has the information necessary to perform an advance visit arguably serves an official purpose, it is unclear why it was necessary for Department employees in S to make the reservations rather than the Pompeos. Given the apparent confusion around this issue, further legal guidance to employees is warranted as to whether performing such tasks are an appropriate use of official time.

### ***Potential Use of Official Position to Solicit Gifts***

In addition to identifying evidence that the Pompeos tasked subordinate employees to perform activities of a personal nature, OIG also identified an incident that raised questions regarding the potential solicitation of a gift in violation of the Standards of Ethical Conduct. Under the standards, employees are not permitted to solicit a gift (to include a discount) to be given because of their official position.<sup>27</sup> However, gifts do not include “favorable rates and commercial discounts, available to the public or to a class consisting of all Government employees.”<sup>28</sup>

In September 2019, the Pompeos and Under Secretary for Management Brian Bulatao planned a visit to U.S. Military Academy at West Point (West Point) for a football game that was designated as official travel. The Pompeos’ adult son planned to join them for the trip. Because he was not an official guest of West Point, he was responsible for his own travel expenses.<sup>29</sup> Evidence suggests, however, that Under Secretary Bulatao attempted to obtain a price reduction for him. Specifically, the Senior Advisor emailed Mrs. Pompeo on September 19, 2019, and stated in reference to the Pompeos’ son that Under Secretary Bulatao “was also working on the price . . . reduction.” Ultimately, although the hotel room was originally quoted at \$242 per night, the final invoice OIG obtained shows that the Pompeos’ son was only charged \$124 per night and that the hotel booked the travel under a temporary duty rate reserved for federal employees on official business. The Pompeo’s son was not a federal employee.

Under Secretary Bulatao initially told OIG he did not recall being asked to request a reduced rate for the Pompeos’ son, but later said that he may have worked “to obtain the best rate” for everyone since he was the Department’s point of contact with West Point for the trip. Secretary Pompeo told OIG he could not recall asking Under Secretary Bulatao to inquire about a reduced hotel rate for his son, but that as a general matter, he likes to “pay less” for things if he can.

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<sup>27</sup> 5 C.F.R. §§ 2635.202(a)(2); 2635.203(b). This prohibition includes gifts to an employee’s children with the employee’s knowledge and acquiescence. 5 C.F.R. § 2635.203(f).

<sup>28</sup> 5 C.F.R. § 2635.203(b)(4). *See also* 11 FAM 613.1-4 (September 3, 2015).

<sup>29</sup> Despite the fact that the Pompeos’ son was not an official guest, career employees in S helped to arrange his lodging at West Point.

Although Secretary Pompeo had no specific recollection of this event, when discussing acceptance of reduced rates generally, he stated that he would not accept a better price that is offered due to his official position, acknowledging that it would be “completely inappropriate” to do so.

While employees are allowed to accept discounts generally available to all government employees, the ethics rules do not contemplate an employee soliciting such a discount for a family member who is not a government employee; especially a discount that is intended for travelers on official business. The evidence reviewed by OIG, specifically the email from the Senior Advisor and the hotel invoice, suggests that the Pompeos may have been the beneficiaries of a solicitation of a hotel discount for their son, in violation of 5 C.F.R. § 2635.202(a)(2).

### **The Pompeos Generally Did Not Request Bureau of Diplomatic Security Agents to Undertake Tasks of a Personal Nature**

Based on the information obtained for this review, OIG found the Pompeos’ requests to DS during the Secretary’s tenure to be appropriate with only three exceptions. OIG interviewed DS agents who had performed protective duties for the Pompeo family and they told OIG that, for the most part, they were not asked to undertake tasks of a personal nature, such as taking care of pets, running errands, or performing manual labor. However, there were a few occasions when DS officials were uncertain if a request was appropriate. DS officials told OIG that DS did not have specific policies defining what were appropriate requests to agents conducting protective duties, but that the protective division training emphasized that their job was to prevent “harm or embarrassment” to the officials they were protecting.

As noted above, Department policy states that DS protective vehicles are to be used only for the transportation of protected individuals.<sup>30</sup> However, in September 2019, friends of the Pompeos were visiting Washington, DC. During their visit, Mrs. Pompeo asked a DS agent to pick up and drop off these friends at their hotel. This violated Department policy because neither Mrs. Pompeo nor the Secretary were present in the protective vehicle.

