



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
4800 MARK CENTER DRIVE
ALEXANDRIA, VIRGINIA 22350-1500

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

SEP 15 2021

Dear Ranking Member Grassley:

This is in response to your August 31, 2021 letter regarding Department of Defense Office of Inspector General (DoD OIG) Report No. DODIG-2020-079, "Report on the Joint Enterprise Defense Infrastructure (JEDI) Cloud Procurement," April 13, 2020.

Your letter expressed concerns regarding the DoD OIG's report on the now-canceled JEDI Cloud contract. Your letter also propounded 15 questions related to those concerns. In addition, a memorandum enclosed in your letter questioned the DoD OIG's conclusion regarding whether former DoD employee Sally Donnelly improperly influenced the JEDI Cloud procurement process. The DoD OIG appreciates the opportunity to address your concerns and will explain in this letter how the information forming the basis of your correspondence lacks important context and objectivity.

By way of background, the JEDI Cloud procurement process generated significant interest from Members of Congress, the media, and the public. Between October 2018 and October 2020, several Members of Congress sent the DoD OIG letters regarding the JEDI Cloud procurement process, such as an October 2018 letter from two Members of Congress concerning the development of the Request for Proposal (RFP) and the DoD's acquisition strategy. During this same time period, Oracle, a JEDI Cloud contract competitor, made numerous submissions to the DoD OIG alleging defects in the JEDI Cloud procurement process because of ethical misconduct by the former Secretary of Defense James Mattis; his former senior advisor, Sally Donnelly; Deep Ubhi, whom Oracle incorrectly identified as the Defense Digital Service (DDS) "Lead Project Manager" for what eventually became the JEDI Cloud procurement; and two other DoD employees. Separately, in the U.S. Court of Federal Claims, Amazon, another JEDI Cloud contract competitor, alleged that the White House unduly influenced the JEDI Cloud procurement process. These allegations, and many more, received substantial media coverage.

The DoD OIG ultimately initiated a review of the JEDI Cloud procurement process and an investigation into allegations that former DoD officials engaged in ethical misconduct related to that process. With respect to the JEDI Cloud procurement process, the DoD OIG reviewed the periods before and after the RFP was issued. Specifically, the DoD OIG reviewed the DoD's decision to award the JEDI Cloud contract to a single contractor, the development of the requirements in the RFP, the source selection process, and whether the White House unduly

influenced DoD contracting officials involved in the JEDI Cloud source selection. And with respect to the allegations of ethical misconduct, the DoD OIG investigated whether former Secretary Mattis, Ms. Donnelly, and five other DoD officials had personal or business relationships that might cause a reasonable person to question whether they could perform their duties impartially, whether the officials improperly participated in the JEDI Cloud procurement despite being conflicted, and whether they provided preferential treatment to Amazon. We examined the actions these officials took before, during, and after the JEDI Cloud procurement was awarded.

The memorandum enclosed in your letter raised concerning allegations regarding the DoD OIG's discussion of a few pieces of evidence in its JEDI Cloud report. As an initial matter, I assure you that the DoD OIG approaches every oversight project with our values of integrity, independence, and excellence. For the DoD OIG, acting with integrity includes having the courage to speak the truth about those who do not engage in ethical conduct. Furthermore, the DoD OIG is committed to independently reaching conclusions, without fear or favor, based on facts and evidence alone. Finally, as we have informed you and your staff in prior engagements, the DoD OIG follows established standards to ensure that our investigations are thorough and fair and that our conclusions are independent and objective.

The JEDI Cloud report exhibits the DoD OIG's commitment to our values of integrity, independence, and excellence. The DoD OIG conducted over 80 interviews, from former Secretary Mattis to the JEDI Cloud Procuring Contracting Officer. The DoD OIG also reviewed approximately 32 gigabytes of e-mails, proposals, forms, policies, and other documentary evidence. At every stage of the review and investigation, the DoD OIG followed the evidence wherever it led. The resulting report, at over 300 pages, is the DoD OIG's exhaustive and objective analysis of what occurred before, during, and after the JEDI Cloud procurement process.

