



June 25, 2012

MEMORANDUM FOR: Dr. Patrick Gallagher  
Under Secretary of Commerce  
for Standards and Technology and Director, NIST

FROM: Rick Beitel   
Principal Assistant Inspector General  
for Investigations and Whistleblower Protection

SUBJECT: Results of Investigation, Re: Alleged Theft of NIST Copper Wire  
(OIG Case # FOP-WF-11-0507-I)

This memorandum presents the results of our investigation into a July 20, 2011, anonymous  
OIG hotline complaint alleging several National Institute of Standards and Technology (NIST)  
(b) (7)(C) stole copper wire from NIST's Gaithersburg, MD, facility, including (b) (7)(C)  
(b) (7)(C) and (b) (7)(C) (b) (7)(C).

### Summary of Results

Our investigation found internal control deficiencies concerning the procurement, inventory,  
use, and recycling of materials used in the (b) (7)(C) Division that contributed to an  
environment that made it possible for copper theft to occur. We were unable to prove  
widespread copper theft, but did identify improper conduct while investigating the allegation.  
(b) (7)(C) admitted to removing some used, but NIST-owned nonetheless, materials for personal  
use. As described in detail below, though we could not prove any particular theft on the part  
of (b) (7)(C), we found (b) (7)(C) committed multiple ethics violations and (b) (7)(C) government email account  
contained improper content, namely racially offensive material and pornographic images. Such  
conduct implicates violation of the Department's Internet Use Policy, NIST's Policy on  
Information Technology Resources Access and Use, and the Standards of Ethical Conduct for  
Employees of the Executive Branch (5 CFR § 2635, et. seq.). Accordingly, we recommend that  
NIST take appropriate disciplinary action against (b) (7)(C) and (b) (7)(C).

### Detailed Findings

(b) (7)(C) has been employed with NIST since (b) (7)(C) and works as a (b) (7)(C)  
(b) (7)(C) within the (b) (7)(C) at Gaithersburg, MD. (b) (7)(C) entered NIST

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employment on (b) (7)(C) and works as an (b) (7)(C) in Gaithersburg, MD. (Attachment 1)

On July 27, 2011, NIST Police Services Group (PSG), Gaithersburg, MD, reported a complaint from a NIST employee who alleged a number of NIST employees were stealing copper wire from NIST work sites or facilities and subsequently turning them into recycling centers for cash. (Attachment 2)

#### NIST Scrap Materials Control Environment

The allegations in this case concern "scrap" materials left over from primarily electrical jobs on the NIST campus in Gaithersburg. The value of copper has grown markedly over the last several years, creating a demand for copper at recycling centers. The question as to ownership and disposition of scrap material is pertinent to this case. We have verified that NIST's policy concerning scrap material, including high valued supplies like copper, existed only as an unwritten understanding at the time of this investigation. We inquired with (b) (7)(C) (b) (7)(C) of NIST's (b) (7)(C) Division, for policies dictating procedures for ordering of materials for NIST jobs, as well as procedures for disposal, recycling, or reuse of materials left over from NIST jobs. (b) (7)(C) provided us with a one page document titled "(Unwritten Material Policy) JOC Process", and informed us that a written policy regarding procedures for disposal, recycling, or reuse of materials left over from NIST jobs did not exist. (Attachment 3)

Since at least 1997, NIST has contracted to have recyclable scrap metals picked up and recycled by a commercial company. The contract generates revenue for the contractor that offsets the cost of pick-up and hauling and actually generates an income for excess property for the contractor based on the market price per pound of the materials contained within the dumpster, such as brass, copper, aluminum, and steel, in accordance with FMR §102-38.295. The current contract, which began on August 15, 2010, explicitly says the scrap metal remains the property of NIST and payment for the recycling proceeds is required to be paid to the contractor who picks up the dumpster from NIST, by the recycling center that accepts the recycling material. (Attachment 4)

We interviewed NIST (b) (7)(C) and (b) (7)(C) who both said it had been long established common knowledge among the various work groups, including the (b) (7)(C) that scrap materials were the property of NIST and could not be used for personal use. According to the (b) (7)(C), this had been the unwritten rule for at least the last 10 years, and was verbally communicated as part of the training of new (b) (7)(C). Neither of the (b) (7)(C) could think of any reason why any of their employees would not know that use of scrap materials for their own personal use was prohibited. (Attachment 5)