Later that same month, the Pompeos were planning a dinner at a restaurant in New York City in honor of their son’s birthday and wanted to bring in a cake to be served after dinner. The restaurant had an \$8 plating fee for food from outside the restaurant. Mrs. Pompeo emailed two DS agents and noted that the restaurant was giving them “a bad time” about the cake. She then asked the agents: “I don’t know who will conduct advance for this dinner, but maybe the most charming one on that advance crew could fish around about the cake?!!!” The DS agents told OIG that they questioned the appropriateness of the request and did not comply with it.

Finally, in January 2020, the Pompeos took an official trip to California. After their arrival, they realized they had left behind a piece of luggage holding some desired clothing at their home in

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<sup>30</sup> 12 FAH-2 H-166.2 (March 18, 2019).

Arlington, VA. They requested that DS retrieve the luggage from their residence and bring it to another Department employee who had a later flight scheduled to California, so the employee could deliver it to them. The agents were not sure if this request was appropriate but undertook it because they did not view it as entailing significant additional expenses to the Department. However, this request is not related to preventing harm or embarrassment to the Pompeos but instead was undertaken for their convenience.

## CONCLUSION

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The Standards of Ethical Conduct for Employees of the Executive Branch prohibit employees from encouraging, directing, coercing, or requesting a subordinate employee to use official time to perform activities other than those required in the performance of their official duties. These Standards also clarify, by way of an illustrative example, that if a subordinate employee volunteers to work non-duty hours on a superior employee's personal matter, the employee must receive appropriate compensation, or it would be considered an inappropriate gift to the superior.<sup>31</sup>

OIG's review determined that Secretary and Mrs. Pompeo requested a Senior Advisor and other employees in S to undertake activities of a personal nature with no official connection to Department business, during both their duty and non-duty hours. Secretary Pompeo acknowledged that he did not compensate Department employees for these tasks. Such requests are inconsistent with the Standards of Ethical Conduct and related Department policies.

OIG found, however, that the Pompeos did not generally make such personal requests to DS agents assigned to protect them.

Finally, OIG found evidence that suggests Department staff helped to arrange lodging and may have solicited a discounted hotel rate for the Pompeos' adult son in violation of the Standards of Ethical Conduct.

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<sup>31</sup> 5 C.F.R. § 2635.705(b), Example 1.

## RECOMMENDATIONS

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While OIG identified violations of the Standards of Ethical Conduct, Secretary Pompeo is no longer an official in the Federal government; accordingly, he is not subject to the disciplinary or other corrective actions applicable to Federal employees. However, we are providing recommendations to the Department in order to mitigate the risk of future senior leaders committing similar violations. OIG makes one recommendation to the Office of the Legal Adviser, one recommendation to the Bureau of Diplomatic Security, and one recommendation to the Under Secretary for Management.

The Department submitted its official response to OIG's draft report on March 31, 2021, which is reprinted in full in Appendix B. The Department agreed with all of OIG's recommendations.

Consistent with past practice, OIG also provided a copy of the draft report to Secretary Pompeo. His counsel provided comments on April 2, 2021, which are reprinted in Appendix C. Secretary Pompeo's counsel raised several objections to the report, which we address below.

Secretary Pompeo's counsel asserted that "[t]he vast majority of 'requests' noted in the Draft Report did not even involve the subject of the inquiry, Mr. Pompeo," but instead were requests by Susan Pompeo, who "was not, and has never been, an employee of the State Department and accordingly her requests for *de minimis* routine and often common courtesy assistance from [the Senior Advisor] do not even implicate State's ethics rules." While Susan Pompeo was not a Department employee, she would often send emails to Department employees that indicated that her requests were on behalf of Secretary Pompeo, using such language as "The Secretary would like you to" or "I have spoken with Secretary." That she was communicating with Department personnel on behalf of the Secretary is further corroborated by Secretary Pompeo's own statements to OIG. As reflected in the report, Secretary Pompeo explained in his interview with OIG that when Mrs. Pompeo interacted with the Department "team," she did so "at my direction." Department employees also confirmed to OIG that they understood requests from Mrs. Pompeo to be made on behalf of the Secretary.

Secretary Pompeo's counsel also asserted that the requests were "*de minimis*" and thus not in violation of the Standards of Ethical Conduct. First, OIG notes that the Standards of Ethical Conduct do not contain a *de minimis* exception; rather, the Standards prohibit *any* use of a subordinate's time to perform personal activities unless compensation is paid. Secretary Pompeo told OIG that he did not compensate Department personnel for the time they spent addressing requests of a personal nature. Second, as noted in the report, while many of the requests took a limited amount of time on an individual basis, other requests took much longer to execute, and the sheer number of such requests, when aggregated, indicates that a non-*de minimis* amount of time was expended by Department employees for the personal benefit of the Pompeos.

