

Office of Government Ethics

95 x 4 -- 04/14/95

Letter to a Federal Employee dated April 14, 1995

This is in response to your letter, with attachments, received by facsimile on April 4, [1995], and additional correspondence, with attachments, received on April 7 and April 11. These communications reflect your concern that you may be disciplined, or perhaps even fired from your Government job, for using Government time and equipment to expose what you perceive to be a conspiracy to commit fraud within [a] Department[al agency]. Your comments suggest you believe that use of Government equipment (facsimile machine, copier, telephone and such) in connection with an employee's "independent investigations" of fraud should be permissible under the Standards of Ethical Conduct notwithstanding the prohibition in the Standards against using Government property "for other than authorized purposes." 5 C.F.R. § 2635.704. You ask that the Office of Government Ethics (OGE) comment by facsimile.

OGE has no knowledge or opinion as to whether your allegations of fraud are justified; neither, more generally, do we have any independent knowledge of the facts of your situation. Nevertheless, a few comments may be helpful. First, in our view, interpreting the Standards as allowing any individual employee to define the scope of his own authority to use Government property, based on his own "independent" assessment of fraud, would not serve the goal of protecting and conserving Federal property. See 5 C.F.R. § 2635.101(b)(9). Secondly, we are also unable to concur in your related suggestion that a Federal employee's responsibility to disclose fraud and corruption necessarily requires continuing use of Government equipment. Even assuming, *arguendo*, that discharge of this responsibility might initially involve some use of Government resources, once an employee has brought an alleged fraud to the attention of the appropriate authorities for their investigation, there can be no necessity for ongoing unauthorized use of Government resources by the employee.

You should also be aware, however, that disciplinary action and threats of disciplinary action may be improper if taken against an employee for disclosure of information which the employee reasonably believes provides evidence of fraud. As OGE advised you by telephone last week, if you believe you are being subjected to any personnel action because of "whistleblowing," you should consider contacting the Office of Special Counsel (OSC). OSC is the office within the Government with jurisdiction

to protect Federal employees from prohibited personnel practices,
including reprisal for whistleblowing.

Sincerely,

Stephen D. Potts
Director