Your letter and enclosed memorandum question the DoD OIG quoting parts of some e-mails but not quoting other parts of those same e-mails. The fact that we quoted some of the evidence is not itself evidence that the DoD OIG did not consider, or that the report did not rely on, other parts of that same evidence. To quote or include in our report every part of every piece of evidence we reviewed would have made our report especially unwieldy and, frankly, not a work of independent and objective oversight. For example, the enclosed memorandum alleged that the DoD OIG misrepresented a DoD Standards of Conduct Office (SOCO) opinion about not showing preferential treatment towards industry officials. In fact, the language from the SOCO opinion that the enclosed memorandum said should have been included in the JEDI Cloud report is merely an elaboration of SOCO's guidance already quoted on page 184 of the report, namely that the "engagement with industry [should] be fair, even, and transparent" and that former Secretary Mattis's meeting with former Amazon Chief Executive Officer Jeff Bezos would not be "an optics concern as long as SDs [Secretary Mattis was] willing to meet with representatives of similarly situated entities."

Across nearly 21 pages of extensively documented analysis, the DoD OIG explained that it did not find any evidence that Secretary Mattis gave preferential treatment to Amazon by holding meetings or dinners with Amazon leaders. Specifically, the DoD OIG found that

Secretary Mattis and his staff met with a wide variety of industry leaders, including Amazon, Microsoft, Google, Apple, Oracle, and others, to educate himself and other key DoD leaders on data security as well as to seek suggestions for recruiting and retaining talent in the DoD. The DoD OIG also found that both Secretary Mattis and former Deputy Secretary of Defense Patrick Shanahan encouraged DoD leaders to engage and work with industry in a fair, impartial, and transparent manner where there was mutual interest because this helped industry make informed business decisions that would help the DoD. And the DoD OIG found no evidence that Secretary Mattis's meetings with Amazon differed substantively from similar meetings with Amazon's industry competitors. Finally, as discussed from pages 168 to 188 of the JEDI Cloud report, the DoD OIG thoroughly documented how Secretary Mattis complied with the SOCO opinion.

The enclosed memorandum also alleges that the DoD OIG heavily edited some e-mails to soften Ms. Donnelly's overt advocacy for an April 2017 meeting between Secretary Mattis and Mr. Bezos. To the contrary, the JEDI Cloud report established Ms. Donnelly's support for a meeting by including a lengthy excerpt from one of those April 2017 e-mails. It would have been duplicative to include every part of every e-mail showing Ms. Donnelly favored such a meeting. Furthermore, the JEDI Cloud report shows, through evidence and analysis, that Ms. Donnelly did not serve as the gatekeeper for an April 2017 meeting. As an initial matter, as discussed on page 177 of the report, the DoD OIG found that the meeting referenced in the enclosed memorandum did not occur. The DoD OIG also found that Secretary Mattis's chief of staff, not Ms. Donnelly, approved Secretary Mattis's meetings. Ms. Donnelly's input was, instead, consistent with her role as a special advisor.

Another allegation from the enclosed memorandum is that the DoD OIG downplayed Ms. Donnelly's involvement in a "sales pitch" meeting between Secretary Mattis and Amazon and Mr. Bezos in August 2017, and that this meeting had broader implications on the formation of the JEDI Cloud procurement process. Although this meeting, as well as meetings with several other industry leaders, did occur during Secretary Mattis's trip to the West Coast, Ms. Donnelly did not travel with Secretary Mattis and was not present for any of them. Furthermore, Secretary Mattis requested these meetings, not Ms. Donnelly, in order to learn more about cloud computing. Starting on page 178 of the JEDI Cloud report, the DoD OIG provided a lengthy discussion of the circumstances surrounding Secretary Mattis's meetings. The DoD OIG found that Secretary Mattis met with industry leaders from Amazon, Google, and Apple in August 2017. And after each meeting, a staff member accompanying Secretary Mattis sent Ms. Donnelly an e-mail summarizing those meetings. The JEDI Cloud report also discussed Secretary Mattis's subsequent meeting with Microsoft in January 2018 and Deputy Secretary Shanahan and former Under Secretary of Defense for Acquisition and Sustainment Ellen Lord's meeting with Oracle in February 2018.