Another objection of Secretary Pompeo's counsel is that the requests in question were mere personal favors performed by the Senior Advisor because of her long friendship with the

Pompeos. As noted in the report, the Senior Advisor told OIG that she generally performed these tasks not as personal favors to the Pompeos, but rather because she believed she had to as part of her official duties. Her understanding of the situation is corroborated by the fact that Mrs. Pompeo communicated her requests to the Senior Advisor's Department email account rather than her personal account, and the Senior Advisor carried out the tasks during her workday using Department resources. Moreover, similar tasks were assigned to other employees who did not have a pre-existing relationship with the Pompeos.

Finally, Secretary Pompeo's counsel expressed concern that the report "may be politically motivated" and is the product of staff in the OIG who he speculates "strongly disagreed with personnel decisions made during Mr. Pompeo's tenure, including the termination of former State Department Inspector General Steve Linick." OIG notes that this review began when OIG received a whistleblower complaint regarding Secretary Pompeo's conduct in 2019, long before he terminated former Inspector General Linick. Moreover, the review is largely based on documentary evidence, namely emails between Susan Pompeo and Department employees, regarding requests that no one is disputing were made. Finally, the report has been subject to OIG's rigorous quality assurance processes, including multiple levels of review, a legal sufficiency review and independent fact-checking in accordance with OIG's professional standards. Thus, any allegation of bias or political motivation is not borne out by the facts, which speak for themselves.

**Recommendation 1:** The Office of the Legal Adviser should amend its existing ethics and travel guide to include written guidance as to whether it is appropriate to use Department funds for personal gifts to U.S. citizens and whether it is appropriate for Department employees to arrange personal dinners and entertainment for the Secretary of State.

**Management Response:** In its March 31, 2021, response, the Department concurred with this recommendation.

**OIG Reply:** This recommendation can be closed when the Department provides documentation that it has updated its guidance.

**Recommendation 2:** The Bureau of Diplomatic Security should amend its Protection Handbook to include examples of appropriate and inappropriate requests to agents performing protective functions and direction concerning what to do and who to contact when the agent is tasked with a request that may be inappropriate.

**Management Response:** In its March 31, 2021, response, the Department concurred with this recommendation.

**OIG Reply:** This recommendation can be closed when the Department provides documentation that it has updated the handbook.

**Recommendation 3:** The Under Secretary for Management should draft and publish guidance on the use of a subordinate's time for tasks of a personal nature, including examples of appropriate vs. inappropriate requests and direction concerning what to do and who to contact when a Department employee is tasked with a request that may be inappropriate.

**Management Response:** In its March 31, 2021, response, the Department concurred with this recommendation.

**OIG Reply:** This recommendation can be closed when the Department provides documentation that it has published such guidance.

## APPENDIX A: PURPOSE, SCOPE, AND METHODOLOGY

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OIG began this review in October 2019 after receiving a whistleblower complaint alleging that the Secretary of State and his spouse, Susan Pompeo, were misusing Department resources. Some of the issues raised by the whistleblower relating to representational travel by Susan Pompeo were reviewed and reported on separately by OIG in December 2020.<sup>1</sup>

In order to conduct this review, OIG reviewed documents, including Department email accounts, and reviewed various guidance documents provided to Department officials that were prepared by the Office of the Legal Adviser (L). OIG also conducted interviews of employees in the Office of the Secretary (S) and the Bureau of Diplomatic Security (DS), and of the Under Secretary for Management, Brian Bulatao.

OIG completed most of its fieldwork for this review by August 2020. On September 11, 2020, OIG requested an interview with Secretary Pompeo. OIG made multiple follow-up requests over the next three months. In mid-December, Secretary Pompeo finally agreed to sit for an interview, which was conducted on December 23, 2020. The delay in obtaining an interview with the Secretary delayed completion of the review and this report.

Because of the nature of our findings, the apparent lack of clarity among Department staff concerning the appropriate use of a subordinate's time, and the identification of recommendations for Department consideration, OIG is publishing its findings in this special review in accordance with section (4)(e) of the Inspector General Act.

This report was prepared in accordance with OIG's standards for conducting special reviews contained in the *Office of Evaluations and Special Projects Handbook*.