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Specific Findings Concerning (b) (7)(C) and (b) (7)(C)

We inspected (b) (7)(C) and (b) (7)(C)' official NIST-owned computers. (b) (7)(C) official email files contained pornographic images, as well as images depicting racially offensive materials toward African-Americans. (Attachment 6)

We also found digital photographs in (b) (7)(C) deleted email folder taken by another NIST (b) (7)(C). Those photos showed a (b) (7)(C), who was later identified as (b) (7)(C) placing electrical wire into the trunk of a (b) (7)(C) colored vehicle. This vehicle was later identified by (b) (7)(C) as being (b) (7)(C) personally owned vehicle. We determined the photograph was taken on March 4, 2011, using an iPhone, and during an interview with (b) (7)(C), (b) (7)(C) affirmed (b) (7)(C) took the pictures using (b) (7)(C) personal iPhone, and that the incident occurred in Building 206, the high voltage electrical vault located on the NIST campus. (b) (7)(C) said (b) (7)(C) along with (b) (7)(C) was present while (b) (7)(C) was loading the wire into (b) (7)(C) car, and they did not know (b) (7)(C) took the picture at the time. (b) (7)(C) said (b) (7)(C) took the picture to "cover (b) (7)(C) self" because (b) (7)(C) believed (b) (7)(C) was stealing the wire and didn't want anyone to think (b) (7)(C) was part of it. The photo depicted wire that was formed into a large loop and taped at the ends, and appeared to be new material. There was no indication from a computer forensic standpoint that (b) (7)(C) took any action to forward these pictures to (b) (7)(C) superiors; rather, we discovered the photos in (b) (7)(C) deleted emails folder file. However, (b) (7)(C) did tell us in an interview that (b) (7)(C) informed (b) (7)(C), (b) (7)(C) of the incident shortly after it occurred. We also learned that (b) (7)(C) allegedly told (b) (7)(C) that the wire should be taken to the recycling dumpster, however there is no indication whether (b) (7)(C) did as (b) (7)(C) reportedly was directed at the time. (b) (7)(C) told us that (b) (7)(C) informed (b) (7)(C) that it was not permitted for (b) (7)(C) to take the wire, and was directed by (b) (7)(C) to put the wire into the recycling dumpster. (b) (7)(C) went on to indicate that (b) (7)(C) did as (b) (7)(C) was told by (b) (7)(C) and put the wire into the dumpster, however (b) (7)(C) told us that (b) (7)(C) did not follow up to see if (b) (7)(C) actually put the wire into the recycling dumpster because (b) (7)(C) didn't want to make a "big scene" in front of other employees who were present at the time. (Attachments 2, 7, 8, 10)

(b) (7)(C) told us it was common practice for (b) (7)(C) to take scrap wire left over from NIST jobs and that (b) (7)(C) was unaware that it wasn't allowed until (b) (7)(C) informed (b) (7)(C) at the time of this incident that (b) (7)(C) was not allowed to take scrap wire from NIST. (b) (7)(C) admitted to taking used overhead lights from a contractor at NIST and installing them in his garage at (b) (7)(C) home. The lights (b) (7)(C) removed from NIST were reportedly the lights that were removed from the location by the contractor in order to be replaced with new lighting. In general, (b) (7)(C) said (b) (7)(C) was under the impression that scrap materials left over from jobs conducted on the NIST facility were just trash and that taking such materials from the facility for personal gain or use was an acceptable practice. (b) (7)(C) indicated it was common trade practice for (b) (7)(C) to take scrap wire to recycling centers in exchange for cash, and that it often done on (b) (7)(C) jobs (b) (7)(C) has worked on outside of NIST. In an interview with (b) (7)(C), we asked (b) (7)(C) if (b) (7)(C) understood why this practice is unacceptable conduct to be carried out on the NIST facility involving materials from NIST jobs. (b) (7)(C) again cited the common trade practice where

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electricians will take scrap wire from a job and cash it in at a recycling center, and that (b) (7)(C) was unaware that (b) (7)(C) was not allowed to take scrap wire from the NIST facility until (b) (7)(C) was told by (b) (7)(C) could not take scrap wire for (b) (7)(C) own benefit.