It is also worth commenting on the allegation that Ms. Donnelly had "connections" to Amazon and its partner, C5 Capital, through her former company, SBD Advisors, and that she failed to disclose payments from the sale of her business, SBD Advisors. Section IV of the JEDI Cloud report presents, in extensive detail, Ms. Donnelly's financial disclosures and the facts surrounding those disclosures. To summarize that part of the report, the DoD OIG found that Ms. Donnelly worked closely with the SOCO in submitting the required disclosures of her

divested financial interests in SBD Advisors to the Office of Government Ethics and that she complied with her disclosure obligations.

At bottom, the issues raised in the memorandum enclosed in your letter do not bear on the DoD's decision to award the JEDI Cloud contract. Even if we were to assume, for argument's sake, that Ms. Donnelly had demonstrated some kind of preferential treatment towards Amazon to the exclusion of other companies, the DoD OIG did not find substantial evidence that Ms. Donnelly had any role, let alone that she was personally or substantially involved in, shaping or developing the JEDI Cloud acquisition, including in the areas of market research, contract-type determination, Request for Proposals, gating criteria, evaluation of proposals, and award. And even if we were to assume, again for argument's sake, that Ms. Donnelly had been substantially involved and had overtly advocated for Amazon, the DoD ultimately awarded the contract to Microsoft, not Amazon.

Before and after the DoD OIG issued its report on the JEDI Cloud procurement, other governmental entities considered and rejected the same or similar allegations of ethical misconduct. Beginning in July 2018, the JEDI Cloud Procuring Contracting Officer reviewed similar ethics questions and concluded that the alleged conflicts of interest were either not conflicts of interest, did not negatively impact the integrity of the procurement, or did not result in an unfair competitive advantage for Amazon. In November 2018, the Government Accountability Office (GAO) rejected protests of the JEDI Cloud solicitation from IBM and Oracle, concluding, among other things, that the latter's allegations of conflicts of interest did not provide a basis for sustaining its protest. Oracle then raised similar issues in the U.S. Court of Federal Claims, which the court rejected on July 12, 2019, ruling in favor of the DoD. The court found, among other things, that the persons whom Oracle asserted were conflicted were "bit players" whose involvement "did not taint" the work of those who controlled the direction of the procurement.¹ The U.S. Court of Appeals for the Federal Circuit affirmed the Court of Federal Claims' opinion on September 2, 2020, and a petition for a writ of certiorari is pending before the U.S. Supreme Court.

Shortly after the DoD OIG issued its JEDI Cloud procurement report, in an April 20, 2020 letter from the Oracle representative to the Acting Director of the Office of Management and Budget and the Executive Chair of the Council of the Inspectors General on Integrity and Efficiency, Oracle alleged that the DoD OIG ignored Amazon's substantial and material pre-existing commercial relationships with former Secretary Mattis and Ms. Donnelly. Neither governmental entity contacted the DoD OIG for additional investigation or otherwise indicated that either would investigate Oracle's allegations. Oracle also presented this same evidence and these same arguments to the U.S. Attorney's Office for the Eastern District of Virginia on June 23, 2020, and the Public Integrity Section of the Department of Justice's Criminal Division on September 17, 2020. Importantly, every governmental entity that considered these or similar allegations of ethical misconduct declined to take action.

¹ In its July 26, 2019 opinion, the Court of Federal Claims also found that, while the JEDI Cloud Procuring Contracting Officer's single award Federal Acquisition Regulation determination was appropriate, the DoD's statutory determination to use a single award was in error. Nevertheless, the court found no harm to Oracle because Oracle was appropriately "out of the competition" for failing to meet the minimum criteria to maintain eligibility for the award.

The memorandum enclosed in your letter also raises concerns about the DoD OIG's handling of whistleblowers. I want to assure you that, at both the DoD and the U.S. Environmental Protection Agency, I treat whistleblowers and whistleblower protections with the utmost regard. In remarks I gave for this year's Whistleblower Appreciation Day, I told the audience, "Whistleblowers are an important part of our [OIG] work. In fact, they are, in a way, partners in our work. They provide information and details related to alleged wrongdoing that IGs might not learn otherwise." I value and respect the courage of whistleblowers and their contribution to Government oversight.