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<sup>1</sup> OIG, *Management Assistance Report: Representational Travel by the Spouse of the Secretary of State* (ESP-21-01, December 2020).

## APPENDIX B: DEPARTMENT RESPONSE

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United States Department of State

*Under Secretary of State  
for Management  
Washington, D.C. 20520*

UNCLASSIFIED

March 31, 2021

### **MEMORANDUM**

TO:           OIG – Jeffrey McDermott

FROM:        M – Carol Z. Perez (Acting)

SUBJECT:    (U) Department Response for Compliance Update for *Review of Allegations of Misuse of Department of State Resources*

(U) Thank you for the opportunity to provide a Department response to the draft OIG report, *Review of Allegations of Misuse of Department of State Resources*.

(U) The Office of the Legal Adviser accepts Recommendation 1 and will review and revise the Reference Guide on Ethics and Travel Questions to address directly the questions referenced in the recommendation. For Recommendations 2 and 3, the Office of the Under Secretary of Management accepts both recommendations and will work with the Bureau of Diplomatic Security and the Office of the Legal Adviser to draft and issue appropriate guidance to the workforce.

(U) If you have any questions, please feel free to contact me via email or telephone.

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## APPENDIX C: COMMENTS FROM COUNSEL TO SECRETARY POMPEO

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WRITER'S DIRECT DIAL NO.  
[REDACTED]

WRITER'S EMAIL ADDRESS  
[REDACTED]

April 2, 2021

VIA ELECTRONIC MAIL  
[REDACTED]

Diana R. Shaw  
Acting Inspector General  
Office of Inspector General, U.S. Department of State

Re: Draft Review of Allegations of Misuse of Department of State Resources, ESP-21-XX

Dear Ms. Shaw:

We are counsel to former Secretary of State Mike Pompeo and write in reference to the draft report by the U.S. Department of State's Office of Inspector General (OIG) titled "Review of Allegations of Misuse of Department of State Resources" (the "Draft Report"). Rather than a fair, independent, and impartial review of the facts and relevant rules, the Draft Report is replete with factual errors and incoherent and unjustified conclusions that betray the drafters' apparent biases against Mr. Pompeo and his family. At best, the Draft Report amounts to little more than a compilation of picayune complaints cherry-picked by the drafters in an effort to twist innocent, routine and even praise-worthy behavior into something nefarious. At its worst, it is rife with deliberate misstatements and half-truths concocted to support the drafters' seemingly politically motivated goal to find purported ethical lapses by Mr. Pompeo. The Draft Report is, in short, a politicized document in the guise of an investigative one. As such, it is a false report and itself a misuse of State resources and taxpayer money. Publication of the Draft Report in its current form would prove to be a serious embarrassment to the State Department and defamatory of Mr. Pompeo and his family.

We will not address here in detail each and every "request" listed in the Draft Report but, by way of example, would point out the following inanities and worse:

- The vast majority of "requests" noted in the Draft Report did not even involve the subject of the inquiry, Mr. Pompeo. Instead, they are *de minimis* interactions between Mrs. Pompeo and [REDACTED], her friend of almost 30 years. Mrs. Pompeo was not, and has never been, an employee of the State Department and accordingly her requests for *de*

**quinn emanuel urquhart & sullivan, llp**

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*minimis* routine and often common courtesy assistance from ██████ do not even implicate State's ethics rules. To get around this rather obvious obstacle to the whole premise of their report, the drafters make the assumption—without a shred of factual support—that Mrs. Pompeo acted at all times at the direction of Mr. Pompeo. We had thought the time was long past that anyone would consider wives to be mere extensions of their husbands, but that antiquated and offensive view animates the entire Draft Report.

