



**Department of  
Veterans Affairs**

# **Office of Inspector General**

## **ADMINISTRATIVE INVESTIGATION**

**USE OF GOVERNMENT FUNDS, TRAVEL, PERSONNEL,  
IMPARTIALITY, AND MANAGEMENT ISSUES  
RESEARCH AND DEVELOPMENT OFFICE  
VETERANS HEALTH ADMINISTRATION**

**Report No. 03-03053-115  
Date: March 22, 2004**

**Fully-Redacted Electronic Copy for Public Release**

**Department of  
Veterans Affairs**

**Memorandum**

Date: March 22, 2004

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigation – Use of Government Funds, Travel, Personnel, Impartiality, and Management Issues, Research and Development Office, Veteran Health Administration, Report No. 03-03053-115 (Case IQ-0179)

To: Under Secretary for Health (10)

1. Attached is our final report of an administrative investigation into allegations against Dr. Nelda P. Wray, the Chief Research and Development Officer in the Department of Veterans Affairs (VA) Veterans Health Administration (VHA). Complainants alleged that Dr. Wray misused funds provided to VA by pharmaceutical companies; misused Government travel funds; unfairly hired, promoted, and managed staff; and did not act impartially or reasonably when approving and disapproving Research and Development Office projects.

2. We substantiated that, between January 2003 and October 2003, Dr. Wray and certain members of her staff were responsible for improperly spending nearly \$1.7 million provided to VA primarily by pharmaceutical companies. The funds were maintained and administered by Friends Research Institute, Inc. (FRI), a private nonprofit corporation. While the pharmaceutical companies provided these funds for VA's use in conducting specific cooperative research studies, the money was used for purposes unrelated to the projects specified, such as costly research equipment for an unrelated study; consultant and other management services; conference facilities and meals; local and out-of-town restaurant expenses; and other business-related and personal items. In effect, this spending constituted an illegal augmentation of the Department's appropriations, and a misuse of position. Dr. Wray's predecessors acted similarly in misspending over \$537,000 of these funds during calendar year 2002. The purchases improperly made should have been paid for either from appropriated funds or personally by the Research and Development Office staff.

3. **(b)(6)**..... participated in approving the 2002 expenditures, and initially offered the FRI-administered funds to Dr. Wray, advising her that the agreements with pharmaceutical companies allowed the use of those funds for other purposes. In the summer of 2003, when he identified an agreement that required VA to return the funds, he did not thoroughly review the remaining agreements for similar provisions. Five of the 15 agreements we reviewed specifically required that any unused funds at the completion of the study be returned, and an additional 5 agreements clearly indicated the funds provided were to be spent only on the study referenced in the agreement. Neither Dr. Wray nor Mr. John Bradley, the Research and Development Office's Chief Financial Officer, attempted to determine how the FRI-administered funds should properly be used, even after a General Counsel attorney raised questions to Dr. Wray about the corporation. Mr. Bradley, as the Chief Financial Officer, in particular, should have questioned the use of the money.

4. In spending these Government funds, neither Dr. Wray nor anyone on her staff had authority to enter into contracts on behalf of the Government, and they did not adhere to basic Federal acquisition regulations, such as preparing written contracts and seeking competition. Use of FRI-administered funds appears to have been an expedient way for the Research and Development Office staff to procure goods and services, with no concern their requests would be denied.

5. We recommended that the Under Secretary for Health ensure that the Deputy Under Secretary for Health takes appropriate administrative action against Dr. Wray, **(b)(6)**....., and Mr. Bradley; and educates Research and Development Office staff regarding the proper use of money provided by pharmaceutical companies for VA cooperative research studies. We also recommended that the Chief Research and Development Officer be directed to immediately cease spending FRI-administered funds, and that several actions be taken to correct the misuse of funds, including transferring them to VA affiliated nonprofit research corporations or the General Post Fund and properly disposing of excess funds in accordance with the agreements between VHA and the pharmaceutical companies. Finally, we recommended that bills of collection be issued to Dr. Wray and others responsible for approving the use of FRI-administered funds for their own or others' personal benefit. The Under Secretary concurred with the recommendations, noting that he would rely on advice from the General Counsel regarding whether the bills of collection can be issued.

6. Regarding Dr. Wray's travel, we substantiated that she traveled unnecessarily to Houston, took circuitous routes through Houston, claimed lodging expenses above the allowable limits, used expensive ground transportation, and claimed other improper expenses. We also identified days Dr. Wray should not have claimed meals and incidental expenses, and days she should have charged annual leave while away from her duty station. Her travel vouchers document a pattern of questionable trips to and through Houston at Government expense. They appear to be a pretext for her to make weekend visits there for personal reasons at Government expense. In total, we identified \$9,737 improperly claimed on Dr. Wray's vouchers, and 6 days she should have charged annual leave but did not. A staff assistant to Dr. Wray generally made her travel arrangements and prepared her travel vouchers. Dr. Wray told us she signed the vouchers once they were completed, but did not review them first. Mr. Bradley and **(b)(6)**..... told us that one or the other of them reviewed and approved Dr. Wray's vouchers after she signed them. They both told us they generally did not question the appropriateness of her claims. On another travel matter, we found that, at Dr. Wray's request, two staff from the Houston VA Medical Center incurred over \$30,000 in temporary duty expenses when they traveled to Washington, DC, to assist her in transitioning to the Chief Research and Development Officer position. We questioned the necessity of these temporary duty assignments, as they appear to have been primarily for Dr. Wray's personal convenience.

7. We recommended that the Under Secretary for Health ensure that the Deputy Under Secretary for Health takes appropriate administrative action against Dr. Wray, Mr. Bradley, and **(b)(6)**....., and provides detailed training on Federal

and VA travel regulations to Dr. Wray's staff assistant. We also recommended that a bill of collection be issued to Dr. Wray to recoup the cost of travel she took that was not officially necessary, or that was otherwise improperly claimed; and that she be charged 6 days of annual leave for time spent away from her duty station without official necessity. Finally, we recommended that the travel vouchers of those staff who routinely traveled with Dr. Wray be reviewed to determine if similar irregularities exist in their claims. The Under Secretary concurred with the recommendations.

8. Regarding the allegation that Dr. Wray unfairly hired and promoted staff, we found that she gave improper preference to four individuals. Dr. Wray told others she planned to promote two of the employees to positions in the Research and Development Office even before the job announcements had been issued. She granted an improper preference to a third employee and to an applicant for employment by asking her staff to promote/hire them. While examining these and other personnel actions, we found that, historically, a large number of employees working in the Research and Development Office were improperly appointed to their positions without competition under the "Schedule B" authority. Additionally, the Office historically circumvented the limits imposed by the Congressional appropriation for VA Central Office employee salaries by using VHA field-based employees, physically locating them in Washington, DC, to carry out the work of the Office. Finally, we concluded that Dr. Wray's management style regarding her handling of perceived staff performance issues compromised the staff's ability to carry out the mission of the Office. The Under Secretary for Health concurred with our recommendations to take appropriate administrative action against Dr. Wray; review the propriety of all Research and Development Office staff appointments made under Schedule B authority; review all positions appointed by field facilities and determine if any of the employees should be returned to the field; and review Dr. Wray's actions to transfer the duties of three of her senior managers.

9. We substantiated that Dr. Wray violated the Standards of Ethical Conduct for Employees of the Executive Branch when she approved four projects involving participation by a colleague of hers at the Baylor College of Medicine. Considering particularly that Dr. Wray had a close prior professional relationship with this individual, and is still an employee of Baylor College of Medicine, she gave the appearance of favoritism towards him. The Under Secretary for Health concurred with our recommendation to take appropriate administrative action against her.

10. We further substantiated that Dr. Wray did not act reasonably when she re-evaluated and re-scored 130 research proposals that had previously earned fundable scores, less than a month before their effective funding date, and disapproved 15 of them. While VHA policy provides that an investigator's proposal will be evaluated based on his or her productivity, specific measures of productivity were not previously used. The proposals had completed the merit review process and investigators had been notified of the results before Dr. Wray assumed her position as Chief Research and Development Officer. They were expecting their projects to be funded based on the priority scores they received, in accordance with applicable policy. Dr. Wray's decision to not fund the projects was contrary to VA policy and to good management

practice. We made no recommendation on this matter, but brought it to the attention of the Under Secretary for Health for whatever action he deemed appropriate.

11. We substantiated that Dr. Wray misused a Government purchase card to pay for a meeting that could readily have been convened in Research and Development Office workspace. The Under Secretary for Health concurred with our recommendation to take appropriate administrative action against Dr. Wray for this violation.

12. The Under Secretary's full response is in the appendix to this report. Regarding the second paragraph of his March 16, 2004 memorandum, in which he references potential criminal prosecution, it should be noted that certain matters discussed in this report were presented to the Department of Justice on March 15, 2004, and prosecution was declined. We will follow up to ensure the actions proposed in response to our recommendations are taken.

*(original signed by:)*  
DANIEL R. PETROLE

Attachment

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## **ADMINISTRATIVE INVESTIGATION**

### **USE OF GOVERNMENT FUNDS, TRAVEL, PERSONNEL, IMPARTIALITY, AND MANAGEMENT ISSUES RESEARCH AND DEVELOPMENT OFFICE VETERANS HEALTH ADMINISTRATION**

**REPORT NO. 03-03053-115**  
(Case IQ-0179)

## **INTRODUCTION**

### **Purpose**

The Department of Veterans Affairs (VA), Office of Inspector General, Administrative Investigations Division, investigated allegations against Dr. Nelda P. Wray, the Chief Research and Development Officer in VA's Veterans Health Administration (VHA). Complainants alleged that Dr. Wray misused funds provided to VA by pharmaceutical companies; misused Government travel funds; unfairly hired, promoted, and managed staff; and did not act impartially or reasonably when approving and disapproving Research and Development Office projects. The Chairman, House Subcommittee on Oversight and Investigations, and the Ranking Member, House Committee on Veterans' Affairs, were aware of some of these allegations and expressed interest in the investigation. Certain matters were presented to the Department of Justice for criminal prosecution, but were declined.

### **Background**

The Research and Development Office consists of approximately 80 employees physically located in VHA's Central Office in Washington, DC, including those in four Research and Development Services: Laboratory Medicine, Rehabilitation, Health Services, and Clinical Medicine. The Office also has 24 employees stationed in Baltimore, Maryland, and 5 in Perry Point, Maryland. Until recently, the Laboratory Medicine Service was known as the Medical Research Service, and the Clinical Medicine Service was known as the Cooperative Studies Program. In this report, we refer to those Services by their former names.

Dr. Wray was appointed as Chief Research and Development Officer effective January 12, 2003. Prior to this appointment, she was employed for 27 years at the VA Medical Center in Houston, Texas, where she had patient care, research, and administrative responsibilities. Among her assignments, she was Director of the Center for Quality of Care and Utilization Studies from 1990 until 1998 at the Houston Medical Center, part of VA's Health Services Research and Development Service. In 1998, Dr. Wray resigned this position but continued dual positions as the Chief of General Medicine at the Houston VA Medical Center and Professor and Chief of Health Services Research at the Baylor College of Medicine in Houston. She has been on an unpaid leave of absence from Baylor since assuming her current position in January 2003.

Dr. Wray's predecessor as Chief Research and Development Officer was Dr. John Feussner. Dr. Feussner retired in August 2002, and Dr. James Burris served as acting Chief Research and Development Officer in the interim.

## **Scope**

To assess the allegations, we obtained sworn, taped testimony from Dr. Wray and numerous management and administrative staff in the Research and Development Office, and from Dr. Wray's supervisor, the Deputy Under Secretary for Health. We also interviewed by telephone Dr. Feussner, Dr. Burris, and pertinent VA employees not located in Washington, DC. We obtained and reviewed records pertaining to funds provided to VA by pharmaceutical companies, which were spent from January 2002 through October 2003; the agreements governing the use of those funds; Dr. Wray's travel vouchers and other documents supporting her VA travel from January 2003 through October 2003; personnel records of certain staff hired or promoted since January 2003; and documentation pertaining to the approval and disapproval of certain Research and Development Office projects since January 2003. We also reviewed applicable Federal law and regulations, and VA policy.



## RESULTS AND RECOMMENDATIONS

<b>Issue 1:      Whether   Dr. Wray   improperly   spent   funds   provided   by                          pharmaceutical companies</b>
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We substantiated that, between January 2003 and October 2003, Dr. Wray and certain members of her staff were responsible for improperly spending nearly \$1.7 million provided to the Department primarily by pharmaceutical companies. While the companies provided these funds for VA's use in conducting specific cooperative research studies, the money was used for purposes unrelated to the projects specified. In effect, this spending constituted an illegal augmentation of the Department's appropriations, and a misuse of position. Further, Dr. Wray and her staff had no authority, while spending this money, to enter into contracts on behalf of the Government, and did not adhere to pertinent Federal acquisition regulations. Dr. Wray's predecessors, Dr. Feussner and Dr. Burris, acted similarly in misspending a lesser amount of these funds. The purchases improperly made should have been paid for either from appropriated funds or personally by the Research and Development Office staff. Finally, Friends Research Institute, Inc. (FRI), the organization that maintained the pharmaceutical companies' funds and administered them for VA's Research and Development Office, is not authorized to do so.

