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Case Number: I12ZZ017

Summary Date: 22-DEC-11

Title:

POSSIBLE LOAN FRAUD; TESLA CORPORATION; DEPARTMENT

Executive Brief:

BACKGROUND:

ON 12/05/11, (b)(6)(b)(7)(C) DEPARTMENT OF HOMELAND SECURITY (DHS), IMMIGRATION & CUSTOM ENFORCEMENT (ICE), TELEPHONICALLY CONTACTED THE DOE OIG TO REQUEST ASSISTANCE IN OBTAINING DOE LOAN DOCUMENTS BETWEEN DOE AND TESLA MOTORS. (b)(6)(b)(7)(C) EXPLAINED DHS ICE IS LOOKING INTO WHETHER TESLA MOTORS IS USING FOREIGN MADE PARTS IN MANUFACTURING THEIR VEHICLES RATHER THAN U.S. MADE PARTS, WHICH MAY BE REQUIRED BY THE DOE LOAN.

ON 12/8/11, THE DOE OIG TELEPHONICALLY CONTACTED (b)(6)(b)(7)(C) TO RECEIVE FURTHER CLARIFICATION REGARDING THE ORIGIN OF THE ALLEGATION. (b)(6)(b)(7)(C) THAT DHS ICE HAS AN OPEN REGULATORY (ADMINISTRATIVE) CASE AGAINST TESLA MOTORS. TESLA MOTORS RECENTLY APPLIED FOR A FOREIGN TRADE ZONE (FTZ) WITHIN THE UNITED STATES. (b)(6)(b)(7)(C) (b)(6)(b)(7)(C) DHS ICE IS PROACTIVELY INVESTIGATING WHETHER TESLA MOTORS IS USING THEIR FTZ TO BYPASS DOE LOAN REQUIREMENTS THAT MAY STIPULATE COMPANIES MUST BUY AMERICAN. (b)(6)(b)(7)(C) EXPLAINED THE REQUEST FOR THE LOAN DOCUMENTS MAY LEAD TO A REQUEST FOR THE DOE OIG TO ASSIST DHS ICE IN A CRIMINAL INVESTIGATION (DEPENDING ON WHAT THE LOAN DOCUMENTS STIPULATE).

ACCORDING TO THE DOE LOAN PROGRAMS OFFICE WEBSITE (SEE ATTACHED), DOE GAVE TESLA MOTORS, INC. A \$465 MILLION LOAN TO (1) REOPEN AN AUTO MANUFACTURING PLANT IN FREMONT, CALIFORNIA TO PRODUCE SPECIALLY-DESIGNED, ALL-ELECTRIC, PLUG-IN VEHICLES, AND (2) TO DEVELOP A MANUFACTURING FACILITY TO PRODUCE BATTERY PACKS, ELECTRIC MOTORS AND OTHER POWERTRAIN COMPONENTS THAT WILL POWER ALL-ELECTRIC PLUG-IN VEHICLES MANUFACTURED BY TESLA AND OTHER ORIGINAL EQUIPMENT MANUFACTURERS INCLUDING DAIMLER AND TOYOTA.

ACCORDING TO THE ATTACHED DEPARTMENT OF COMMERCE WEBSITE PAGE, "A FOREIGN-TRADE ZONE IS A DESIGNATED LOCATION IN THE UNITED STATES WHERE COMPANIES CAN USE SPECIAL PROCEDURES THAT HELP ENCOURAGE U.S. ACTIVITY AND VALUE ADDED ; IN COMPETITION WITH FOREIGN ALTERNATIVES ; BY ALLOWING DELAYED OR REDUCED DUTY PAYMENTS ON FOREIGN MERCHANDISE, AS WELL AS OTHER SAVINGS.

A SITE WHICH HAS BEEN GRANTED ZONE STATUS MAY NOT BE USED FOR ZONE ACTIVITY UNTIL THE SITE HAS BEEN SEPARATELY APPROVED FOR FTZ ACTIVATION BY LOCAL U.S. CUSTOMS AND BORDER PROTECTION (CBP) OFFICIALS, AND THE ZONE ACTIVITY REMAINS UNDER THE SUPERVISION OF CBP. FTZ SITES AND FACILITIES REMAIN WITHIN THE JURISDICTION OF LOCAL, STATE OR FEDERAL GOVERNMENTS OR AGENCIES."

DISPOSITION:

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ON DECEMBER 22, 2011, THE DOE OIG TELEPHONICALLY CONTACTED (b)(6)(b)(7)(C) DOE LOAN GUARANTEE PROGRAM OFFICE, TO DISCUSS THE \$465M TESLA LOAN AND THE BUY AMERICAN PROVISION. (b)(6)(b)(7)(C) EXPLAINED THAT THE \$465M TESLA LOAN WAS NOT APPROPRIATED THROUGH THE RECOVERY ACT OF 2009. THE \$465M TESLA LOAN WAS ACTUALLY APPROPRIATED THROUGH PUBLIC LAW 110-329 AND DOES NOT HAVE THE BUY AMERICAN REQUIREMENT.

ON THE SAME DATE, THE DOE OIG ADVISED (b)(6)(b)(7)(C) THAT THE DOE OIG WOULD NOT BE INVESTIGATING THIS MATTER ANY FURTHER.