- The “requests” listed in the Draft Report are the following: requesting research on how to buy a few copies of an article about Mr. Pompeo; arranging for flowers to be sent to a friend recovering from an illness; buying a t-shirt for the son of a Ukrainian priest; having some of the Pompeos’ cleaning supplies delivered to ██████ home because of security restrictions on the military base where the Pompeos lived; requesting photographs; hosting events or arranging visits to DC monuments and museums in support of groups like the Multiple Sclerosis Association and military families; helping pick up and drop off the Pompeos’ dog at a boarder when they traveled and (god forbid) letting the dog out of the house when nature called; picking up dinner on one occasion; making lunch reservations at the Cheesecake Factory on another; assisting with making movie, theater and other event reservations on occasion because of security protocols; requesting military records of Mrs. Pompeo’s stepfather so he would qualify for military protocol at his funeral; helping with drafting and submitting a medical school application for a friend; helping make two hair salon appointments for Mrs. Pompeo while she was accompanying Mr. Pompeo on official business at the United Nations General Assembly in New York City; assisting with the mailing out of personal Christmas cards; and on one occasion possibly getting a reduced government rate for a hotel room for the Pompeo’s son—which the Draft Report cannot say was even requested by the Pompeos. The *de minimis*, routine and common courtesy nature of these “requests” (to the extent they even occurred, which in certain cases the Draft Report is deliberately opaque) demonstrates the sheer absurdity of the drafters’ position that over the course of Mr. Pompeo’s 33-month tenure as Secretary of State the best they could come up with to assert supposed “ethical lapses” is a set of commonplace and patently innocuous interactions. Indeed, under their logic the drafters should have included as “lapses” the many instances in which people did the common courtesy of holding the door open for Mr. or Mrs. Pompeo when they entered or exited a room. The drafters would twist common courtesies and routine interactions between friends and colleagues into ethical violations. Neither the rules they cite, nor basic common sense, support their conclusions.
- Perhaps most notable about these “requests” is that there is no allegation that *the Pompeos improperly used State Department funds at any time*. The drafters concede that the Pompeos paid for personal items themselves; and on the single occasion where they raise a question on this point the drafters are forced to admit the evidence proves that State officials provided legal guidance to the Pompeos that State funds could be used to purchase certain hostess gifts.
- The Draft Report acknowledges, as it must, that the Pompeos’ interactions with Diplomatic Security were appropriate but nonetheless takes pains to point out three

incidents—out of many thousands—that *might* have been problematic in the view of the drafters. The drafters have no basis for their view, as they concede that “DS officials told OIG that DS did not have specific policies defining what were appropriate requests to agents conducting protective duties.” Undeterred by the absence of policies or rational grounds for their opinion, the drafters posit that two *de minimis* requests, which they say were turned down by DS, *might* have been a problem had they been carried out. And on the third they appear to reluctantly accept DS’s conclusion that it did not “entail[] significant additional expenses to the Department.” The drafters’ decision to include in their report incidents that they admit at worst *might* be problems but in fact were *not* is further proof that their true goal is to embarrass the Pompeos rather than provide useful recommendations to State based on the facts and the applicable rules.

We further note that the Draft Report trumpets “over 100 requests” that the drafters claim were “of a personal nature” and are supposedly “inconsistent” with ethical rules and standards. This comes as a surprise not only because the Draft Report lists only a fraction of these requests (and all are routine or common courtesy interactions), but more importantly at no time prior to receipt of the Draft Report was Mr. Pompeo or his counsel informed of or given access to information concerning more than a handful of requests under review.

We are entitled to immediate access to the information underlying these supposed “over 100 requests.” This is particularly necessary because the drafters’ analysis of the handful of requests they did make us aware of is so lacking that we have no faith that their work on these other phantom requests meets the most basic level of competence and fairness.

The poor quality of the report bespeaks not merely unprofessionalism in its drafting but also bias, which we are concerned may be politically motivated. It is no secret that some staff in the OIG strongly disagreed with personnel decisions made during Mr. Pompeo’s tenure, including the termination of former State Department Inspector General Steve Linick. We are concerned the Draft Report is a work of “score settling” motivated by the personal and political animus some OIG staff have for Mr. Pompeo.

The Draft Report in its current form is not fit for publication. We reiterate our demand to review the information underlying the other instances of supposedly improper “requests” alleged without specificity in the Draft Report. We also believe it is vital that we meet with you as soon as possible to discuss our grave concerns with both the substance and the motivations of the Draft Report.

On behalf of Mr. Pompeo, we reserve all rights.

Sincerely,



William A. Burek

cc: Jeffrey McDermott (State OIG)  
AJ Merton (Quinn Emanuel Urquhart & Sullivan LLP)

## ABBREVIATIONS

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Department	Department of State
DS	Bureau of Diplomatic Security
FAM	Foreign Affairs Manual
L	Office of the Legal Adviser
OIG	Office of the Inspector General
S	Office of the Secretary
S/CPR	Office of the Chief Protocol

OIG OFFICE OF EVALUATIONS AND SPECIAL PROJECTS TEAM MEMBERS

Jeffrey McDermott  
Nicole Matthis  
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