*Standards:* Federal agencies are prohibited from augmenting, or supplementing, their appropriations with funds from outside sources without specific statutory authority. According to the General Accounting Office, an agency that violates this proposition is usurping the prerogative of Congress to establish authorized program levels for the agency's operations [Principles of Federal Appropriations Law, Second Edition, Volume II, p. 6-103]. The Standards of Ethical Conduct for Employees of the Executive Branch prohibit employees from using their public office for their personal gain [5 CFR 2635.702].

The Federal Acquisition Regulations authorize only contracting officers to enter into and sign contracts on behalf of the Government, and require them to ensure that all requirements of law and regulation have been met [FAR 1.601-602]. The Regulations also generally require contracts to be in writing [FAR 2.101]. With limited exceptions, Federal law requires agencies to obtain full and open competition when procuring property or services [41 USC 253(a)].

*Discussion:* FRI is a private, non-profit corporation whose primary function is to administer research projects by providing recordkeeping and fund accounting services, including disbursing funds. According to the organization's own historical account, it has administered research projects for VA for nearly 30 years. Currently, FRI administers funds for the Research and Development Office's cooperative studies, which are multi-site research projects managed by one of several Cooperative Studies Program coordinating centers in the field, with oversight by the Research and Development Office. Neither FRI nor the Cooperative Studies Program **(b)(6)**.....  
..... could locate an agreement between the two entities

delineating the nature and terms of their relationship. FRI has established one or more fund accounts for each cooperative study it administers. As of September 30, 2003, FRI administered over \$20 million for Research and Development Office cooperative studies.

Over the years, Cooperative Studies Program employees have entered into agreements with pharmaceutical companies. While we found these agreements problematic from the perspective of legal, procurement, and fiscal requirements, their basic intent is that a pharmaceutical company agrees to provide funds and, often, drugs to VA. In return, VA agrees to conduct specified research. Many of the agreements specify that the pharmaceutical companies are to provide funds to VA through FRI. FRI's involvement appears to be initiated at VA's request. VA, however, has full authority over the funds, including determining the timing, purpose and amount of all disbursements. FRI designates the funds on its financial statement as a liability. Since FRI merely administers funds on behalf, and at the direction, of VA, these funds belong to VA and must be characterized as Government funds.

**(b)(6)**..... told us the agreements between the Cooperative Studies Program and the pharmaceutical companies generally stated that the funds were provided without restrictions, and that the companies rarely asked for the return of unspent money. He said, with one or two exceptions, the agreements indicated that whatever funding was left at the end of the particular study would be available for general VA research use. He said he and Dr. Feussner, who also served as the Cooperative Studies Program Director, jointly decided whether using funds for purposes other than those specific to the study for which the money was provided was reasonable, and that the funds were not often used for other purposes. He told us that when they did use the money for other purposes, he typically took it from one particular account, as that account was for an older study that still had a significant remaining balance. Dr. Feussner confirmed that he normally approved the use of money at FRI for purposes other than the study in question, and that the money was used judiciously.

According to **(b)(6)**....., after Dr. Wray arrived, he offered FRI account money to pay for items he considered reasonable but believed appropriated funds would not cover, such as blue ribbon panel meetings Dr. Wray wanted to host. He said she was aware of the availability of the money and shortly thereafter, he became overwhelmed with the number of requests from her and other Research and Development Office staff to spend it. Around February 2003, Dr. Wray requested that **(b)(6)**..... arrange for funds retained in accounts of completed cooperative studies, and excess funds in accounts of active studies, to be consolidated into "support accounts" controlled by Research and Development Office employees. Thus, effective March 10, 2003, accounts for each of the four Research and Development Office's organizational components, and an account for Dr. Wray's immediate staff, were created. Over the next two months, FRI transferred over \$8,700,000 into the account for Dr. Wray's immediate staff, \$30,000 into an account for the Cooperative Studies Program, and \$7,500 each into accounts for the Office's remaining three organizational components. **(b)(6)**..... told us all these funds were "totally free and clear" of any particular study. At the same time,

.(b)(6) . . . . . also requested that \$100,000 be transferred to a new account in his name. In total, FRI transferred money out of over 20 accounts initially established with funds from pharmaceutical companies for VA to conduct specified research.

We examined 15 funding agreements between pharmaceutical companies and the Cooperative Studies Program, covering 14 of the accounts from which funds were taken. .(b)(6) . . . . . could not locate the remaining agreements. In five of the agreements, the company specifically required that any unused funds at the completion of the study be returned. An additional five agreements clearly indicated the funds provided were to be spent only on the study referenced in the agreement. For example, an agreement with Warner-Lambert Company for the conduct of a cooperative study states that funds are to be used for costs “directly related to the study.” An agreement with Eli Lilly and Company repeatedly states that its funds are to cover costs incurred under the agreement, which references a specific protocol.

Nevertheless, we identified nearly \$1.7 million provided under these agreements that Dr. Wray and her immediate staff spent between January 2003 and October 2003, and over \$537,000 spent during calendar year 2002 prior to Dr. Wray’s arrival, on purchases unrelated to the studies for which the money was provided. These purchases included costly research equipment, consultant and other management services, conference facilities and meals, local and out-of-town restaurant food, and other business-related and personal items. The 2003 purchases are described in greater detail beginning on page 7. The 2003 expenditures exceeded the 2002 expenditures largely due to the purchase of equipment, and an increase in the use of the money for consultants, other management services, and conferences. In addition, the frequency with which the Research and Development Office staff used FRI-administered funds for the purchase of food increased dramatically after Dr. Wray assumed the Chief Officer position. In 2002, FRI-administered funds were used more for the professional development and related travel of field staff, and for employee awards.

Dr. Wray told us she considered funds in the FRI accounts to be available to foster and facilitate VA research. She repeatedly said that she relied on her Chief Financial Officer, Mr. John Bradley, to advise her how the money could be spent, and that she followed his advice. She said she considered her use of the money appropriate because she followed his advice, and because Dr. Feussner used the funds in the same manner. She said she did not instruct her staff how they could use the money, but assumed Mr. Bradley did.

Dr. Wray also told us she believed she was using the FRI-administered funds appropriately because .(b)(6) . . . . . advised her that the funding agreements allowed the funds to be used for purposes other than the subject cooperative study. She said that, during the summer of 2003, while .(b)(6) . . . . . was attempting to use FRI-administered funds that had been transferred to the field to pay for some investigators to travel to London for a conference, she learned that one of the pharmaceutical company agreements stipulated that unused money from the study should be returned. She said she then instructed .(b)(6) . . . . . to return the money, and to review all other

agreements to see if they contained a similar provision. She told us the pharmaceutical company in question no longer existed and she did not know the status of **(b)(6)**..... attempt to return the funds. Further, she said **(b)(6)**..... assured her that no other agreements contained a similar provision. **(b)(6)**..... confirmed that, during the summer of 2003, he learned that one pharmaceutical company agreement did require the return of unspent money. He said he was not previously aware of this. He further confirmed that Dr. Wray asked him to return the money and to review all other agreements. He said he did check the agreements readily available to him, but it was only after a more thorough review after our investigation started that he identified one other agreement similarly worded. He also told us he identified several other agreements that contained vague language that he said could be interpreted as requiring the return of the money. Regarding the first agreement, **(b)(6)**..... told us the pharmaceutical company had been acquired by another company, and he was pursuing with them the possibility of keeping the funds.

Mr. Bradley testified that, after the FRI-administered funds were consolidated into the five support accounts, Dr. Wray wanted him to oversee them. He said he felt uncomfortable doing this because he did not know the criteria governing the use of the money, but did assign a subordinate responsibility for submitting funding requests to FRI. He acknowledged he never tried to determine what the criteria were, except to ask **(b)(6)**....., who he said told him the money was a gift, to be used to advance VA research. He said he believed Dr. Wray was abusing her power in the way she used some of the funds, but did not tell her that because he had no specific guidance to reference, as he did with appropriated funds, and feared losing his job if he confronted her. He said his own guideline, which he shared with Dr. Wray, was that the money should be used as if it were appropriated funds. For example, he said he advised against using FRI-administered money for Dr. Wray to fly first class, to pay for her membership in an airline club, and to supplement another employee's salary. On the other hand, he said he considered it appropriate to purchase food and bring it into the office for VA employees and advisors who were being asked to work all day and evening, or to take a visiting scientist out to dinner, because those expenditures supported VA research. He said his advice to Dr. Wray on expenditures almost always was made through a particular administrative assistant who asked him about the propriety of using FRI-administered funds for specific purposes. He said when that person left after several months, his advice was frequently not sought, and he learned about expenditures only after the fact.

The Deputy Under Secretary for Health told us he was aware that FRI maintained funds for what he understood to be contingencies directly related to VA's large cooperative studies or otherwise supporting the VA research program. He said Dr. Wray told him a sizeable amount of money existed in the fund, and he was satisfied with her general comments indicating she was using the funds for education and research support. He said he assumed FRI operated under the same rules as a VA-affiliated nonprofit corporation. He told us he was not aware of the specific purchases made from FRI accounts.

In July 2003, at a meeting attended by Dr. Wray and Mr. Tim McClain, VA's General Counsel, Dr. Wray raised the issue of improving minority recruitment efforts in the Office of Research and Development by creating another relationship similar to the one the Research and Development Office had with FRI in order to process donations made by the private sector for this purpose. Mr. Walter Hall, Assistant General Counsel for Professional Staff Group III, subsequently wrote to Dr. Wray asking her to provide him background information on the corporation, including the history and nature of its relationship with VA. He asked for copies of agreements or contracts between the two, information about VA money held by the corporation, and an explanation of any assistance provided by the corporation to VA. According to Dr. Wray, she asked Mr. Bradley to respond to Mr. Hall's request, but said Mr. Bradley indicated he would rather not raise the issue with that Office. Mr. Bradley told us he did talk to Mr. Hall, but told him Dr. Wray's idea was not the best way to achieve her desired goal. Mr. Bradley said the suggestion to create a funding mechanism similar to FRI to advance the goals of minority recruiting was eventually dropped.

### ***Improper expenditures from FRI-administered funds***

Of the nearly \$1.7 million Dr. Wray and her immediate staff spent since January 2003 that had been provided under agreements with pharmaceutical companies, the largest single expenditure was over \$799,000, which represents a down-payment on a total sole-source contract worth \$1,946,000, for the purchase and installation of nine "Lokomat" centers, equipment that assists paralyzed individuals to replicate walking motions. The Deputy Chief Research and Development Officer, who signed the purchase order, told us Dr. Wray approved the use of FRI-administered money to purchase this equipment from Hocoma AG, a company based in Switzerland, to expedite its delivery. She said the centers were needed for a clinical trial as soon as possible. She said the clinical trial was not one being funded by a FRI-administered account. Dr. Wray told us she approved the purchase of the equipment, and assumed it was made with appropriated dollars. She said although she was not aware a FRI-administered account paid for the equipment, she would have had no objection to doing that. According to the purchase agreement, the vendor is owed an additional \$1,147,000, to be paid in two installments by January 30, 2004 for the purchase, installation, and maintenance of the nine "Lokomat" centers.

Over \$541,900 from FRI accounts were used to procure consulting and other management services, and to procure a written history of the VA research program. For example, a total of \$215,000 was paid to two companies to develop and pilot test software applications for an electronic web-based grant submission and review process for the Research and Development Office. The Office's senior contract manager told us Dr. Wray was eager to implement an electronic grant submission process, and had imposed a deadline to get one operational. She said an FRI account was used to fund the pilot projects because the normal acquisition process would have taken too long.

Regarding the history of the VA research program, a former Chief Research and Development Officer was paid \$165,000 from FRI-administered funds for writing the

history. According to the Deputy Under Secretary for Health, prior to Dr. Wray's arrival, a former Chief Research and Development Officer, **(b)(6)**....., believed she had a commitment from the Research and Development Office to write the history, and thus began the work. He said when she was nearly finished, Dr. Wray refused to pay for it. The Deputy Under Secretary told us he and the Under Secretary for Health met with **(b)(6)**..... He recalled they were interested in having the history completed because there was Congressional interest in it. **(b)(6)**..... Mr. Bradley told us **(b)(6)**... began work on the project while the contract was being reviewed. He said the contracting officer raised questions about the sole-source justification, so he (Mr. Bradley) decided to pay **(b)(6)**... using FRI-administered funds.