Between May 2020 and March 2021, I was contacted by two individuals regarding the JEDI Cloud report. The first of these individuals, an Oracle representative, sent me approximately six letters or e-mails. These submissions generally laid out the allegations of ethical misconduct against Ms. Donnelly discussed above. The memorandum enclosed in your letter cited two of these submissions, as well as one to my predecessor. In our responses to the Oracle representative, the DoD OIG told him that we considered the evidence and allegations in his submissions. The DoD OIG also heard the Oracle representative present this same evidence and these same arguments to the U.S. Department of Justice. Because the DoD OIG had the benefit of the Oracle representative's detailed submissions to the DoD OIG, because the DoD OIG had attended Oracle's presentations to the DOJ, and because the Oracle representative and other Oracle officials were not original sources to most, if not all, of the information submitted to support those allegations, we concluded that it was not necessary to contact the Oracle representative for clarification or additional information.

I was also contacted by a former DoD Inspector General on several occasions in the months after the DoD OIG issued the JEDI Cloud report. Among other things, the former DoD IG forwarded copies of two of the Oracle representative's submissions to me and shared Internet links to the PowerPoint presentation that Oracle sent to the CIGIE Executive Chair and a video of Oracle's presentation to the DOJ. I assured him that the DoD OIG had, and would, review Oracle's submissions carefully. The former DoD IG also questioned the absence of a signature page in the DoD OIG's JEDI Cloud report with the name of the authorized person responsible for the approval and release of the report. I explained to him that it is not the DoD OIG's practice to include a signature page for reports of investigation completed by our Administrative Investigations Component; however, the DoD OIG did send a signed transmittal letter to the Secretary of Defense releasing the final JEDI Cloud report to the DoD.

Regarding your request for documents related to the DoD OIG's JEDI Cloud report, in keeping with our efforts to be responsive and transparent regarding our report, the DoD OIG has released—and continues to release—records related to this report. The DoD OIG shared these documents with requesting Members of Congress and published them in our FOIA Reading Room. Among these documents is an index of our fact book, summarizing the documentation we relied upon in our JEDI Cloud report. The majority of these are DoD records for which the DoD OIG does not have the authority to release. It is our understanding that the DoD is currently working to process these records for release.

In your letter, you also asked a number of questions regarding our report. Below are your questions and our responses.

1. Did any current or former employees or contractors of DoD OIG voice any concern(s)/disagreement(s) (in writing or verbally) regarding the content, findings, recommendations, or any other aspect of the Report prior to its publication? If so, please describe the situation in detail and identify everyone by name and title, whether or not they continue to be employed by the DoD OIG.

No, I am not aware of any concerns or disagreements, in writing or orally, regarding the content, findings, recommendations, or any other aspect of the report prior to its publication. As is our practice for all reviews or investigations, DoD OIG employees and supervisors work together. Supervisors regularly review the work and progress of each investigator to ensure that the investigation is thorough and conducted in an impartial, diligent, and complete manner, and that conclusions are supported by adequate evidence and documentation. In addition, each DoD OIG report goes through rigorous quality assurance and review processes. At no time during the review of the JEDI Cloud report did a DoD OIG employee raise substantive complaints or objections regarding the final report as published.

2. Did the Inspector General's office ever give specific instructions to the investigators overseeing the JEDI investigation not to address particular communications (phone, email, or in-person) between General James Mattis and Jeff Bezos, the CEO of Amazon?

No, I am not aware of the Inspector General's office ever giving specific instructions to the investigators overseeing the JEDI Cloud investigation not to address particular communications, such as phone, e-mail, or in-person communications between Secretary Mattis and Mr. Bezos. More broadly, I am not aware of the IG's office placing any limits on DoD OIG personnel regarding the discovery of evidence. In fact, the DoD OIG interviewed Secretary Mattis twice, during which the DoD OIG asked in-depth questions about his communications with Mr. Bezos, as well as with multiple senior executives from other information technology companies, such as Apple, Google, and Microsoft. The DoD OIG referenced the relevant information from these interviews in the JEDI Cloud report and released the transcripts on a dedicated DoD OIG webpage. As with every review or investigation, DoD OIG personnel are instructed to follow the facts and evidence wherever they lead to ensure that our conclusions and report are well supported, well explained, and factually correct.

