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November 4, 2013

Cesar A. Perales
Secretary of State
New York State Department of State
One Commerce Plaza
99 Washington Avenue
Albany, New York 12231-0001

RE: NYS IG 1419-040-2012

Dear Secretary of State Perales:

On November 20, 2012, the Inspector General received an allegation that Department of State Division of Licensing Services Investigator [REDACTED] during an audit of a licensed investigations firm, e-mailed sensitive information to an employee of the firm who was not an authorized recipient of the information. As described below, our investigation did not substantiate the allegation.

Department of State policy provides that, during audits of licensed firms, Licensing Services investigators are to communicate with licensee employees referred to as "qualifying officers" or through designees appointed by the same. In August 2012, Licensing Services commenced an audit of [REDACTED] an investigations and risk management firm. During the audit, in November 2012, [REDACTED] called and e-mailed a qualifying officer at [REDACTED] regarding the audit and requested additional records. Attached to [REDACTED] e-mail in electronic form were payroll records that [REDACTED] had previously provided to the Department of State as part of the audit. The following day, [REDACTED] Chief Legal Officer, [REDACTED] sent a letter to [REDACTED] stating, "I am writing to follow-up on your conversation yesterday with my colleague [qualifying officer]. . . ." In response to [REDACTED] letter, [REDACTED] sent an e-mail to all [REDACTED] qualifying officers and [REDACTED] with further information about the audit, and again attached the scanned payroll records.

Investigators from my office questioned Department of State Director of Licensing Services [REDACTED] and General Counsel [REDACTED] regarding [REDACTED] communications with [REDACTED]. [REDACTED] noted that qualifying officers, who are designated by the licensee to be responsible for actions of the licensee's employees for the purposes of an audit, are often executive management

staff. As such, [REDACTED] stated, it is not uncommon for a qualifying officer to appoint a designee to represent the firm in an audit. According to [REDACTED] the appointment of a designee is not typically formalized in writing, and the Department of State does not require formal designation. [REDACTED] advised that she had reviewed [REDACTED] contacts with [REDACTED] and determined that no violation of policy occurred. I concur with this conclusion. I note that [REDACTED] contacted [REDACTED] after [REDACTED] had written to [REDACTED] advising that he was "following up" on [REDACTED] prior communication with a qualifying officer. In addition, as [REDACTED] chief legal officer, [REDACTED] necessarily represents the firm and its interests. Thus, [REDACTED] reasonably assumed that [REDACTED] had been designated, albeit constructively, as a point of contact for the audit.

In the course of our investigation, however, we did identify an issue that warrants your attention: the process by which Licensing Services sends and receives Personal, Private and Sensitive Information (PPSI) is inconsistent with agency policy. Pursuant to the Department of State policy on asset protection, encryption, information exchange and e-mail standards, encryption is required for e-mails containing PPSI, and employees are to seek approval of the agency's Information Security Officer when electronic data is to be shared with outside entities. However, Department of State Director of Information Technology [REDACTED] and Information Security Officer [REDACTED] advised that the agency does not provide employees with any mechanism or procedure to encrypt e-mails, and lacks both a secure method of communicating with licensees and agreements with licensees regarding the electronic exchange of PPSI. They further advised that employees do not request approval of the Information Security Officer when sharing electronic data.

I recommend that the Department of State evaluate its current security policies and promulgate policies and implement practices which provide for secure communications with licensees and mechanisms for e-mail encryption when transmitting PPSI. The Department of State should consider entering into agreements with licensees regarding the mechanisms for secure electronic exchanges of PPSI. The Department of State should train its staff in its security policies, including requiring the approval of the Information Security Officer for sharing data with outside entities. In addition, the Department of State should consider requiring that the appointment of a designee by a qualifying officer to represent a firm in an audit be formalized in writing.

Please advise me within 45 days of any actions or decisions taken in response to these recommendations. If you have any questions regarding this investigation, you can contact me at (518) 474-1010.

Sincerely,

[REDACTED]

Catherine Leahy Scott
Inspector General