In another example, a total of \$31,000 was paid with FRI-administered funds to a consultant for a variety of services, including planning and facilitating two conferences on research issues for VA senior leadership; moderating training for research service administrative officers; and supporting the development of a plan and model for restructuring VA research offices. The senior contract manager told us the consultant was paid from a FRI account because the consultant had already provided the Research and Development Office services and needed to be paid, and because Office management wanted to continue using the consultant before a contract was in place. The contract manager told us she was in the process of writing a statement of work. Dr. Wray said the consultant was already under contract with the Albuquerque VA Medical Center, so she asked the consultant to begin providing services to the Research and Development Office, thinking the Office could use the Albuquerque contract.

As a final example, a public relations consulting firm was paid over \$23,800 to observe and review Dr. Wray's presentation style and help her respond to questions, and to review the Office's written products to help standardize their appearance and message. According to one of the consultants, 75 percent of the firm's effort was devoted to working with Dr. Wray personally, including attending a town hall meeting with her. The consultants were paid up to \$375 an hour for their services. According to the Research and Development Office's Director of Field Programs, the total amount to be paid to the consulting firm was not to exceed \$100,000. She told us, however, that after we began our investigation, the firm was told its services were no longer needed. The Deputy Under Secretary for Health told us that he and other VA senior executives agreed that Dr. Wray would benefit from executive coaching, but that he would not have suggested or chosen a private consultant. He noted that both the VA Chief of Staff and the Deputy Under Secretary for Health for Operations and Management offered to be available as coaches to Dr. Wray.

Regarding the procurements for consulting and management services, Dr. Wray told us she approved the procurements, but did not specifically know that they were funded from a FRI-administered account, although she said she was not surprised that they were and did not consider it to be inappropriate. She told us Mr. Bradley told her it was acceptable to use FRI-administered money, and he preferred doing so because the

normal acquisition process took too long. Mr. Bradley told us FRI-administered money was used when time constraints necessitated an alternative to the normal acquisitions process. He noted that VA non-profit corporations had flexibility in procuring services, and he considered FRI-administered funds to be similar.

Dr. Wray and her staff spent nearly \$157,900 for conference facilities and meals during 2003 using funds from FRI accounts. Over \$100,000 was spent for meals and refreshments during two senior management training programs the Office held in response to a directive from the VA Secretary to strengthen oversight of VA's research programs. Regarding the larger of the two programs, Dr. Wray told us it was her idea to have an evening reception for the attendees, to thank them for their time and to develop a sense of collegiality. The Deputy Under Secretary for Health told us he was aware Dr. Wray planned a reception for the conference, but he expected it to be far more modest than it was. Over \$18,300 was spent on overnight rooming and conference center charges, primarily for VA employees who were members of blue ribbon panels convened by Dr. Wray. According to Dr. Wray, the employees met at a conference center in suburban Washington, DC, to write their reports. In an August 1999 memorandum to VHA's Associate Chief of Patient Care Services, Mr. Hall, Assistant General Counsel for Professional Staff Group III, advised that FRI could not accept cash gifts from pharmaceutical companies intended to support the planning and production of medical conferences.

On a routine basis, Dr. Wray and her staff spent money from FRI accounts totaling over \$33,300 to purchase food eaten at local and out-of-town restaurants, as well as food brought in to the Research and Development Office work site. Dr. Wray told us she used money in FRI accounts to pay for food during the Office's staff meetings, which occurred about every 6 weeks; to take special visitors and groups, both VA and non-VA employees, out for a meal to develop good business relationships with them; and to pay for meals for herself and other travelers or groups she was visiting while on travel. She said providing the meals enhanced relationships among individuals and thus enhanced VA research. One of the Office's staff assistants told us she used a credit card issued by FRI to arrange for the provision of food at meetings and other functions, where issues such as the budget and the office reorganization were discussed, or that included advisory group and blue ribbon panel members. She said she arranged these functions on behalf of various Research and Development Office senior staff members. **(b)(6)** . . . . ., who used a FRI credit card to purchase food, told us that going to a restaurant with individuals he was visiting, such as coordinating center directors and investigators, was an effective use of his time while on travel in that it extended his meetings beyond normal work hours. He also said he used the FRI credit card to purchase food for the periodic staff meetings Dr. Wray held, for other meetings in the office, and for a variety of purposes in local restaurants. Records relating to the restaurant purchases document that Dr. Wray and her staff frequently chose upscale establishments, consumed alcoholic beverages, and ran up extravagant bills, all paid for by FRI-administered funds. For example, on April 14, 2003, Dr. Wray and ten other VA employees spent \$745 on dinner at a Houston restaurant, and on July 24, 2003,

Dr. Wray and two Research and Development Office staff spent \$422 for dinner at a Washington, DC, restaurant, after a flight they had been waiting for was cancelled.

The remaining funds improperly spent from FRI accounts were used for a variety of purposes, including over \$32,900 for private vendor printing services, and \$23,000 for shirts having a Research and Development Office emblem and motto. Dr. Wray told us the purchase of the shirts was her idea, and that they were given to employees for the purpose of creating collegiality within the VA research community. Thirteen thousand dollars (\$13,000) was provided to a VA medical center for the professional development of its Cooperative Studies Program coordinating center staff. The Research and Development Office staff also used the funds to pay the home internet access charges for Dr. Wray and one other employee, and several months of bills for Dr. Wray's personal cellular telephone during a period we were told she did not have a VA-issued cellular telephone. Additional purchases included flowers for employees and for office functions, over \$11,000 in employee cash awards, an office refrigerator and microwave oven, small-value computer accessories and office supplies, membership for Dr. Wray in an airline's club lounge, and a framed display of pictures and military medals of one of Dr. Wray's relatives.

We estimated that, of the nearly \$1.7 million of FRI-administered funds improperly spent in 2003, \$79,650 were personal in nature and should have been paid from the personal funds of Dr. Wray and other Research and Development Office staff. The remaining amount could have, if properly approved and procured, been paid from appropriated funds. The former category includes a portion of the cost of the public relations consultant, all the non-conference food purchases, the cost of the shirts, home internet access, personal cellular telephone service, flowers, the refrigerator and microwave, membership in an airline's club lounge, and the framed display. The Comptroller General has held that items that are personal expenses may not be purchased with appropriated funds without specific statutory authority. In particular, regarding food purchases, the Comptroller General has held that, with limited exceptions, appropriated funds cannot be used to purchase food for Government and non-Government employees, as food is a personal expense. The limited exceptions include paying for food at training programs and awards ceremonies that meet certain statutory requirements, and at meetings and conferences sponsored by Government and non-Government organizations if the meals are incidental to the meeting (and substantial functions take place separate from the meal), attendance is necessary for full participation in the meeting, and the individual would miss essential formal discussions or lectures if he or she did not partake of the meal [Principles of Federal Appropriations Law, Second Edition, Volume I, p. 4-84 through 4-100, 4-198].

### ***Dr. Wray and her staff violated the Federal Acquisitions Regulations***

The above purchases were either made without any written documentation, or made based on a written contract or purchase order signed by the Research and Development Office's senior financial manager or other staff. However, these individuals are not contracting officers authorized to enter into contracts on behalf of the



Government. Further, the Office's senior contract manager told us of high-dollar procurements in which FRI-administered funds were used specifically to circumvent Federal acquisitions requirements relative to seeking competition, purchasing goods from a foreign vendor, or ratifying an unauthorized commitment; and to circumvent perceived time-consuming procedures involved in the Federal acquisitions process. (Reference is made to the \$1.9 million sole-source contract for "Lokomat" centers cited on page 7 of this report). The Chief Financial Officer also noted that FRI money was used to purchase printing services from private vendors to avoid the perceived time-consuming process of going to the Government Printing Office first, as required.

***FRI is not authorized to accept money on behalf of VA***

We are not aware of any legal authority for the Research and Development Office staff to use FRI to administer their cooperative studies. VA-affiliated non-profit corporations authorized by Congress, which are subject to VA oversight, may accept funding from pharmaceutical companies to facilitate VA research [38 USC 7361 – 7366]. FRI is not a VA-affiliated non-profit corporation. VA field facilities may accept funds from private companies to conduct research pursuant to cooperative research and development agreements authorized by the Technology Transfer Act [15 USC 3710]. The agreements between the Research and Development Office's Cooperative Studies Program and pharmaceutical companies, using FRI, were not part of this program and, in any event, such use would be improper. Finally, the General Post Fund is another mechanism available for accepting donations for the conduct of VA research; however, only the Secretary may accept such donations [VHA Directive 4721].

Dr. Feussner told us the relationship with FRI began before the VA-affiliated nonprofits were created, and believed the relationship continued in part because the affiliated corporations could not effectively manage multi-site studies. **(b)(6)**..... told us VA-affiliated nonprofit corporations do not administer the cooperative studies because no such nonprofit is affiliated with the Research and Development Office in VA Central Office, and because the affiliated nonprofits retain significantly more money than does FRI for overhead expenses. He said, however, that a nonprofit affiliated with a VHA field facility could manage the funds.

On a related matter, during our discussions with Dr. Wray regarding her use of FRI funds, she told us that, while she was employed at the Houston VA Medical Center, she used funds from that facility's VA-affiliated research corporation in the same way FRI-administered funds are being used. We have previously reported on the impropriety of similar activities at other VA-affiliated research corporations, most recently at the South Florida Veterans Affairs Foundation for Research and Education, Inc. (Report 02-01946-11), and the Veterans Medical Research Foundation of San Diego (Report 03-00966-73). In fact, VA-affiliated research corporations are legally authorized to spend their funds, which are "public monies," only for purposes directly related to VA-approved research or education projects, or for their internal management and administration. This requirement is particularly relevant to the Research and Development Office because, in March 2003, a VA Nonprofit Program Office was created within that

organization, responsible for ensuring that VA-affiliated nonprofit corporations comply with all applicable regulations, including those related to financial management.

*Conclusion:* Dr. Wray and certain members of her staff illegally augmented the Department's appropriations and misused their positions when they improperly spent nearly \$1.7 million in Government funds between January 2003 and October 2003. The money, given to the Department by pharmaceutical companies for VA's use in conducting specific cooperative research studies, was spent on costly research equipment for an unrelated study; consultant and other management services; conference facilities and meals; local and out-of-town restaurant expenses; and other business-related and personal items. Dr. Wray's predecessors, Dr. Feussner and Dr. Burris, similarly misspent over \$537,000 of these funds during calendar year 2002.

**(b)(6)** . . . . . participated in approving the 2002 expenditures, and initially offered these FRI-administered funds to Dr. Wray, advising her that the agreements with pharmaceutical companies allowed the use of those funds for other purposes. In the summer of 2003, when he identified an agreement that required VA to return the funds, he did not thoroughly review the remaining agreements for similar provisions. Neither Dr. Wray nor Mr. Bradley, the Research and Development Office's Chief Financial Officer, attempted to determine how the FRI-administered funds should properly be used, even after a General Counsel attorney raised questions to Dr. Wray about the corporation. Mr. Bradley, as the Chief Financial Officer, in particular, should have questioned the use of the money.

Further, in spending these Government funds, neither Dr. Wray nor anyone on her staff had authority to enter into contracts on behalf of the Government, and they did not adhere to basic Federal acquisition regulations, such as preparing written contracts and seeking competition. We question how Dr. Wray could not have known FRI-funds were used to procure consulting and other management services, considering that her long career with VA should have familiarized her with the normal acquisitions process, and those procedures were notably lacking here. Use of FRI-administered funds appears to have been an expedient way for the Research and Development Office staff to procure goods and services, with no concern their requests would be denied. Finally, we concluded that FRI is not authorized to administer funds from pharmaceutical companies on behalf of VA.

Misuse of the FRI-administered funds is particularly troublesome because the Research and Development Office was recently given new responsibility for providing financial management guidance to the VA-affiliated nonprofit research corporations. Dr. Wray's testimony, and our recent prior investigative work on how the VA-affiliated nonprofits spend their money, indicates that these corporations are likewise misusing money intended for VA research projects to purchase meals and other personal items. Research and Development Office staff need to fully understand the limitations on the use of this money.

