



**INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
DEFENSE CRIMINAL INVESTIGATIVE SERVICE
MID-ATLANTIC FIELD OFFICE
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ARLINGTON, VA 22202-4306**

(Investigations)

200300250D-26-NOV-2002-60DC-Z6/R

20-November-2002

[REDACTED]; SSN: [REDACTED]
DPOB: [REDACTED] UNK
MAJOR GENERAL, USMC (Retired)

[REDACTED]; SSN: [REDACTED]
DPOB: [REDACTED] UNK
LT. GENERAL, U.S. ARMY (Retired)

[REDACTED]; SSN: [REDACTED]
DPOB: [REDACTED] UNK

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BIOPORT CORPORATION
Lansing, Michigan 48906

SPECIAL INTEREST CASE

OIG HOTLINE NO. 84-142

INFORMATION REPORT/REFERRED: On November 4, 2002, the Reporting Agent received information concerning OIG Hotline Case No. 84-142. The case contained a number of complaints concerning the Anthrax Vaccine Immunization Program (AVIP), and specific Department of Defense (DoD) officials involved in the AVIP. The complainants alleged that [REDACTED]

[REDACTED] USMC, and [REDACTED], and that U.S. Army [REDACTED] provided [REDACTED] to a Military Judge. The complainants alleged a number of other issues involving DoD officials and the anthrax vaccine manufacturer, BioPort Corporation (BioPort), Lansing, MI. Specifically, issues were raised concerning [REDACTED]

[REDACTED] Further, the complainants alleged that [REDACTED] and [REDACTED] were involved in a [REDACTED] by participating in post employment with BioPort. The allegations provided in this case will be referred both to the Federal

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Bureau of Investigation (FBI), Public Corruption Squad, and to the U.S. Food and Drug Administration (FDA) to evaluate allegations within their jurisdiction.

As background, on September 15, 1998, the U.S. Army Medical Research Acquisition Activity, Fort Detrick, MD, awarded BioPort a firm-fixed-price contract #DAMD17-98-C-8052, to furnish approximately 8.7 million doses of anthrax vaccine for use by DoD. The contract was valued at approximately \$6 million, with options worth an additional \$23.1 million. At the time Bioport was awarded the sole source contract, the DoD estimated there were enough doses stockpiled at Bioport which when added to the production capability, would adequately supply enough vaccine to vaccinate the armed forces. On August 4, 1999, Bioport was granted extraordinary relief in the amount of \$24.1 million under Public Law 85-804 by the Army Contract Adjustment Board. The extraordinary relief involved a series of multi-phase financial contractual adjustments.

In December 1999, DCIS Cleveland Resident Agency opened an investigation (CCN: 200000402F) to determine whether Bioport provided misleading or inaccurate information on a loan application submitted in conjunction with the request for extraordinary contractual relief. This investigation examined the relationships of various individuals and companies who owned and controlled BioPort as well as the relationship between Bioport owners and senior DoD officials. The investigation was concluded in April 2001. There was no evidence developed during the investigation to reveal any criminal conduct or other impropriety by BioPort officials or DoD officials involved in the BioPort contract.

On January 14, 2000, a complaint was received by the DoD Hotline (Case No. 74-998) (Attachment 1) concerning the Congressional testimony of [REDACTED] S.

[REDACTED] a [REDACTED]
Complainants alleged that [REDACTED] had made [REDACTED] concerning the impact AVIP was having on military readiness and retention. An inquiry of these allegations was conducted by the DoD-IG Program Integrity Directorate. In February 2001, the inquiry was completed and did not substantiate allegations of [REDACTED] on the part of [REDACTED] (Attachment 2).

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On January 22, 2001, and January 24, 2001, complaints were received by the DoD Hotline (Case Nos. 79-472 and 79-473) concerning the legality of the AVIP and the testimony of [REDACTED]

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[REDACTED] and [REDACTED] These complaints were referred by the DoD-IG for action to the Office of the Secretary of Defense, Assistant Secretary of Defense for Chemical and Biological Protection. [REDACTED] examined the information and prepared a response to the allegations on behalf of the Office of the Secretary of Defense (Attachment 3). This response concluded that the AVIP was a lawful program administered by the DoD to protect the armed forces against clear biological warfare threats. The response addressed the allegations against [REDACTED] and [REDACTED] and did not conclude that either had made [REDACTED]

On March 8, 2002, the current complaint letter was forwarded to the DoD Hotline (Case No. 84-142) containing similar complaints about the testimony of [REDACTED] and [REDACTED] (Attachment 4). The complaint alleged that [REDACTED] had also provided [REDACTED]. The complainant indicated that the DoD-IG should not have referred the earlier complaint (Case Nos. 79-472 and 79-473) to the Office of the Secretary of Defense [REDACTED] to answer. The complainant requested a new investigation of the AVIP to determine whether it was a legal program and to determine whether [REDACTED] and [REDACTED] made [REDACTED]. As stated above, this current complaint letter contained additional allegations [REDACTED] to [REDACTED]

During October 2002, the DoD Hotline received supplemental information concerning Case No. 84-142, from the complainants, which indicated that [REDACTED] and [REDACTED] had been hired by Bioport as part of an expert panel to conduct a study on the use the anthrax vaccine on the civilian population (Attachment 5). The complainants alleged that this post employment activity constituted a conflict of interest on the part of [REDACTED] and [REDACTED]. Additionally, the complainants alleged that a recent report published by the U.S. General Accounting Office, GAO-02-445, "Anthrax Vaccine, GAO's Survey of Guard and Reserve Pilots and Aircrew," provided evidence that the anthrax vaccine was changed or that the original safety data was mislabeled.

During the DCIS investigation involving BioPort, (CCN: 200000402F), DoD officials involved in the contractual relationship with BioPort were interviewed. [REDACTED] and [REDACTED] were not involved in the contract negotiations with BioPort. Bioport was established in 1998 to purchase the Michigan Biologic Products Institute, the only FDA licensed

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manufacturer of the anthrax vaccine. A violation of the Conflict of Interest statutes requires an employee "to knowingly make with the intent to influence, any communication to or appearance before any person, in connection with any matter on which such person seeks official action" (18 U.S.C 207). Or it requires an employee to personally and substantially participate as an official in a particular matter in which, the employee, spouse, child, prospective employer, or organization has a financial interest (18 U.S.C. 208). Neither [REDACTED] nor [REDACTED] had any active or significant involvement in procurement activities related to Bioport. Participating in a published study concerning the use of a vaccine on the civilian population does not constitute making a communication or appearance with the intent to influence an official action of the U.S. Government.

DCIS is providing this information to the FBI and FDA to evaluate allegations within their jurisdiction.

Attachments

- 1) January 14, 2000, letter to DoD Inspector General, under Hotline Case No. 74-998.
- 2) February 22, 2001, letter to Chairman, Committee on Government Reform, House of Representatives, concerning the inquiry involving [REDACTED] and [REDACTED]
- 3) February 13, 2002, letter to DoD Inspector General from [REDACTED] containing his response to allegations concerning AVIP, [REDACTED] and [REDACTED]
- 4) March 8, 2002, letter to the DoD Inspector General, under Hotline Case No. 84-142.
- 5) October 19, 2002, and October 28, 2002, electronic mail messages with additional allegations under Hotline Case No. 84-142.

Prepared by SA [REDACTED]

APPR: [REDACTED]

DISTR: FBI, Public Corruption Squad (C8), Vienna, VA; FDA HQ;
DoD Hotline; DCIS HQ (03TS)

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