3. Did the Inspector General's office ever give specific instructions to the investigators overseeing the JEDI investigation not to address particular communications (phone, email, or in-person) between any combination of the Secretary of Defense, the Director of Travel Operations, and any current or former employees of Amazon? If so, what were those specific instructions and who gave them?

No, as stated in my answer to Question 2, I am not aware of the IG's office placing any limits on DoD OIG personnel regarding the discovery of evidence.

4. Did the Inspector General's office ever give specific instructions to the investigators overseeing the JEDI investigation not to follow through on all necessary leads generated during the JEDI investigation? Specifically, leads about the relationship between General Mattis, Sally B. Donnelly, and employees of Amazon Web Services (AWS)? If so, what were those specific instructions and who gave them?

No, as stated in my answer to Question 2, I am not aware of the IG's office placing any limits on DoD OIG personnel regarding the discovery of evidence.

5. Did the Inspector General's office ever give specific instructions to the investigators overseeing the JEDI investigation to limit the scope of questioning when conducting interviews with General James Mattis and Anthony DiMartino? If so, what were those specific instructions and who gave them?

No, as stated in my answer to Question 2, I am not aware of the IG's office placing any limits on DoD OIG personnel regarding the discovery of evidence.

6. Did the Inspector General's office ever give specific instructions to the investigators overseeing the JEDI investigation to limit time spent running overseas investigative leads? If so, what were those specific instructions and who gave them?

No, as stated in my answer to Question 2, I am not aware of the IG's office placing any limits on DoD OIG personnel regarding the discovery of evidence.

7. Did the Inspector General's office ever give specific instructions to the investigators overseeing the JEDI investigation not to address overseas travel by General James Mattis to the Kingdom of Bahrain? If so, what were those specific instructions and who gave them?

No, as stated in my answer to Question 2, I am not aware of the IG's office placing any limits on DoD OIG personnel regarding the discovery of evidence. In fact, the DoD OIG interviewed Secretary Mattis twice, during which the DoD OIG asked in-depth questions about his travel between 2014 and 2016, including his travel to Bahrain. The DoD OIG referenced the relevant information from these interviews in the JEDI Cloud report and released the transcripts on a dedicated DoD OIG webpage. Moreover, Secretary Mattis discussed his travel during his confirmation, which is included in the Congressional Record.

8. Did the Inspector General's office ever give specific instructions to the investigators overseeing the JEDI investigation not to address the relationship between Amazon management, Andre Pinaar, Viktor Vekselberg, and Teresa Carlson (AWS)? If so, what were those specific instructions and who gave them?

No, as stated in my answer to Question 2, I am not aware of the IG's office placing any limits on DoD OIG personnel regarding the discovery of evidence.

9. During the production of the final JEDI report of investigation, did members of the Inspector General's staff advise investigators or other OIG employees to "keep things short" when referring to the amount of information that should be included in the report? If so, who gave that advice?

No, I am not aware of any member of the Inspector General's staff advising investigators or other OIG employees to "keep things short" when referring to the amount of information that should be included in the report. In fact, the JEDI Cloud report, at over 300 pages, is a thorough analysis of over 80 interviews and over 32 gigabytes of e-mails and other relevant documents.

10. Did the Inspector General's office intentionally not include the investigative responses and notes pertaining to a majority of the nearly 100 people interviewed in the final JEDI report of the investigation? If so, why?

The DoD OIG conducts all of its reviews or investigations, including investigations of alleged ethical misconduct, in accordance with established standards, which ensures that the review or investigation is thorough and fair and that our conclusions are independent and objective. This means, among other things, that the DoD OIG reviews all the evidence that it receives and explains how it reached its conclusions. The JEDI Cloud report, at over 300 pages, is a thorough analysis of over 80 interviews and over 32 gigabytes of e-mails and other relevant documents. To include in our report the investigative responses and notes pertaining to a majority of the witnesses would have stretched the report to over 1,000 pages. As part of the DoD OIG's commitment to transparency, we have released transcripts, as well as other evidence, on a dedicated DoD OIG webpage.

11. Did the Inspector General's office intentionally not include the signature page of the authorized person responsible for the approval and release of the final JEDI report of investigation? If so, why?