## Recommendation 1

The Under Secretary for Health should ensure that the Deputy Under Secretary for Health:

- a) takes appropriate administrative action against Dr. Wray for using Government funds administered by FRI for purposes other than the specific cooperative studies for which the money was given, including for food and other personal items; for allowing unauthorized staff to enter into contracts on behalf of the Government; and for allowing other violations of Federal acquisitions regulations;
- b) takes appropriate administrative action against **(b)(6)** . . . . . for initiating and approving improper expenditures from FRI-administered accounts, providing inaccurate information to Dr. Wray regarding the pharmaceutical companies' intended use of the money, and not thoroughly reviewing the agreements to determine if unspent funds must be returned;
- c) takes appropriate administrative action against Mr. Bradley for failing to determine how FRI-administered funds should properly be spent;
- d) ensures that all Research and Development Office staff are educated regarding the proper use of money provided by pharmaceutical companies for VA cooperative research studies;
- e) directs the Chief Research and Development Officer to immediately cease spending FRI-administered funds;
- f) coordinates with the pharmaceutical companies to properly dispose of the excess funds in accordance with the agreements between VHA and the pharmaceutical companies and with appropriate Federal regulations;
- g) transfers remaining funds from on-going studies from FRI to an appropriate VA-affiliated nonprofit research corporation, or to the General Post Fund;
- h) issues bills of collection to Dr. Wray and all other current and former VA employees responsible for approving the use of FRI-administered funds since January 2002 for their own or others' personal benefit; and
- i) provides explicit guidance to all VA medical center directors and executive directors of all VA-affiliated nonprofit research corporations regarding the prohibition against using funds intended for VA research for other purposes.

## Under Secretary for Health response

The Under Secretary for Health concurred with the above recommendations. He told us recommended administrative action against Dr. Wray and Mr. Bradley will be prepared

for review and concurrence by the General Counsel and Office of Human Resources Management. Regarding our recommendation to take appropriate administrative action against **(b)(6)**....., the Under Secretary noted that **(b)(6)**..... left employment with VA in February 2004, and currently is employed **(b)(6)**.....

In response to our recommendations that guidance be given to all Research and Development Office staff, VA medical center directors, and executive directors of all VA-affiliated nonprofit research corporations regarding the proper use of money intended for VA research, the Under Secretary noted that, by memoranda dated December 15, 2003, the Deputy Under Secretary for Health provided such guidance to VA employees. The Under Secretary further noted that field chiefs of research would again be advised to provide the guidance to all affiliated nonprofit research corporation executive directors. In his memorandum addressed to all Research and Development Office staff, the Deputy Under Secretary directed them to cease using credit cards provided by FRI, and directed that his Office must personally approve any use of the funds. The Deputy Under Secretary told the staff that he did not anticipate approving any funds until revised formal guidance is established.

The Under Secretary concurred with our several recommendations aimed at correcting the misuse of FRI-administered funds. He noted, however, that he was awaiting final advice from General Counsel regarding how the funds may legally be transferred to a VA affiliated nonprofit research corporation or to the General Post Fund, and whether bills of collection may be issued to current and former VA employees to recoup funds, which are non-appropriated, they improperly received or approved for their own or others' personal benefit. Regarding our recommendation to properly dispose of the excess funds in accordance with the agreements and applicable regulations, the Under Secretary stated that VHA will act in full compliance with the agreements. He told us that, if an agreement stipulated excess funds must be returned, then VHA will comply, and if an agreement authorized the use of excess funds to support VA research, then appropriate activities will be identified.

The Under Secretary's full response is in the appendix to this report.

**Office of Inspector General comment**

The Under Secretary was responsive to the recommendations. In a subsequent discussion with a VHA Human Resources Group representative, she noted that VHA plans to bring this issue to the attention of **(b)(6)**.....  
..... new employer.

**Issue 2: Whether Dr. Wray misused and wasted VA travel funds**

We substantiated that Dr. Wray misused and wasted VA travel funds in that she traveled unnecessarily, took circuitous routes, claimed lodging expenses above the allowable limits, used expensive ground transportation, and claimed other improper expenses. We also identified days Dr. Wray should not have claimed meals and incidental expenses, and days she should have charged annual leave while away from her duty station. Her travel vouchers document a pattern of questionable trips to Houston at Government expense. In total, we identified \$9,737 improperly claimed on Dr. Wray's vouchers, and 6 days she should have charged annual leave but did not. On another travel matter, we found that, at Dr. Wray's request, two staff from the Houston VA Medical Center incurred over \$30,000 in temporary duty expenses when they traveled to Washington, DC, to assist her in transitioning to the Chief Research and Development Officer position.

Between January 2003 and October 2003, Dr. Wray traveled at VA expense on 23 occasions, primarily to attend meetings in Houston, town-hall gatherings at VHA field facilities, and professional conferences. A staff assistant to Dr. Wray, **(b)(6)**....., told us that, with few exceptions, she made Dr. Wray's arrangements for flights, hotels, and local transportation. She said either Dr. Wray or Dr. Wray's executive assistant would let her know where Dr. Wray needed to travel, and when she was available to leave Washington, DC. **(b)(6)**..... said electronic mail messages and other correspondence would often indicate the names of nearby hotels. According to **(b)(6)**....., based on receipts Dr. Wray gave her when Dr. Wray returned from travel, she prepared the travel vouchers. Dr. Wray told us she signed the vouchers once **(b)(6)**..... completed them. She said, however, she did not review the claims made on the vouchers before signing them. Mr. Bradley and **(b)(6)**..... told us that one or the other reviewed and approved Dr. Wray's travel vouchers after she signed them.

Dr. Wray told us no one ever questioned the expenses she claimed on her travel vouchers. She said, on two occasions, **(b)(6)**..... told her she could not request a Government airline ticket that included personal travel, but that she changed her plans to comply with the requirements. She said she assumed that, if she had violated any other rules, her fiscal staff would have told her, and said she did not know why they did not question the claims we discussed with her. Further, she said she instructed **(b)(6)**..... to adhere to all travel regulations. According to **(b)(6)**....., Dr. Wray did sometimes tell her to follow the travel regulations. She said, on occasion, Mr. Bradley and **(b)(6)**..... questioned Dr. Wray's travel plans prior to her actual travel. She said she could not recall them ever questioning Dr. Wray's travel after the fact. **(b)(6)**..... told us she was aware Dr. Wray was taking circuitous airline routes, and claiming excessive lodging and ground transportation expenses, but said that, because of Dr. Wray's position, she **(b)(6)**..... thought it was allowed. **(b)(6)**..... told us she received

training on travel regulations 2 or 3 years ago, but at the time was not involved in making travel arrangements for anyone on a routine basis.

Mr. Bradley told us that, as Dr. Wray's subordinate, he did not feel he could question the appropriateness of her travel claims. He said, on one occasion in late winter or early spring, he did talk directly with Dr. Wray about the airline flights she planned to take because of the high cost of the ticket. He said she made it clear to him that he was not to question her travel arrangements. Mr. Bradley said that was the only time he talked to her directly, and, all other times, he directed his questions to **(b)(6)**..... and tried to work through her. He said, at times, **(b)(6)**..... gave him seemingly reasonable explanations about why certain expenses were claimed. He acknowledged he should have questioned Dr. Wray more frequently, and that if **(b)(6)**..... brought something to his attention, he should have been the one to handle it. He said Dr. Wray did not accept being questioned, and that "bad things" happened to those who questioned her. He told us that, because of the volume of travel vouchers, he delegated authority to approve them to **(b)(6)**.....

**(b)(6)**..... told us she relied on Dr. Wray to adhere to the travel regulations. She said she never questioned Dr. Wray's travel expenses while reviewing her vouchers, noting that she did not know what flights Dr. Wray needed to take because she did not know what time Dr. Wray needed to arrive at her destination for meetings. She also said Dr. Wray was not always going to get the cheapest hotel rate, and said she left it up to **(b)(6)**..... to do what was necessary to get the most advantageous airline and hotel rates. **(b)(6)**..... said she did not question the travel of people above her because she expected them to be honest. She said, as long as they provided receipts and a justification, she would not question them, but that they would have to explain their claims if they were audited.

### ***Unnecessary travel to Houston***

*Standard:* Federal travel regulations require that travelers ensure all travel expenses they claim are prudent and necessary [41 CFR 301-2.3, 2.4].

*Discussion:* Six of Dr. Wray's 23 episodes of travel since she became the Chief Research and Development Officer were to Houston as a final destination. We did not identify an official necessity for her to make four of these trips, as she conducted VA business that was either not officially necessary, or that should not have occurred in Houston. On a fifth trip to Houston, Dr. Wray extended her stay with no official necessity. As a result, Dr. Wray wasted \$3,929, and should have taken annual leave on 3 days, but did not. Dr. Wray maintains a home and has a personal relationship in the Houston area.

In the first example, Dr. Wray traveled to Houston the evening of Thursday, March 13, 2003, and returned to Washington, DC, the following Sunday. Dr. Wray told us she met with Dr. Baruch Brody, Director of the Center for Medical Ethics and Health Policy at Baylor College of Medicine, on Friday, March 14, for about an hour and a half to discuss

a Research and Development Office blue ribbon panel she had asked him to chair, and then met with the dean of the Graduate School of Medicine at Baylor College of Medicine. She told us the meetings did not last all day. As discussed on page 35, Dr. Wray asked Dr. Brody to provide the Research and Development Office consulting services on multiple occasions. In fact, her March 14 meeting with Dr. Brody never took place. According to Dr. Wray's Special Assistant, on March 14, Dr. Brody was in Washington, DC, on other business. The Special Assistant said that, in Dr. Wray's absence, he met with Dr. Brody that morning. In any case, Research and Development Office staff initially planned to participate in the meeting by conference call, an indication that a face-to-face meeting was not necessary. Regarding the meeting with the dean, Dr. Wray told us the dean is past president of an influential association of researchers, and she wanted to enlist his support for her plans to move VA away from laboratory research. She said she also asked the dean to encourage the National Institutes of Health to change its policy of not paying VA the indirect costs of research grants. A representative in the dean's office confirmed that this meeting took place. Dr. Wray's claim for this trip was \$859.

In the second example, Dr. Wray arranged a meeting in Houston on Monday, April 14, 2003, for ten senior Research and Development Office staff to discuss the future re-organization of the Office and field research facilities. The ten Washington, DC, staff met with two consultants, one from Houston, and one from Albuquerque, New Mexico. The meeting included only one attendee from the Houston VA Medical Center, who served as the meeting facilitator. All those who attended the meeting told us they believed it was officially necessary. However, nine of them said they did not know why it was held in Houston, and some expressed resentment at having to travel there. Dr. Wray's explanation was that she wanted the Research and Development Office staff to experience the culture and personality of a very functional organization of hard workers with positive attitudes. However, she also said that she had recently missed a personal special occasion in Houston due to other travel, and so had planned to be there. After the meeting, some of the staff stayed to attend a separate meeting on Tuesday, arranged by the Office's Field Programs Director after the Monday meeting was arranged.

Dr. Wray began this trip by traveling the previous Thursday evening, April 10, to meet with the president of Baylor College of Medicine on Friday, April 11. She told us she asked the president to encourage the National Institutes of Health to change its policy of not paying VA the indirect costs of research grants. According to a staff member in the president's office, the meeting was scheduled for one hour on Friday afternoon. Dr. Wray told us she was on annual leave for the three days (April 16-18) following the Monday and Tuesday meetings. Her leave records do not reflect this. Dr. Wray's claim for this trip was \$1,156, including meals and incidental expenses for each day except Saturday and Sunday. The total amount claimed by the other Research and Development Office staff who traveled to Houston was over \$9,900.

In the third example, on Thursday, June 5, 2003, Dr. Wray traveled during duty hours to Houston and the following Sunday flew to Baltimore to attend a Monday conference.

Dr. Wray told us she traveled to Houston to meet with the head of the VA Medical Center's **(b)(6)**....., who had announced her intention to resign, and with **(b)(6)**....., the employee's supervisor and **(b)(6)**..... The position in question was not within Dr. Wray's direct chain of command. However, Dr. Wray told us she was concerned about the loss of the employee because **(b)(6)**..... was an important resource to VA, and the employee was its "backbone." Dr. Wray said **(b)(6)**..... would be taking on a much greater importance in her endeavor to increase VA's emphasis on surgical trials, and she went to Houston to try to convince the employee not to resign. She told us the meeting lasted about 3 hours. Dr. Wray's claim for this trip was \$835.

Lastly, Dr. Wray traveled to Houston Friday evening, October 10, 2003, and returned to Washington, DC, the following Tuesday evening. Monday, October 13 was a Federal holiday. Dr. Wray told us she traveled to Houston to meet with a VA Medical Center employee whom she considered to be a good candidate for a position the Research and Development Office had announced. She said she wanted to meet with this individual to make sure he understood the position, and understood that she thought he would be a good candidate. She met with him Tuesday morning. Dr. Wray made no official recruiting trips at VA expense to any place other than Houston. In a similar situation, she brought another potential candidate, based in Seattle, to Washington, DC, to discuss a position. According to her leave records, Dr. Wray was on annual leave Tuesday, October 14, and thus was not on official duty during any part of the trip. Dr. Wray's claim for this trip was \$1,033, including improper claims for meals and incidental expenses and ground transportation charges over the weekend and holiday.