These circumstances raised the question of the ability for (b) (7)(C) to place an excess order for wire for a job in the attempt to take the excess wire and recycle it for cash. However, this is not possible due to the fact that estimators review the job and make a determination of the amount of wire needed for a job, not the (b) (7)(C) (Attachment 8)

Records received from Reliable Recycling indicate that on February 25, 2011, (b) (7)(C) brought in 232 pounds of insulated #1 copper wire and was paid \$719.20. (b) (7)(C) told us that in this case the wire he traded in at Reliable Recycling came from side jobs (b) (7)(C) conducted before (b) (7)(C) employment with NIST and that (b) (7)(C) had brought it with (b) (7)(C) when (b) (7)(C) moved to the area, and that (b) (7)(C) would have conducted the transaction on (b) (7)(C) lunch break, specifically around 12:30 in the afternoon. Records from Reliable Recycling indicate that (b) (7)(C) did conduct this transaction at 12:30 p.m., however it is questionable whether (b) (7)(C) could have driven the 50 miles round trip from NIST in Gaithersburg to Reliable Recycling in Frederick, Maryland as well as conduct a transaction where 232 pounds of copper wire were traded in within (b) (7)(C) allotted one hour lunch break. Reliable Recycling indicated that it could take anywhere from 10-20 minutes to conduct a transaction of this size depending upon the number of customers they are serving at the time. (Attachment 9, 15)

Further investigation into the email files belonging to (b) (7)(C) showed an email communication between (b) (7)(C) and (b) (7)(C). (b) (7)(C) is the (b) (7)(C) of Reliable Recycling in Frederick, Maryland. In this email, (b) (7)(C) inquired about the price per pound for 3,500 pounds of "paper lead cable" along with a photograph of the cable. The picture in question showed several large pieces of wire roughly cut into sections, which appeared damaged and unusable for electrical purposes. This wire contained a large amount of copper and thus was worth several thousand dollars. The photograph was taken and emailed using (b) (7)(C)'s government issued Blackberry device on January 25, 2011, at 1441 hours. Records received from Reliable Recycling shows that on January, 26<sup>th</sup> and 27<sup>th</sup>, 2011, (b) (7)(C) traded in 4,004 pounds of lead power cable in exchange for \$4,776.45. Certified Time and Attendance records show that (b) (7)(C) was on annual leave when these transactions occurred with Reliable Recycling. (Attachments 6, 9)

(b) (7)(C) claims the cable (b) (7)(C) took to Reliable Recycling as listed above came from a job performed by Dvorak Electrical on the NIST campus in Gaithersburg under NIST contract number SB134110CQ0011. The wire in question was removed by Dvorak and new wire was installed to replace what had been repaired. The old used wire was stored at NIST for later removal by Dvorak, however Dvorak neglected to return to pick up the wire. The contract states in section 1.20 titled "Legal Disposal" that "the contractor shall be responsible for the proper and legal disposal of all refuse and debris generated or related to this work, and the costs of such disposal." The above mentioned contract goes on to dictate disposal of materials left over from this job in Attachment 3, section 18(b), "Store recyclable waste in a separate

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clearly marked containers. Arrange and pay for collection by a licensed recycling contractor. Recyclable items include, wood, glass, aluminum, steel, gypsum, paper, cardboard, plastics, etc.”

(b) (7)(C) noticed the wire had not been removed from NIST after several months, so (b) (7)(C) contacted (b) (7)(C) of Dvorak Electric to inquire about the wire. (b) (7)(C) told us that whenever an electrical contractor had done work on the NIST campus, they have taken the scrap wire with them off of the campus. In this case, Dvorak was contractually obligated to remove the scrap wire from the NIST campus following completion of work, however in this case the scrap wire was left behind. (b) (7)(C) explained that (b) (7)(C) felt it was acceptable to accept the wire from (b) (7)(C) because it belonged to the contractor, not NIST and that they were responsible for removing it from NIST. (b) (7)(C) said (b) (7)(C) informed (b) (7)(C) that (b) (7)(C) could personally have the wire. (b) (7)(C) went on to explain that it was common practice for Dvorak to allow their employees to take excess wire material left over from the jobs Dvorak completed and trade the material in at recycling centers in exchange for currency. (Attachments 8, 10-12)

(b) (7)(C)

