

February 2, 2022

RE: Investigation into Irregularities in the Selection of Samuel Brinton for a Career Senior Executive Service Appointment at the U.S. Department of Energy

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Mr. Norbert E. Vint  
Deputy Inspector General  
U.S. Office of Personnel Management  
1900 E Street, NW, Room 6400  
Washington, DC 20415-1100

Dear Deputy Inspector General Vint:

This letter requests your immediate investigation into substantial irregularities in the recruitment and selection processes for the career Senior Executive Service (SES) appointment at the U.S. Department of Energy of Samuel Brinton for a highly sensitive position as a senior executive manager of the nation's nuclear waste policy and programs. The position title is Deputy Assistant Secretary of Spent Fuel and Waste Disposition in the Office of Nuclear Energy

As Deputy Inspector General for the U.S. Office of Personnel Management (OPM), yours is the critical responsibility to assure that statutory and regulatory requirements are followed in the selection and placement of federal employees. For this reason, this letter is being sent to you.

Investigation of Candidate Review Board Selection Process

- OPM has issued statutory-based regulations stating that SES career appointments “must be based on merit competition” and ensure that the executive management of the Government of the United States is of the “highest quality.” This appeal contends that these merit-based requirements have not been met by the review board in the selection of Samuel Brinton over other more highly qualified candidates, nor in the initial recruitment process.
- OPM documentation states that such competitive actions “should fully conform to the spirit and the letter of 5 U.S.C. 2302 on prohibited personnel practices (PPP), including the prohibition against political consideration, either favorable or unfavorable.” This request for an investigation is based on knowledge that undue political influence and preferences were applied to select Samuel Brinton for this SES position. Also in the Office of Nuclear Energy, after the placement of the former career Principal Deputy Assistant Secretary became circumspect for violating PPP, the incumbent was reassigned as a political appointee Senior Advisor in the Office of the Secretary. Since the Senior Advisor has recently been nominated for the political appointment of the Director of the Office of Nuclear Energy, it is possible that a full OPM IG investigation of PPP associated with the prior career appointment may be avoided after Senate hearings. Once confirmation is final, there is concern that any requests for an investigation of improprieties associated with the selection of Sam Brinton for the career Deputy Assistant Secretary position in the same office will be silenced.

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- Pursuant to U.S.C 2302, “OPM may review proposed career appointments to ensure they comply with all merit staffing requirements and are free of any impropriety.” This appeal seeks investigation of PPP violations based on:
  - discrimination against other qualified candidates in favor of Samuel Brinton [5 U.S.C. § 2302(b)(1)],
  - granting unauthorized advantage of Samuel Brinton over other qualified candidates [5 U.S.C. § 2302(b)(6)],
  - coercing political activity to further social-political preferences and beliefs [5 U.S.C. § 2302(b)(3)], and
  - obstructing competition by unfairly chilling open and fair consideration of other candidates for the position [5 U.S.C. § 2302(b)(4)].
- It is requested that your investigation also address compliance factors associated with the list of merit staffing requirements defined by OPM for agencies in executive review board processes and the selection of Samuel Brinton for this SES position. The investigation should include, but not be limited to, the following:
  - “As a minimum, agencies must –“
    - ”Provide that competition be fair and open, that all candidates compete and be rated and ranked on the same basis, and that selection be based solely on qualifications and not on political or other non-job-related factors.”
    - “Provide that the rating procedures sufficiently differentiate among eligible candidates on the basis of the knowledges, skills, abilities, and other job-related factors in the qualifications standard for the position so as to enable the relative ranking of the candidates.”
    - “Provide that the appointing authority select from among the candidates identified as best qualified by the ERB and certify the candidate's executive and technical qualifications.”
    - “Provide that the appointing authority or the ERB certify in writing that appropriate merit staffing procedures were followed.”

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### Investigation of Candidate Qualifications

Candidates for SES positions must meet the established OPM mandatory Executive Core Qualifications (ECQs), as well as other Mandatory Technical Qualifications (MTQs) specific to the position. The foundation of all ECQs is based on the OPM defined “Fundamental Competencies” for SES positions.

Samuel Brinton has no prior federal government experience, no executive management or operations experience, training, or skills, nor does he meet ECQ criteria or the fundamental SES competencies. His background is limited to select advocacy work and an academic background at the graduate-degree level which together satisfy requirements for the competitive placement of a qualified GS-11 in federal career service, not a high-standing member of the SES.

The lacking core qualifications of Samuel Brinton for investigation should include, but not be limited to the following:

- The ECQ for Business Acumen requires knowledge and experience in financial management, human capital management, and technology management. Samuel Brinton has none of the business management experience, skills, or abilities necessary in any of these functional areas that satisfy this ECQ.
- The ECQ for Building Coalitions requires political savvy (e.g., “Perceives organizational and political reality and acts accordingly”) as well as the ability to partner and influence. Samuel Brinton does not have the executive-level judgment, experience, or skill necessary to manage and lead resolution on the exceptionally sensitive issues involving nuclear waste, nor does his personal or professional history demonstrate the exemplary professional character required of a high-level U.S. government public servant, especially one who would be serving in a public trust position, receive approval for a top security clearance, and have access to classified information.
- “Interpersonal skills” – This fundamental ECQ competency requires that a member of the SES “Considers and responds appropriately to the needs and feelings of different people in different situations.” There is video-taped and published evidence that Samuel Brinton is biased in his treatment of others who do not share his gender-fluid identity and associated life-choice practices.
- “Integrity/honesty” – This fundamental competency assures that the SES member “Behaves in an honest, fair, and ethical manner. Shows consistency in words and actions. Models high standards of ethics.” There is extensive video-recorded and documented evidence that Samuel Brinton delivers inconsistent narratives in his speaking engagements and published writings, that he changes facts to suit audiences in a way that raises questions about the veracity of his statements, and that he has been known to act in a manner which incites controversy in a variety of public settings.

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### Other Considerations

This requested IG investigation is based on knowledge of improprieties in the recruitment and selection processes for this important career SES position, as well as the lack of qualifications of selected candidate Samuel Brinton over other more highly qualified candidates who meet the fundamental competencies and core qualifications, which he does not have.

Additionally, there is concern that making personnel selection decisions for career positions based on political considerations and gender-fluid identity as means of exerting political influence over the workforce, and at the expense of other better qualified candidates, is not the intent of the U.S. civil service laws or the U.S. constitution. Allowing political appointees at federal agencies to exercise such irregular hiring practices could open up this case and others like it to legal challenges and intense public scrutiny. Such consequences could defeat the well-intentioned, widely supported goals of diversity and inclusion, as well as unintentionally quash supervisory opportunities for other minority candidates, who have earned qualifications through progressive career development, relevant certifications and training, and many dedicated years of successful professional experience and respectable public service.

In OPM's own words: "Senior Executives Senior executives play an important role in the management of executive resources. They have the challenge and responsibility to transform the Nation's laws and administration policies into effective service to the public. This demands leadership, professional integrity, and commitment to the highest ideals of public service. Federal executives must develop a sense of ownership and pride in a set of common goals, values, and attitudes that extend beyond individual aspirations and transcend their commitment to a specific agency mission."

The U.S. Government interest in the nuclear security mission and controversial nuclear waste issues require strong executive leadership with attributes of professional integrity and sound judgement that are above reproach. Ample evidence exists that Samuel Brinton does not exhibit these essential traits nor is he qualified or a suitable candidate for this important position of public trust.

This case merits your immediate, serious, and decisive investigation.

Respectfully submitted,

/s/

Long serving public servant at the U.S. Department of Energy

Enclosures