Regarding an additional trip Dr. Wray made to Houston, we did not question her need to travel there, but found she extended her stay at VA expense unnecessarily. Dr. Wray had official meetings in Houston on Wednesday and Thursday, February 5 and 6, 2003. Rather than return to Washington, DC, on Friday, she told us she worked in her former office that day and stayed the weekend before flying back to Washington, DC, on Sunday. She claimed \$46, a full day's allowance of meals and incidental expenses, on Friday, while there without official necessity, even though she also claimed Sunday as her travel day.

*Conclusion:* Dr. Wray made four trips to Houston at VA expense to conduct business that did not require a face-to-face meeting, should not have been conducted in Houston, or was not officially necessary. The trips appear to be a pretext for Dr. Wray to make weekend visits in Houston for personal reasons at Government expense. Regarding the trip in March 2003, neither the meeting with Dr. Brody nor with the dean of the Graduate School of Medicine at Baylor College of Medicine required face-to-face contact, but could have been accomplished with a telephone call. In fact, Dr. Brody was not in Houston, but in Washington, DC, on the day in question. At least some of the Research and Development Office staff initially planned to participate in the meeting with Dr. Brody by conference call. The business with the dean could easily have been conducted by telephone.



The April meeting, involving ten Research and Development Office staff from Washington, DC, and only one Houston VA Medical Center employee, should have occurred in Washington, DC, considering the expense involved. The meeting with the Baylor College of Medicine president did not require a face-to-face meeting, and the meeting arranged by the Field Programs Director was scheduled only after the decision had been made to go to Houston. Regarding the June trip, we view Dr. Wray's involvement with a local employee's resignation unnecessary and/or inappropriate, notwithstanding her interest in (b)(6)..... (b)(6)..... at the Houston VA Medical Center should have handled this matter on her own. Even assuming that it was an appropriate use of Dr. Wray's official time to talk to the employee, she unnecessarily wasted VA travel funds to do so. Dr. Wray could easily have conducted this business by telephone. The trip to Houston in October was also unnecessary and inappropriate, because Dr. Wray should not have given the employee preference for an announced position. The fact that she was on annual leave on the one work-day of the five-day trip further demonstrates that the trip was completely for personal reasons. Nevertheless, she claimed travel expenses for the weekend and holiday. Finally, on an additional, officially necessary trip, Dr. Wray extended her stay and claimed expenses on her voucher that were not officially necessary or legally authorized.

These five trips unnecessarily cost VA \$3,929, and included 3 days when Dr. Wray should have taken leave, but did not.

***Unnecessary indirect routing through Houston***

*Standard:* Federal travel regulations require employees to use the method of transportation most advantageous to the Government and to travel by the most expeditious means, or personally incur any additional expenses [41 CFR 301-10.4, 10.6]. The regulations provide that employees must use the General Services Administration city-pair contract fare when available [41 CFR 301-50.3].

*Discussion:* On four episodes of travel, Dr. Wray wasted VA travel funds by flying on Continental Airlines to Houston, without official necessity, in route to another location. The cost of her flying through Houston on these occasions exceeded the cost she would have incurred had she used city-pair contract flights by a total of \$2,545. All the comparisons we made included taxes, and applicable security and passenger fees. On each of these occasions, Dr. Wray stayed in or near Houston, for personal business, before or after traveling to her final destination. She made additional improper claims totaling \$364, primarily for meals and incidental expenses incurred during these personal layovers, and should have charged 3 days of annual leave, but did not.

According to both Dr. Wray and (b)(6)....., Dr. Wray expressed a preference for traveling on Continental Airlines because she earned frequent flier benefits, including upgrades to first-class seating. Dr. Wray told us she instructed (b)(6)..... that, notwithstanding her preference, she would use Continental Airlines only if it was in accordance with travel regulations, and said (b)(6)..... understood those

instructions. She said if the flights she took were more expensive, she was not aware of it. **(b)(6)**..... told us Dr. Wray did sometimes tell her to make reservations on Continental Airlines only if it was allowed. She said her instructions from Dr. Wray were to check the internet to see what flights were available on Continental Airlines. She said she questioned the high cost of a Continental Airlines flight on one occasion and, after discussing it with Mr. Bradley and Dr. Wray, changed it to another airline. **(b)(6)**..... told us she was aware Dr. Wray wanted to use Continental Airlines because she had frequent flier miles, but said she did not question the practice because there were sometimes justifications for not using the contract carrier, and often Dr. Wray's travel was arranged hurriedly.

In the first example, Dr. Wray departed for Houston mid-day on Thursday, April 24, 2003, en route San Francisco for a Monday meeting. She told us she went to Houston and stayed the weekend to visit a relative, but also spent part of the day on Friday working at the VA Medical Center. She continued her trip to San Francisco on Sunday, April 27. On Thursday, May 1, after traveling from San Francisco to Seattle, Dr. Wray returned to Washington, DC, on a direct city-pair contract flight. She told us she needed to return to Washington, DC, to meet with the VA Deputy Secretary on Friday. She said she initially had a meeting scheduled with him the previous Friday (April 25) but asked to reschedule it so she could visit her relative in Houston. On Friday, May 2, following her meeting with the Deputy Secretary, Dr. Wray flew Continental Airlines to Houston, changing flights minutes later to travel to Vancouver for a professional conference over the weekend. From Vancouver, Dr. Wray again flew Continental Airlines to Houston, and changed flights before departing to New York for a meeting. The cost of Dr. Wray's circuitous routing through Houston, with no official necessity, was \$1,738 more than the city-pair contract rates. Dr. Wray told us she was "stunned" at the cost difference, and said she did not understand why **(b)(6)**..... failed to catch it. We included in our calculation as officially necessary the flight for the day trip from Seattle to Washington, DC, to meet with the Deputy Secretary; however, the schedule change resulting in Dr. Wray's need to return to Washington, DC, while on travel on the West Coast was made to accommodate her, and was at her request. Dr. Wray improperly claimed an additional \$211 for expenses she incurred while in Houston on personal business, including meals and incidental expenses, and did not request annual leave for the Thursday or Friday she spent there prior to her official travel.

On a second occasion, on Monday morning, August 25, 2003, Dr. Wray had a meeting with Network staff in Dallas, followed by a building dedication ceremony in Temple, Texas, that afternoon. She took a Continental Airlines flight on Friday evening, August 22, to Houston, changed flights and went to Austin for the weekend. Dr. Wray told us she visited a relative in Austin. She said she then traveled at her own expense to Dallas on Sunday where she rented a car. After her Monday meetings, Dr. Wray returned the rental car, flew from the local airport near Temple to Houston, changed flights, and continued to Washington, DC. The cost of Dr. Wray's circuitous routing through Houston, with no official necessity, was \$308 more than the city-pair contract flights from Washington, DC, to Dallas, and returning from the airport near Temple to

Washington, DC. We identified no improper claims for expenses incurred in Houston during this visit, and no time that Dr. Wray should have charged to annual leave.

In a third example, on Monday, September 22, 2003, Dr. Wray traveled on Continental Airlines to Houston, where she changed flights and continued on to the Reno/Tahoe airport in Nevada to attend a meeting sponsored by Networks 21 and 22. On Friday, September 26, after traveling to and conducting official business in the San Francisco area, she departed San Francisco on Continental Airlines to Houston, and stayed there for the weekend before returning to Washington, DC on Sunday. The cost of Dr. Wray's circuitous routing through Houston, with no official necessity, was \$279 more than the city-pair contract flights from Washington, DC to Reno/Tahoe, and from San Francisco to Washington, DC. Dr. Wray also improperly claimed \$92 for meals and incidental expenses during her weekend in Houston, which she said was a mistake.

In the final example, on Thursday, October 30, 2003, Dr. Wray attended an official all-day meeting in Austin. She flew on Continental Airlines on Wednesday to Houston, changed flights, and continued to Austin. On Friday, an authorized travel day, she drove by a private vehicle to Houston and stayed the weekend before returning from Houston to Washington, DC on Monday, November 3. The cost of Dr. Wray's circuitous routing was \$220 above the round-trip city-pair flight to Austin on the contract carrier. Dr. Wray also charged \$61 for ground transportation in Houston, where she had no official business. She also did not charge annual leave on Monday, November 3, the day she traveled back to Washington, DC, after her personal trip to Houston.

Regarding Dr. Wray's claims for meals and incidental expenses on weekends, **(b)(6)** . . . . . told us she included those amounts on the vouchers because Dr. Wray was working, as evidenced by folders Dr. Wray took with her when she traveled, electronic mail messages Dr. Wray sent over the weekend, and meetings noted on her calendar. **(b)(6)** . . . . . told us she asked someone in VA Central Office's travel office if the expenses could be claimed when Dr. Wray worked on a weekend, and was told that they could. She said it was her understanding that Dr. Wray needed only to have worked several hours during the day to be entitled to the meals and incidental expenses. Federal travel regulations provide that employees are eligible for allowances only while on official business [41 CFR 301-1.3].

*Conclusion:* Dr. Wray wasted \$2,545 in airfare when she traveled by circuitous routes through Houston on four occasions, for the purpose of extending her stay in or near Houston for personal reasons and to earn frequent flier miles. On three of these trips, she improperly claimed expenses totaling \$364 she incurred in Houston, primarily meals and incidental expenses, and on two occasions she did not charge annual leave for 3 days she was away from her duty station due to those extended stays. Regarding the April trip, we do not consider the time Dr. Wray may have spent working at the Houston VA Medical Center to be official business, because she had no office or official duties to perform there, and because she clearly flew to Houston for the weekend for purely personal reasons.

### **Lodging claims above allowable rates**

*Standards:* Federal travel regulations authorize the payment of lodging, meals and incidental expenses (per diem) to travelers at a reimbursement rate established by the General Services Administration [41 CFR 301-11.6]. VA travel regulations authorize reimbursement on an actual expense basis only when the applicable per diem rate is inadequate due to special or unusual circumstances, such as when costs in an area have temporarily escalated during special events [MP-1, Part II, Ch. 2].

*Discussion:* We identified seven occasions when Dr. Wray claimed lodging expenses above the allowable rate established by the General Services Administration and, in one instance, claimed expenses for more nights than officially necessary. In total, the excessive claims were \$1,701. Dr. Wray said she did not arrange her own lodging, did not realize the cost was sometimes above the allowable rates, and said she was “stunned” when we discussed the incidents with her. She said she has never requested to stay in a particular hotel. **(b)(6)** . . . . . told us that, on occasion, Dr. Wray or others with whom she was traveling did specify they would like to stay in a particular hotel. **(b)(6)** . . . . . told us she asked for the Government rate when arranging the hotel accommodations.

In the first instance, Dr. Wray was a keynote speaker on Thursday, July 3, 2003, at the Amputee Coalition of America’s Annual Education Conference and Exposition in Boston. She told us she spoke for about 25 minutes that day around noon. The conference continued until Saturday, July 5, and she stayed in Boston Wednesday through Saturday nights. Dr. Wray told us she was also invited to speak at the VA portion of the conference on Saturday, but declined. She told us she did not attend the entire conference, but was “in and out.” Thus, her stay in Boston for official purposes should have been for one night only. According to **(b)(6)** . . . . ., Dr. Wray specifically requested a suite at a hotel separate from where the conference was being held because she planned to work there and needed space to do it. She said, because of Dr. Wray’s position, she thought it was allowable. Dr. Wray confirmed that was her request, but stated the reason she preferred a separate hotel was because she did not want to be running into people continuously. She said she requested a suite because she would have time to work and relax there. Dr. Wray initially had a confirmed reservation at the hotel where the conference was held, at a nightly rate of \$109 (\$123 including tax), but the reservation was canceled. The nightly room charge where Dr. Wray actually stayed was \$295 (\$332 including tax), \$103 above the allowable rate for that time of year. The room was a corner “Executive King” suite with a garden view, canopy bed, whirlpool, high speed internet, and turn-down service. A second person, not on official VA business or at VA expense, stayed with Dr. Wray. Dr. Wray acknowledged she knew at the time she checked into the hotel how much the nightly rate was, but said she did not realize it was over the allowable amount. We re-computed the cost of Dr. Wray’s lodging for one night, using the rate offered by the conference hotel, and determined her lodging claim was \$1,204 above what was officially necessary. In addition, her claim for meals and incidental expenses was overstated by \$150.

On Saturday, August 9, 2003, Dr. Wray made a presentation at a Baylor College of Medicine conference in San Antonio, and then participated in a VA town-hall meeting in San Antonio on Monday, August 11. Dr. Wray had reservations from August 8 -10 at the hotel where the conference was being held, which Baylor College of Medicine offered to pay. Instead, she stayed three nights in another hotel at \$209 a night, or \$118 above the allowable lodging rate. (b)(6)..... told us Dr. Wray made this reservation herself. Dr. Wray then incurred \$70 in taxi fares to travel between the hotel and the conference, even though she also claimed parking fees. (b)(6)..... told us she did not know both taxicab fares and parking fees could not be claimed. Notwithstanding the Baylor College of Medicine's offer to pay her lodging, we calculated Dr. Wray's excess lodging expenses to be \$354. Dr. Wray said she did not know why her lodging claim was excessive. On Monday, August 11, Dr. Wray traveled to Nashville, Tennessee, and again incurred excessive lodging expenses, this time \$27 above the allowable rate, for one night.

