

United States Senate

WASHINGTON, DC 20510

March 22, 2017

Mr. Donald F. McGahn, II
Counsel to the President
The White House
Washington, D.C. 20006

Dear Mr. McGahn:

We are the Chairman and Vice-Chairman of the Senate Whistleblower Protection Caucus. In our view, it is vital that the federal agency charged with investigating whistleblower retaliation have strong, Senate-confirmed leadership. Accordingly, we write in support of the nomination of Carolyn N. Lerner to be Special Counsel in the U.S. Office of Special Counsel (OSC). Ms. Lerner has served as Special Counsel since 2011 and was nominated by President Obama for a second five-year term last year. Although her nomination for a second term was approved by the Homeland Security and Governmental Affairs Committee, it expired at the end of the last Congress before being acted upon by the full Senate. She was re-nominated by President Obama on January 4, 2017, however President Trump withdrew her nomination on February 28, 2017, along with all other pending Obama nominations.


We believe that President Trump should re-nominate Ms. Lerner for a second term as Special Counsel. The mission and functions of OSC—the protection of whistleblowers, policing prohibited personnel practices, and enforcing the Hatch Act—are necessarily non-partisan in nature. OSC is a crucial independent agency in the fight against waste, fraud, and abuse. Its authorities are critical in promoting transparency and accountability in government. In our experience, whistleblower disclosures have proved the most reliable way to expose and address serious problems in government. According to OSC's annual reports, the agency's findings have led to a savings of over \$200 million of taxpayer money since Ms. Lerner assumed her duties as Special Counsel in 2011. A credible, effective OSC is crucial to safeguard and empower whistleblowers, which ultimately benefits the taxpayers.

Under OSC's statute, if Ms. Lerner is not confirmed to a second term before June 14, 2017, then the position would become vacant, and a non-Senate-confirmed official would become the Acting Special Counsel. A vacancy in this vital position can easily be avoided—and should be. Ms. Lerner has proven her ability to lead the agency effectively and fairly. Ms. Lerner has substantially revitalized OSC, and under her leadership, the office has been proactive and responsive to our concerns. She has built trust and confidence on both sides of aisle in her ability to objectively and diligently pursue the office's mission.

Therefore, we respectfully request that the President re-nominate Ms. Lerner to continue her important work as Special Counsel.

Sincerely,


Charles E. Grassley
U.S. Senator


Ron Wyden
U.S. Senator