NIST, provided us with the contract under which this work was done by Dvorak Electric. In this case, and in violation of the agreement under this contract, (b) (7)(C) of Dvorak Electric took it upon (b) (7)(C) self to gift this material to (b) (7)(C) which when recycled, was worth \$4,776.45. The contract for this work says that the contractor, in this case Dvorak, was responsible for removing any debris as well as recyclable materials from the NIST campus following the completion of work. This indicates that the wire in question was the responsibility of Dvorak and thus their property. (Attachment 12)

We found, based on recycling records from Reliable Recycling, (b) (7)(C) made a total of 21 transactions for a total of \$30,161.70 from March 15, 2010, to May 31, 2011. Reliable Recycling indicated that they do not require customers to provide them with a tax identification number in order to complete a recycling transaction. They do however require customers to furnish them with photo identification as a way of documenting the transaction in their computer system. (b) (5) All transactions at Reliable Recycling involved wiring material. When cross-referenced with (b) (7)(C) certified time and attendance records, we found (b) (7)(C) made a total of 8 transactions at Reliable Recycling in Frederick, Maryland while claiming full work days at NIST. (b) (7)(C) indicated that whenever (b) (7)(C) took materials to Reliable, (b) (7)(C) did so on (b) (7)(C) lunch break, however records from Reliable Recycling show times of transactions on the days Lassen claims to have been at work on NIST range from 8:10 a.m. to 12:16 p.m. We found Reliable Recycling is a 50 mile round trip from the NIST campus. (b) (7)(C) used (b) (7)(C) – the license plate number belonging to (b) (7)(C) was recorded by the recycling company as part of the transaction for security reasons and record keeping. (b) (7)(C) claimed (b) (7)(C) not only conducted all transactions with Reliable during lunch hours on work days, but that (b) (7)(C) was able to make a 50 mile round trip in that time and conduct transactions with Reliable where thousands of pounds of materials were redeemed. When questioned about the volume of material traded in and the source of this material, (b) (7)(C) claimed the majority of the wire (b) (7)(C) brought to Reliable was obtained from jobs (b) (7)(C) had

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conducted outside of his normal employment at NIST through personal (b) (7)(C) work (b) (7)(C) was involved in. (b) (7)(C) went on to indicate (b) (7)(C) would often bring materials in (b) (7)(C) personal vehicle onto the NIST campus to later be taken to Reliable Recycling. (Attachments 9-10, 15)

Between March 14, 2011 until the time we took over the investigation from NIST PSG on August 8, 2011, we found only one report of theft of wire reported to NIST PSG. That report was made on March 15, 2011, by (b) (7)(C) Division; (b) (7)(C) reported the wire was taken from building 233 on the NIST campus. There is no evidence concerning who took this wire or if it was ultimately recycled, however (b) (7)(C) has two transactions recorded at Reliable Recycling for March 15<sup>th</sup> and 19<sup>th</sup> for a total of 1,208 pounds of wire were traded in exchange for \$2,888.10. We have no way to trace this material back to NIST, however, since Reliable Recycling requires the plastic coating to be removed from the wire before they will accept it. (b) (7)(C) told us (b) (7)(C) would conduct "stripping parties" in (b) (7)(C) shed at home where (b) (7)(C) would spend time stripping the plastic coating from the wires prior to trading the wire into the recycling center. (Attachment 2, 8, 10)

## Other Relevant Findings

### Inadequate Materials Control

The fact that electrical wiring has no identifiable markings made it impossible for us to trace wire that may have originated from a NIST source. We recognize it is impractical to try to initiate some way of marking electrical wire, which is why internal controls on materials handling is important to minimize loss due to theft. Internal controls consists of measures that (1) protect the organization's resources against waste, fraud, and inefficiencies; (2) ensure accuracy and reliability in accounting and operating data; (3) secure compliance with policies; and (4) evaluate the level of performance in all organizational units. Our investigation found there were virtually no controls in place concerning materials ordering and storage by NIST (b) (7)(C).