In October 2003, Dr. Wray traveled to Cleveland and Cedar Rapids, Iowa, for town-hall meetings. She was accompanied by two Research and Development Office staff. In Cleveland, Dr. Wray and the staff stayed at a hotel within walking distance of the VA Medical Center. The rate for one night's lodging was \$53 above the allowable rate. However, together, the three travelers incurred \$159 in excessive lodging expenses, presumably more than the taxicab fare between another hotel and the Medical Center would have been. In Cedar Rapids, Dr. Wray incurred excessive lodging expenses \$21 above the allowable rate. Also in October, Dr. Wray incurred excessive lodging costs in Austin. (b)(6)....., who booked the room, told us it was the hotel's Government rate for a room with a view, which she thought Dr. Wray would appreciate. For two nights, the excess cost was \$20. Finally, during a two-night stay in Palo Alto in September 2003, Dr. Wray incurred lodging expenses that were a total of \$22 above the allowable rate.

*Conclusion:* Dr. Wray claimed lodging expenses above the allowable rate established by the General Services Administration on seven occasions, and, in one instance, also claimed lodging for more nights than was officially necessary. The excessive claims totaled \$1,701. Regarding her attendance at a conference in Boston over July 4, we identified no official need for Dr. Wray to have stayed in a suite, or to have remained at the conference at VA expense beyond the first day, since she acknowledged she was not in regular attendance there. Thus, her claim for meals and incidental expenses were overstated by \$150. In San Antonio, Dr. Wray's decision to lodge at a hotel separate from where the conference was held resulted not only in excess lodging costs, but also \$70 in taxicab fares.

***Excess ground transportation and other miscellaneous claims***

*Standard:* Federal travel regulations require employees to use the method of transportation most advantageous to the Government, or personally incur any additional expenses [41 CFR 301-10.4, 10.6]. The regulations also provide that, if an employee

arranges her travel through an unauthorized travel management service, she is responsible for any additional costs that may result from such use [41 CFR 301-50.2]. The regulations do not authorize reimbursement for meals when the travel is 12 hours or less [41 CFR 301-11.2]. The regulations define incidental expenses as fees and tips given to porters, baggage carriers, bell hops, hotel maids and the like [41 CFR 300-3].

*Discussion:* We identified four occasions when Dr. Wray claimed excessive ground transportation charges, totaling \$595, while on travel. We also identified \$383 in other expenses Dr. Wray improperly claimed.

According to both Dr. Wray and **(b)(6)**....., Dr. Wray expressed a preference for using limousine services rather than taxicabs because she wanted someone immediately available to take her where she needed to go. Both told us Dr. Wray instructed **(b)(6)**..... that, notwithstanding this preference, she would use limousines only when the cost was essentially the same as a taxicab. **(b)(6)**..... told us she sometimes was not aware Dr. Wray used limousine services until Dr. Wray returned from travel, especially when she was in Houston. **(b)(6)**..... said, because of Dr. Wray's position, she believed the charges were allowable. **(b)(6)**..... told us she did question **(b)(6)**..... about the limousine charges, but was told more than one person was traveling. In assessing whether particular ground transportation charges were excessive, we took into account whether others were traveling with Dr. Wray.

Following her July attendance at a Boston conference, Dr. Wray signed a voucher claiming the following transportation costs for this trip: \$108 and \$78 on July 2; \$50 on July 3; \$50 on July 4, \$68 on July 5, and \$22 on July 6. She submitted a limousine receipt in the amount of \$78 for the July 2 trip from Logan Airport to the Sheraton Commander hotel in Cambridge. She also submitted six taxi receipts, none of which identified the date, charge, or destination. However, the note that Dr. Wray provided **(b)(6)**..... (which was not completely legible even when reviewed by Dr. Wray after the commencement of this investigation) identified only the following specific ground transportation costs incurred during this trip: (1) Limo one way – cab to airport - \$40 - Boston; (2) Cab to airport in DC – Cab home – 18 x 2; (3) Wed, Thur, Fri, Sat - Cab to Boston – Cab back to Hotel - \$25 each way; and (3) Cab to [illegible] Sunday - \$10 - \$12.

Neither Dr. Wray nor **(b)(6)**..... could explain the discrepancies between the charges identified on the note and the specific ground transportation claims on the voucher signed by Dr. Wray. Both stated that Dr. Wray normally provided additional information about incurred costs verbally, but neither could remember the specifics concerning this Boston trip. Neither could remember why \$108 was charged for July 2. Dr. Wray did state that most of the other claims were because the hotel was a long distance from the conference. However, the distance between the two hotels was actually less than 5 miles, a \$17 taxicab ride. The two hotels were also linked by the underground subway, at \$1.25 per trip. Further, a taxicab fare between the airport and either the hotel where she stayed or the hotel where the conference was held would

have cost \$30, including tip, but Dr. Wray claimed \$78 one way for limousine service from the airport. If she had stayed at the hotel where the conference was held, she would not have incurred any ground transportation expenses other than the airport round-trip. Thus, her claim for ground transportation while in Boston was \$294 more than officially necessary.

In Vancouver, Dr. Wray incurred a \$250 round trip limousine charge for transportation between the airport and the hotel. This was \$192 more than a round trip taxicab fare, including tip. When questioned, Dr. Wray said she was stunned by the charge, and had no explanation for it. **(b)(6)** . . . . . told us she arranged for the limousine in Vancouver after calling several transportation companies. She said other service providers did not seem reliable to her, some by the sound of their voice, and she was concerned because Dr. Wray was going to be in a foreign country. She told us Dr. Wray questioned her about the charge when Dr. Wray returned from Vancouver. Mr. Bradley told us he did not notice the limousine charge and did not question it. Dr. Wray also claimed a \$73 limousine charge from the Houston Airport to her residence following official travel to Tahoe, Nevada, and Palo Alto, California. In Austin, Dr. Wray claimed a limousine charge from the Austin airport to her hotel, which, according to the price given to us by the hotel staff, was \$36 more than a taxicab fare.

Other improper claims Dr. Wray made on her travel voucher include \$262 for a hotel room that **(b)(6)** . . . . . booked on the internet, and then was unable to cancel when the need no longer existed. **(b)(6)** . . . . . told us the charge was her mistake because she did not know she would not be able to cancel the reservation. We also noted a \$56 hotel late check-out charge. Dr. Wray could not recall why this charge was made. On June 25, 2003, Dr. Wray traveled to Philadelphia for the day. She was away for less than 12 hours, and therefore not eligible to receive the \$37.50 in meals and incidental expenses she claimed. Finally, we identified \$27.50 in porter fees that should not have been separately claimed, as they were included in her incidental expense allowances.

On a final matter, while on travel, Dr. Wray purchased ten meals for herself and other VA employees using a FRI credit card. She did not reduce her claim for reimbursement to account for these “free” meals. Thus, she was reimbursed twice for the same meal.

*Conclusion:* Dr. Wray claimed a total of \$978 for excessive ground transportation charges and other improper expenses while on official travel. She signed all the travel vouchers in question, and received Government funds to reimburse her for these improper expenses.

***Two staff spent lengthy temporary duty assignments in Washington, DC, at Dr. Wray’s request***

*Standard:* Federal Travel Regulations require agencies to limit the authorization and payment of travel expenses to travel that is necessary to accomplish their mission in the

most economical and effective manner, and to always consider alternatives to travel [41 CFR 301-70.1].

*Discussion:* In mid-January 2003, at Dr. Wray's request, two individuals from the Houston VA Medical Center began temporary duty assignments in the Research and Development Office. The assignments were approved by Dr. Ashton, Director of the Center for Quality of Care and Utilization Studies at the Medical Center. One employee, a GS-7 **(b)(6)**....., spent 3 months in Washington, DC, and the other, a GS-11 **(b)(6)**....., spent 2½ months there. Both returned to Houston some weekends. The total cost of the two temporary duty assignments was over \$30,000. Dr. Wray told us she requested these assignments because, as she was preparing to assume her Chief Research and Development Officer responsibilities in November and December 2002, it became clear to her that the support staff in Washington, DC, could not adequately and timely complete the assignments she gave them. She said the two staff from Houston helped her on ordinary daily activities, such as setting up her files, and managing her calendar and time the way she liked it. Dr. Wray said they also trained the permanent support staff on these matters, and that, in addition to providing administrative and secretarial support, they assisted the new Assistant Chief in charge of human research protection.

**(b)(6)**..... told us that, while assigned to the Research and Development Office, she was responsible for organizing Dr. Wray's office to facilitate her transition, filing, handling general calendar issues, and training the permanent staff who would be assisting Dr. Wray in her daily activities. She said she also assisted the new Assistant Chief in charge of human research protection, helping her assemble a panel of advisors, preparing computerized presentations and hard-copy binders for meetings, and taking minutes at meetings. **(b)(6)**..... told us her primary responsibility while assigned to the Research and Development Office was to help set up a new compliance section to establish standards required of human subjects researchers, including evaluating each standard. She told us she was experienced in this area, as she had compliance officer responsibilities in Houston.

The Assistant Chief in charge of human research protection told us both individuals assisted her, but she worked more closely with **(b)(6)**....., who helped prepare briefing packets and presentation slides, including sophisticated content material, and performed secretarial duties such as ordering supplies and handling travel. When asked why the permanent Office staff could not help her, the Assistant Chief said she did not know, but noted that she had no administrative staff assigned to her. A former Research and Development Office employee, who worked on the human research protection initiative before the Assistant Chief arrived, told us **(b)(6)**..... helped him set up meetings, track down individuals, prepare briefings, and carry out other staff assistant responsibilities. He said her expertise was very helpful.

Dr. Wray's former staff assistant told us she was more familiar with **(b)(6)**..... responsibilities, and generally corroborated that her responsibilities were as described above. Dr. Wray's current staff assistant told us both individuals helped with



the full range of staff assistant responsibilities, including establishing a file for each senior staff person, and notifying her of Dr. Wray's travel plans and meeting schedule. She said **(b)(6)**..... was also very busy preparing computerized presentations and briefing books.

The Deputy Under Secretary for Health told us Dr. Wray did not ask him if she could bring the two Houston employees to Washington, DC, on temporary duty assignments, but said he would not have expected her to ask, as he normally is not involved in such a decision. He said he did not have any objection to the assignments, as long as the pertinent requirements were met, and noted that, in academic environments, it is not unusual for managers to bring trusted staff with them when they assume a new role.

*Conclusion:* At Dr. Wray's request, two staff from the Houston VA Medical Center traveled to Washington, DC, on temporary duty to assist Dr. Wray transition to her position as Chief Research and Development Officer, at a cost of over \$30,000. We question the necessity of these temporary duty assignments, as they appear to have been primarily for Dr. Wray's personal convenience. "Transition teams," especially those consisting of relatively low graded administrative staff, are not customarily authorized for Government officials in positions comparable to Dr. Wray's. Based on the testimony of the two Houston employees and the Research and Development Office employees they assisted, their primary responsibilities were administrative in nature and did not require unique technical skills. Dr. Wray could have requested additional assistance, if needed, from employees already in VA Central Office.

## **Recommendation 2**

The Under Secretary for Health should ensure that the Deputy Under Secretary for Health:

- a) takes appropriate administrative action against Dr. Wray for misusing and wasting over \$39,737 in travel funds between January 2003 and October 2003, including funds incurred by two Houston VA Medical Center employees on temporary duty assignment to assist Dr. Wray transition to her Chief Research and Development Officer position;
- b) issues a bill of collection for \$9,737 to Dr. Wray to recoup the cost of travel she took that was not officially necessary, or that was otherwise improperly claimed;
- c) charges Dr. Wray 6 days of annual leave for time spent away from her duty station without official necessity;
- d) takes appropriate administrative action against Mr. Bradley for approving Dr. Wray's travel vouchers without questioning her improper claims;
- e) takes appropriate administrative action against **(b)(6)**..... for approving Dr. Wray's travel vouchers without questioning her improper claims;

- f) provides detailed training on Federal and VA travel regulations to **(b)(6)**.....; and
- g) reviews the travel vouchers of those staff who routinely traveled with Dr. Wray to determine if similar irregularities exist in their claims.