It is not the DoD OIG's practice to include a signature page for reports of investigation completed by our Administrative Investigations Component; however, the DoD OIG did send a signed transmittal letter to the Secretary of Defense releasing the final JEDI Cloud report to the DoD.

12. Were there any concerns raised by any DoD OIG employee regarding the preparation of the JEDI report or after the publication of the JEDI report? If yes, please explain in detail.

No, as noted in my answer to Question 1, I am not aware of any concerns being raised by any DoD OIG employee regarding the preparation of the JEDI Cloud report or after the publication of the JEDI Cloud report.

13. Did the DoD OIG review all hotline submissions and contact all whistleblowers about their allegations?

It is the policy and practice of the DoD OIG to review all hotline submissions, including those related to the JEDI Cloud contract, and contact whistleblowers when necessary to obtain clarification or additional information concerning their allegations. For example, the DoD OIG received several detailed submissions from an Oracle representative, alleging, among other things, ethical misconduct committed by five DoD officials. The DoD OIG carefully reviewed the evidence and allegations in these submissions. After the DoD OIG issued the JEDI Cloud report, the DoD OIG attended Oracle's presentation of this evidence and these arguments to the U.S. Attorney's Office for the Eastern District of Virginia and the Public Integrity Section of the U.S. Department of Justice's Criminal Division, to determine if these presentations presented any new or compelling evidence the DoD OIG had not considered previously. Because the DoD OIG had the benefit of the Oracle representative's detailed submissions to the DoD OIG, because the DoD OIG had attended Oracle's presentations to the DOJ, and because the Oracle representative and other Oracle officials were not original sources to most, if not all, of the information submitted to support those allegations, we concluded that it was not necessary to contact the Oracle representative for clarification or additional information.

14. Please explain the rationale for not examining the pre-RFP period in the OIG's JEDI Report.

The JEDI Cloud report includes a detailed discussion of our review of the JEDI Cloud procurement process pre-RFP period. In Sections II and III of the report, we extensively discuss our review of the activities prior to the release of the RFP, including the cloud adoption memoranda, Cloud Executive Steering Group, market research, development of the JEDI Cloud requirements, acquisition strategy, acquisition plan, business case analysis, rationale for a single award indefinite delivery, indefinite quantity contract, and the DoD's compliance with the pre-RFP activities required by the Federal Acquisition Regulation and the DoD Source Selection Procedures. Similarly, in Section IV of the report, we discuss our investigation of whether the DoD officials named in the complaints we received engaged in ethical misconduct, had a conflict of interest, or violated post-Government employment rules, and note that some of the alleged violations occurred prior to the release of the RFP.

15. I have been informed that from time-to time some sensitive reports undergo a process known as 'rounding.' In essence, this process would most often be used by high-level staff members in the OIG to smooth out sensitive reports and avoid controversy. Can you please tell me if the process of 'rounding' was used, directly or indirectly, during the preparation of the JEDI report?

I am not familiar with the term "rounding," and I have never seen the process described in this question applied to any DoD OIG report. Additionally, and critically, the process described in this question is inconsistent with the DoD OIG values of integrity, independence, and excellence, which define our organizational character and help guide our behavior. We pride ourselves on being tough but fair, speaking the truth, and reaching our own judgments. We conduct each audit, evaluation, and investigation impartially based on the facts and the evidence, without fear or favor, and follow those facts and evidence wherever they lead. These are the

values that are exhibited by the DoD OIG's review and investigation of the allegations related to the JEDI Cloud procurement process and in the production of the JEDI Cloud report.

I appreciate your interest in the DoD OIG's award-winning JEDI Cloud report. We would be happy to meet with you or your staff again to further discuss the report, and will keep your office apprised as we issue additional FOIA releases related to our report. If you have any additional questions or would like another briefing regarding this matter, please have your staff contact Mr. Michael C. Zola, Assistant Inspector General for Legislative Affairs and Communications, at (703) 604-8324.

Sincerely,



Sean W. O'Donnell
Acting Inspector General

cc:

The Honorable Richard Durbin
Chair
Committee on the Judiciary
United States Senate

Allison Lerner
Chair
Council of the Inspectors General on Integrity and Efficiency