As previously noted, (b) (7)(C) provided us with an "unwritten" material ordering process, which was a loose list of common practices used at NIST facilities for the ordering of supplies for jobs, however, the presence of an actual NIST approved policy concerning the acquisition and control of materials for jobs done under the (b) (7)(C) division did not exist at the time. We were also informed that a policy for the control of recycled materials did not exist. (Attachment 3)

On April 19, 2012, we conducted a meeting with (b) (7)(C) at the NIST campus as well as an inspection of the (b) (7)(C) division facility, and a review of the materials ordering process now in place. We learned that as a result of this investigation (b) (7)(C) has been correcting deficiencies we discovered when this investigation began, and is working with (b) (7)(C) Division; (b) (7)(C) Division; (b) (7)(C) Division; and (b) (7)(C)

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(b) (7)(C) Division to draft new policies to address materials ordering and recycling of materials left over from jobs conducted by NIST employees of the (b) (7)(C) division. (Attachment 5, 13, 14)

Along with drafting new policies, (b) (7)(C) and (b) (7)(C) team have put physical control measures in place such as installing security cameras in order to keep 24-hour surveillance on the recycling dumpster to prevent personnel from removing materials as well as to keep a record of who placed materials in the dumpster. The recycling dumpster is designated as the repository for all recyclable materials left over from jobs conducted by (b) (7)(C) on the NIST campus. We were also shown the material storage room in building 301 that houses job materials after they are billed to work orders and in the process of being issued to the various work centers in (b) (7)(C). In the past, there were no controls over this storage area and every employee within (b) (7)(C) had access to the materials stored within this space, which included brass and copper pipe and fittings, as well as wiring and other valuable materials. As a (b) (7)(C) (b) (7)(C) is responsible for the (b) (7)(C) of the (b) (7)(C) and previously worked as an (b) (7)(C) in the electrical shop, (b) (7)(C) indicated that one of the security measures put in place to control the materials was to restrict access to the storage room in building 301 to allow only four people to have access to the storage room by locking the room and providing keys to (b) (7)(C) self, and three other (b) (7)(C) within (b) (7)(C) division, and prevent other employees from having uncontrolled access to this storage location. (Attachments 5, 13, 14)

## Recommendations

The findings in this case evidence violation of 5 CFR §2635.101, 201-205, 704, and 705, as well as Departmental and NIST policies. Accordingly, based on the results of our investigation, we recommend that NIST:

- (1) Take appropriate administrative disciplinary action against (b) (7)(C) for (b) (7)(C) time and attendance infraction and taking lighting from the NIST campus for personal use.
- (2) Take appropriate disciplinary action against (b) (7)(C) on the basis of (b) (7)(C) misuse of government property and government email systems, possession of pornography and racially offensive materials on Department-owned computers, time and attendance infractions, and accepting a prohibited gift/gratuity, in this case \$4,776.45 in scrap wire from Dvorak Electric. The NIST IT policy covers the misuse of email as well as computers that access the internet. It prohibits the "Unauthorized creation, downloading, viewing, storage, copying, or transmission of sexually explicit or sexually oriented material, as well as "participation in or encouragement of illegal activities or the creation, downloading, viewing, storage, copying, or transmission of materials that are illegal or discriminatory."

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- (3) Develop and implement internal controls concerning the acquisition, inventory, use and disposition of supplies and equipment used at NIST sites, as well as training for employees on workplace ethics, T&A fraud, and training on the implementation of new policies put in place by NIST management as a direct result of this case. The lack of policy dictating proper procedures for material ordering and recycling leaves the door open for employees to exploit this area and order excess materials for jobs and use that excess as well as leftover refuse from jobs for personal financial gain. Documented strong and consistently applied controls would help prevent future thefts.
- (4) Inform contractor Dvorak Electric management of their employee's involvement in this case and the improper gifting of material by (b) (7)(C) to (b) (7)(C) which occurred in violation of the contract between NIST and Dvorak.

Please apprise our office within 60 days of any actions taken or planned in response to our findings and recommendations. If you have any questions, please contact me at 202-482-(b) (7)(C) or (b) (7)(C) at 202-482-(b) (7)(C)

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## INDEX OF ATTACHMENTS

Description	Attachment Number
Employee NFC Data	1
Executive Case Summary	2
Unwritten Material Control Policy	3
Montgomery County Scrap Contract	4
NIST Meeting IRF	5
Digital Data Analysis IRF	6
(b) (7)(C) Interview IRF	7
(b) (7)(C) Interview Transcript	8
Reliable Recycling transaction Records	9
(b) (7)(C) Interview Transcript	10
IRF (b) (7)(C) Interview	11
Dvorak Electric Contract	12
NIST Material Control Accountability Sheet	13
NIST Materials Management Process	14
Email From Reliable Recycling	15

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