**Under Secretary for Health response**

The Under Secretary for Health concurred with the above recommendations. He told us recommended administrative action against Dr. Wray and Mr. Bradley will be prepared for review and concurrence by the General Counsel and Office of Human Resources Management, appropriate administrative action will be taken against **(b)(6)**....., and detailed training on Federal and VA travel regulations will be provided to **(b)(6)**..... Regarding our recommendation to issue a bill of collection to Dr. Wray, the Under Secretary stated that a member of the VHA Human Resources Management Group is reviewing the pertinent documentation and will work with us to create an itemized listing of inappropriate payments made to Dr. Wray, which will be used to support the bill of collection. Finally, the Under Secretary told us Dr. Wray's timecard will be corrected to reflect 6 days of annual leave, and that VHA will review the travel vouchers of other staff who routinely traveled with her.

The Under Secretary's full response is in the appendix to this report.

**Office of Inspector General comment**

The Under Secretary was responsive to the recommendations. We will follow up to ensure the recommendations are fully implemented.

**Issue 3: Whether Dr. Wray unfairly promoted, hired, and managed staff**

We substantiated that Dr. Wray gave unlawful preference to four individuals whom she wanted promoted or hired to positions in the Research and Development Office. While examining these and other personnel actions, we found that, historically, a large number of employees working in the Research and Development Office were appointed to their positions without competition, and are on the payrolls of VHA field facilities. This latter condition, in effect, circumvented the limit imposed by the Congressional appropriation for VA Central Office employees. Finally, we substantiated that Dr. Wray's management style regarding her handling of perceived staff performance issues has compromised the staff's ability to carry out the mission of the Office.

***Dr. Wray gave unlawful preference to individuals she wanted promoted or hired***

*Standard:* Federal law prohibits employees who are authorized to take personnel actions from granting a preference or advantage to another employee or applicant for employment for the purpose of improving that person's prospects for employment. The law specifically prohibits employees from defining the scope or manner of competition to give such a preference or advantage [5 USC 2302(b)(6)]. Further, VA's Central Office Merit Promotion Plan prohibits officials involved in a promotion process from engaging in personal favoritism [OI-1, Part V, Chapter 18, Change 4]. Federal regulations authorize VA to appoint employees to "Schedule B" positions, including certain positions in the medical research program, for which it is impracticable to hold open competition or to apply usual competitive examining procedures [5 CFR 213.3201, 213.3227]. VA policy states that employees hired in the medical research program under this authority are project oriented, that their appointments should be made in association with a specific research project, and that their termination dates should be consistent with the project funding time frames. The policy further states that the Schedule B authority is not intended to replace other available appointment authorities [VA Handbook 5005, Part II, Chapter 2, paragraph 6j].

*Discussion:* We identified two instances in which Dr. Wray communicated to others, prior to issuing competitive vacancy announcements, whom she planned to select for the positions. In the first instance, several Research and Development Office staff told us that at one or more staff meetings prior to the July 31, 2003, issuance of a competitive vacancy announcement for the Office's GS-14/15 Director of Administration, Dr. Wray made comments to the effect that she planned to select **(b)(6)**..... to fill that position. Dr. Wray acknowledged that during one staff meeting she said words to the effect that **(b)(6)**..... was coming, that the new Director of Administration position was his. However, she said she immediately explained that she only meant **(b)(6)**..... was the ideal candidate for the position. One employee told us he decided not to apply for the position, even though he was interested in it, because Dr. Wray had already made it known she was selecting **(b)(6)**..... According to the Office's human resources liaison, when the Office of Personnel Management did not rank **(b)(6)**..... high enough to be selected from its list of eligible candidates, Dr. Wray decided to ask

that agency to reevaluate one of the scores. As a result of the reevaluation, **(b)(6)**..... was ranked high enough to be eligible for selection. The human resources liaison said Dr. Wray then directed that he be hired. While some staff we interviewed regarding this selection agreed that **(b)(6)**..... was an ideal candidate, Dr. Wray nevertheless gave him preference through her earlier remarks.

In the second instance, on January 28, 2003, the former Director of Operations sent Dr. Wray a draft copy of a position description for a GS-14/15 Special Assistant for Special Projects. In responding to the electronic mail message that same day, Dr. Wray told the Director of Operations that "**(b)(6)** is to go to a 15." Her comment referenced **(b)(6)**....., whom she selected for the GS-15 Special Projects position in June 2003, after he responded to a May 2003 vacancy announcement. Dr. Wray told us her electronic mail message was intended to mean only that she believed **(b)(6)**..... was doing the work of a GS-15.

We also identified two instances in which Dr. Wray asked her staff to hire or promote specific individuals. In one case, Dr. Wray learned of a writer-editor through professional acquaintances, including the writer-editor's mother. Dr. Wray said she learned the individual was looking for work in the Washington, DC, area, interviewed her, offered her a position with writing and editing responsibilities, and asked the former Director of Operations to take care of it. She said she directed that the position not be competed, but acknowledged she knew of no reason why it was not practical to do so, other than she needed someone to fill that position immediately. The former Director of Operations told us, in response to Dr. Wray's request, he asked the Atlanta VA Medical Center human resources staff to hire the writer-editor to work in Washington, DC, under a Schedule B appointment. He believed the Schedule B appointment was appropriate because the incumbent would be dealing with scientific issues. The position, however, was not associated with any specific research project. The individual was hired as a GS-12 health science specialist, but has since resigned.

Similarly, the Research and Development Office's human resources liaison told us Dr. Wray said she wanted to promote **(b)(6)**..... to a GS-15 Field Programs Director. According to the applicable position description, the Field Programs Director is responsible for assisting in the scientific and administrative operation of the national research and development program. The liaison told us that, through the Atlanta VA Medical Center, she effected the promotion noncompetitively with a Schedule B appointment because **(b)(6)**..... was already under such an appointment, and that was the quickest way to promote her. Dr. Wray told us she considered **(b)(6)**..... to be the strongest candidate for the position, and that this was common knowledge. However, Dr. Wray said she did not direct anyone to put **(b)(6)**..... into that position and was not aware the position was filled noncompetitively. She said it was not impractical to have competition, except that it slowed the process. We question why Dr. Wray believed **(b)(6)**..... position was competed, since Dr. Wray signed the memorandum requesting approval of the Schedule B appointment. **(b)(6)**..... position is not associated with any specific research project.

During our investigation of the above personnel actions, we noted that of the approximately 80 Research and Development Office employees physically located in Washington, DC, 27 have Schedule B appointments. It does not appear that any of these employees are associated with a specific research project. We also noted that only 13 of the 80 positions were funded by the Medical Administration and Miscellaneous Operating Expenses appropriation, which was intended to pay the salaries of VA Central Office employees. Congress provided separate appropriations for Central Office and field facility employees' salaries as a way of controlling and limiting the size of the headquarters staff, and maximizing the size of VHA's field personnel. Most employees physically in the Research and Development Office in Washington, DC, are actually field personnel funded by individual VHA facilities, primarily the Atlanta, Durham, and Washington, DC, VA Medical Centers.

***Dr. Wray's handling of staff performance issues has compromised the Office's ability to carry out its mission***

*Standard:* VA policy strongly encourages supervisors to maintain ongoing communication with employees regarding their performance, requires supervisors to advise employees in writing if their performance in a critical element is unacceptable, and requires supervisors to assist employees whose performance is less than fully successful [VA Handbook 5013, Part I, Appendix A, paragraph 7].

*Discussion:* Since Dr. Wray assumed her position as Chief Research and Development Officer, she has forced at least three of her senior staff from their positions. For example, the former Director of Operations told us that, as soon as Dr. Wray assumed her position as Chief Officer, she told him she did not want him to remain as Director of Operations, and about 2 weeks after her arrival she moved him out of his office space and transferred his responsibilities to others. He said he immediately began searching for another position, and in February 2003 volunteered for a detail. Dr. Wray told us she had known the former Director of Operations for a long time and did not think the two of them would work successfully together. She said she may have transferred his duties relative to a contract he was working on to someone else, but could not recall other actions she took against him. She said she told the former Director that she thought it would be better if he found another position so that his career could go on.

Another senior staff member, one of Dr. Wray's special assistants, told us that in the fall of 2003, Dr. Wray announced at a meeting that another employee was assuming his Congressional liaison responsibilities, and that she had not previously discussed the matter with him. He said other staff began asking him questions, seeking training on the performance of his job responsibilities, and he thus concluded that his position was being dismantled. He said this particularly concerned him because he was under a term appointment. He said he asked the Under Secretary for Health to assist him in finding a detail, and during our investigation was in the process of assuming new responsibilities outside the Research and Development Office. **(b)(6)**.....  
..... She said by November 2003 she had decided to transfer his Congressional

affairs responsibilities and not renew his term appointment when it expired in January 2004.

As a final example, an Assistant Chief Research and Development Officer told us that after Dr. Wray assumed her position, she (Dr. Wray) transferred one of the Assistant's two staff members to another component of the Office. She said the second staff member accepted a promotion elsewhere in the Office. According to the Assistant, Dr. Wray then gave her additional responsibilities. When the Assistant began experiencing productivity problems, Dr. Wray asked the Deputy Chief Officer and the acting Director of Administration to advise her that she should begin looking for other employment. The Assistant is under a temporary appointment which expires at the end of January 2004. Dr. Wray told us that when she initially assumed her position, she worked closely with the Assistant, and believed the Assistant did not have the work of a full-time employee, **(b)(6)** . . . . . Dr. Wray said that, consequently, she decided the Assistant needed to be released.

Dr. Feussner and Dr. Burris both told us they were satisfied with the performance of the above individuals. Further, the Deputy Under Secretary for Health told us Dr. Feussner never complained about these staff, except for expressing some concern about the **(b)(6)** . . . . . However, the Deputy Under Secretary said he gave no instruction to Dr. Wray to replace any key managers and, in particular, was very surprised to learn she had given notice to the Assistant Chief Officer.

Numerous senior staff expressed to us that Dr. Wray's actions in these and other incidents had negatively affected their morale. On one occasion, Dr. Wray telephoned an employee at home after she heard that he had called with news that his father had passed away during the night, chastising him for not reporting to work when he knew he had a deadline for a project. Dr. Wray acknowledged to us that, when the employee did not report to work, she "went ballistic." She said he was helping to prepare for a Congressional hearing, and had promised her he would get the needed work done that day. Dr. Wray said she called him because the work had to be done.

In another incident, relating to the Assistant Chief Officer being asked to leave, the Deputy Chief Officer and acting Director of Administration told us they and Dr. Wray agreed to allow the Assistant several months to quietly seek other employment. However, several weeks later, Dr. Wray announced to a group of VA advisors working with the Assistant that the Assistant was leaving, and introduced to them her interim replacement. Dr. Wray told us she did not promise that she would allow the Assistant to leave quietly, but did try to protect the promise her subordinates had made. Dr. Wray told us she simply announced that the Assistant was looking for a new job, not that the Assistant had been fired. Dr. Wray said she did this so that she could introduce the new person who would be working with the group of advisors.

In general, senior managers told us Dr. Wray was intimidating and abusive; that staff feared the loss of their jobs and were thus afraid to give her their opinions on issues;

and that Dr. Wray was excessively focused on which staff members were loyal to her. When asked to characterize the morale of the Research and Development Office staff, Dr. Wray stated that any morale problems were due to a restructuring of the Office. She said this caused many staff to be concerned about the future of their positions. Dr. Wray acknowledged she sets high standards for her staff, but said she did not “scream and holler” at them.

The Deputy Under Secretary for Health told us he believed Dr. Wray had hampered the ability of the Research and Development Office staff to accomplish their mission. He said the staff tried extremely hard to support Dr. Wray’s vision for the Office, but, based on meetings he had with a number of employees, he believed her management style caused an unraveling, such that some staff could no longer perform their duties or function as individuals. He characterized the Office as “in turmoil.” He told us he recently counseled Dr. Wray on her intimidating behavior and the possibility of an administrative board to investigate staff’s allegations, and that, in response, she made threatening comments to him, telling him he should be sure he has support for such a board, “if you know what’s good for your career.” He said on another occasion Dr. Wray “slammed me rudely” because he did not support her desire to select a particular person for an anticipated vacancy.

*Conclusion:* Dr. Wray violated Federal law by granting a preference that improved two employees’ prospects for employment when she told others she planned to promote them even before the job announcements had been issued. Her reference to **(b)(6)** . . . . ., by name, in response to an electronic mail message containing a draft position description clearly linked him to the position for which he was eventually selected. Dr. Wray also granted an unlawful preference to a third employee and to an applicant for employment by asking her staff to promote/hire them. Both individuals were subsequently improperly appointed, under Schedule B authority, without competition. The Schedule B appointments were improper because the positions were not project-oriented and competing them was not impractical. The Research and Development Office may have as many as 25 other employees who were improperly appointed under Schedule B authority. Additionally, the Office circumvented the limits imposed by the Congressional appropriation for VA Central Office employee salaries by using VHA field-based employees, physically locating them in Washington, DC, to carry out the work of the Office. We assume that Congress intended to maximize the number of employees actually conducting research, or providing health care, as opposed to performing Central Office administrative duties. Finally, Dr. Wray’s management style regarding her handling of staff performance issues and her treatment of subordinates has compromised the staff’s ability to carry out the mission of the Office. Regarding the former Director of Operations, it is hard to conceive how Dr. Wray could have fairly evaluated him in just 2 weeks.

### **Recommendation 3**

The Under Secretary for Health should ensure that the Deputy Under Secretary for Health:

- a) takes appropriate administrative action against Dr. Wray for granting unlawful preferences to four employees or applicants for employment to improve their prospects for employment;
- b) reviews the propriety of all Research and Development Office staff appointments made under Schedule B authority and takes action, if appropriate, to correct them;
- c) conducts a review of all positions appointed by field facilities and determines if the employee should be returned to the field;
- d) reviews Dr. Wray's actions to transfer the duties of the former Director of Administration, the Special Assistant, and the Assistant Chief Research and Development Officer, and, if appropriate, reinstate those duties to them; and
- e) takes appropriate action against Dr. Wray for failing to seek advice and follow proper procedures to address perceived performance deficiencies and to implement significant changes in assignment of duties.

#### **Under Secretary for Health response**

The Under Secretary for Health concurred with the above recommendations. He told us recommended administrative action against Dr. Wray will be prepared for review and concurrence by the General Counsel and Office of Human Resources Management. Regarding our recommendation to review the propriety of all Research and Development Office staff appointments made under Schedule B authority, the Under Secretary told us all position descriptions and appointment documents have been requested for review, and corrective action will be taken for those appointments not in compliance with the authority. He further stated that a review will be completed on all positions currently on the roles of VA field facilities, and changes in duty station will be made where appropriate. Finally, the Under Secretary noted that the former Director of Administration was selected for a new VHA position in December 2003, the Special Assistant's duties were reinstated, and the Assistant Chief Research and Development Officer has resigned. The Under Secretary's full response is in the appendix to this report.

#### **Office of Inspector General comment**

The Under Secretary for Health was responsive to the recommendations. We will follow up to ensure they are fully implemented.



**Issue 4: Whether Dr. Wray failed to act impartially when she approved projects for a non-VA researcher at the Baylor College of Medicine**

We substantiated that Dr. Wray did not act impartially when she approved four projects involving participation by a colleague of hers at the Baylor College of Medicine.

*Standard:* The Standards of Ethical Conduct for Employees of the Executive Branch require employees to act impartially and not give preferential treatment to any private organization or individual, and to avoid actions creating the appearance they have violated an ethical conduct standard [5 CFR 2635.101(b)(8), (b)(14)].

*Discussion:* Since Dr. Wray assumed her position as Chief Research and Development Officer in January 2003, she approved four projects for Dr. Baruch Brody, Director of the Center for Medical Ethics and Health Policy at Baylor College of Medicine. According to Dr. Wray, Dr. Brody is the leading research ethicist in the country. He is a colleague of hers and, while she held a dual appointment at the Houston VA Medical Center and Baylor College of Medicine, the two collaborated on a significant study comparing patient outcomes after arthroscopic knee surgery to outcomes after a placebo procedure. Dr. Wray is in a special leave status from Baylor College of Medicine, currently receiving no pay or benefits from that institution.

On one of the four occasions, Dr. Brody was asked to provide consultant services to the Research and Development Office on how to distinguish between research and quality assurance activities, and issues relating to consolidating review boards for human subjects research protocols. This work culminated in a policy advisory meeting in Houston in February 2003. We identified no payments made to Dr. Brody for this work.

In March 2003, Dr. Brody chaired a blue ribbon advisory panel Dr. Wray convened to help develop a VA program of research on invasive surgical procedures, similar to the arthroscopic knee surgery study the two had completed earlier. The panel members met in Washington, DC, and Dr. Brody was reimbursed \$1,220, covering his consulting fee and travel expenses.

Subsequently, Dr. Wray approved a surgical trials project in which Dr. Brody was to develop, over a 24-month period, six research protocols for testing the efficacy and effectiveness of invasive surgical procedures. Dr. Brody was named project leader along with Dr. Ashton, the Director of the Center for Quality of Care and Utilization Studies at the Houston VA Medical Center. However, Dr. Wray told us Dr. Ashton was included in the project because, otherwise, funds for the project could not be provided to Dr. Brody, who is not a VA employee. In October 2003, following Dr. Wray's approval, over \$446,000 in appropriated funds were set aside for the first year of this project, including funds to pay a proportion of the cost of Dr. Brody's salary and fringe benefits. The total cost of the project, over a 2-year period, was estimated to be around \$750,000. The project currently is in suspense **(b)(6)**....., and no funds have been paid to him.

Under a final project, agreed to in April 2003, Dr. Brody and another Baylor College of Medicine faculty member were to categorize a set of ethical standards for human subjects research, develop approaches for determining whether the standards were being met, and develop a “scorecard” for assessing the performance of the boards that review research protocols involving human subjects. Dr. Wray approved providing the Center for Medical Ethics and Health Policy at Baylor College of Medicine \$150,000 from a FRI-administered account to accomplish this project. To date, \$50,000 has been paid.

Dr. Wray told us the above projects were not completed. Regarding the surgical trials project, she said she decided it should be done, and done in Houston, because both VA’s leading psychometric center and Dr. Brody were there. She said she has similarly directed that other studies be sent elsewhere in the field, and that she sends projects where the talent is. She also noted that Dr. Feussner, while he was Chief Research and Development Officer, directed a costly study to the medical school with which his former VA medical center had been affiliated. However, according to a chronology of this project prepared by **(b)(6)**....., the issues involved in the study were reviewed several times by a group of experts both within and outside VA. The surgical trials project, in contrast, was reviewed only by two of Dr. Wray’s subordinates.

*Conclusion:* Dr. Wray violated the Standards of Ethical Conduct for Employees of the Executive Branch when she approved four projects involving participation by Dr. Brody, a colleague of hers at the Baylor College of Medicine. Considering particularly that Dr. Wray had a close prior professional relationship with Dr. Brody, and is still an employee of Baylor College of Medicine, she gave the appearance of favoritism towards him.

#### **Recommendation 4**

The Under Secretary for Health should ensure that the Deputy Under Secretary for Health takes appropriate administrative action against Dr. Wray for giving the appearance of favoritism towards a colleague of hers at Baylor College of Medicine.

#### **Under Secretary for Health response**

The Under Secretary for Health concurred with the recommendation. He told us recommended administrative action against Dr. Wray will be prepared for review and concurrence by the General Counsel and Office of Human Resources Management. The Under Secretary’s full response is in the appendix to this report.

#### **Office of Inspector General comment**

The Under Secretary for Health was responsive to the recommendation. We will follow up to ensure it is fully implemented.

<b>Issue 5: Whether Dr. Wray acted reasonably in disapproving funding for previously merit-reviewed research projects</b>
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We substantiated that Dr. Wray did not act reasonably when she disapproved funding for 15 Medical Research Service research proposals, submitted by VHA field facility investigators, which had earned fundable scores during a previous VA merit review process. Her decision to not fund the projects was contrary to VA policy and to good management practice.

*Standard:* According to VHA policy, VA research activities follow the principle that research proposals are prioritized on the basis of scientific merit [VHA Directive 1200, paragraph 3b]. VHA policy further provides that the Medical Research Service relies on merit review boards to peer-review applications it receives from VA field investigators, to provide the Service a fair and objective evaluation of the quality of such investigator-initiated research studies. According to the policy, many scientists participate in the merit review boards, and are expected to review applications solely for scientific merit, including judging the theoretical basis for the study; the significance of the study to a specific field of science; the soundness of the experimental design; the appropriateness of the data analysis methods; and the principal investigators' level of productivity based on peer-reviewed publications. Board members assign a priority rating to each proposal. Finally, the policy states that the priority scores of all proposals reviewed from a single review cycle are pooled, and those with the best priority scores are funded until available funds are depleted [M-3, Part II, Chapter 4].

*Discussion:* In June 2002, the Assistant Director for Operations of the Medical Research Service reminded field researchers of the upcoming fall 2002 merit review cycle and the need for them to submit their research proposals in accordance with the guidance contained within M-3, Part II, Chapter 4. The merit review boards met in September and October 2002, and according to the Assistant Director, field investigators were notified of the results of the review 2 weeks to a month after their pertinent review meeting. At that time, investigators were told that if their proposal achieved a score in the top range, the study was considered highly meritorious and likely to receive funding, subject to the availability of funds and final Medical Research Service prioritization. The investigators were told that if they did not receive funding, they would be given a 1-month extension to allow them time to resubmit their proposals for the next merit review cycle. Investigators whose proposals received scores in a second range were told their studies were considered meritorious, but that the funding was less certain. In December 2002, following further internal review, these investigators were told whether their proposals were potentially fundable. In total, 130 proposals were approved for funding, with a start date of April 1, 2003, using fiscal year 2003 money.

The Deputy Chief Research and Development Officer, who is also the acting Director of the Medical Research Service, told us that, at the time of the fall 2002 merit review cycle, the merit review boards considered investigators' productivity in arriving at a

score for each proposal, but did not consistently emphasize it or assign it a separate score. In March 2003, after Dr. Wray assumed her position, she reviewed information on the 130 proposals, and decided to re-evaluate them to include specific measures of productivity, namely, the number of publications (particularly in leading journals) the investigator had published in the last 5 years, the academic rank of the investigator, and whether the investigator received other Federal funding. Based on this evaluation and a re-scoring of the proposals, on April 1, 2003, the effective date of the funding, Dr. Wray cancelled 18 of the proposals. She subsequently reversed her decision on three of them, and, for the remaining, provided a lower level of funding through calendar year 2003 to cover the salaries of those working on the study. Five of the 15 projects denied funding had been scored as highly meritorious.

Dr. Wray's decision to not fund 15 of the proposals as anticipated resulted in numerous complaints to the Research and Development Office and to the Deputy Under Secretary for Health, as well as scrutiny in a scientific journal. In response to the complaints, Dr. Wray wrote to VHA field facilities explaining that the notices to investigators about the likelihood of their proposals being funded had been made despite her instructions to the contrary. She further indicated that the reason for her action was because of budget shortfalls.

Dr. Wray told us there was no fiscal year 2003 budget shortfall, but that she disapproved the 15 projects for funding because she wanted to move dollars from laboratory research to more clinically-oriented research important to veterans. She told us she was hired to bring about such a change, and that was why she accepted the position. She said, at her first staff meeting in January 2003, she told the staff not to obligate any fiscal year 2003 money for research projects until she had an opportunity to review the projects. She said she was furious when she found out the Medical Research Service had already informed field investigators of their scores and the likelihood of being funded. Dr. Wray said another reason she re-evaluated the proposals was that she believed a considerable amount of VA research was unproductive; that is, some researchers were funded year after year but never published their results. Dr. Wray said the peer review boards were not appropriately evaluating productivity, and she wanted to add accountability standards. She told us she could have moved more slowly in reallocating funds, starting in the next peer review cycle, but wanted to make some progress early in her tenure. She said, historically, proposals were not reviewed based on productivity, but that investigators knew it was supposed to be a component of the score. She told us that while she believed her decision was right, and in the best interest of veterans, in hindsight she realized it was not a politically sound move and created feelings of distrust toward her. She said if she had it to do again, she would not have disapproved the funding.

Dr. Feussner and Dr. Burriss told us they would not have disapproved the 15 projects. They said they believed it was not appropriate to introduce new criteria after the proposals had completed the merit review process. While both noted that the Chief Research and Development Officer had authority to adjust the selection of proposals for funding, Dr. Burriss said this was done with projects scored at the margin. Dr. Feussner

opined that if Dr. Wray thought the evaluation criteria needed to be changed, she should have done so in a subsequent merit review cycle. He suggested that those researchers whose projects had long lead times may have initiated some activities in reliance on the notification. The former acting Deputy Director of Medical Research Service told us he questioned Dr. Wray by memorandum during mid-March 2003 about whether she was breaking faith with the researchers who received fundable scores and were expecting to be funded.

The Deputy Under Secretary for Health told us he agreed with Dr. Wray's strategy of enhancing clinical and outcomes research, but noted that basic research in VA has other values, such as attracting sub-specialists. He said Dr. Wray did not discuss with him her decision to disapprove funding the proposals, and that he learned about it after the fact when individuals in the field began complaining. He said he considered the decision an arbitrary one, and not good management. For example, he noted that some research germane to veterans would never be published in a broadly-read journal, but under Dr. Wray's criteria, a proposal was scored higher if the investigator had been published in such journals. He said it was critical that there be transparency in the funding process, and that he and the Under Secretary for Health asked Dr. Wray to provide minimal funding for the 15 projects she disapproved.

*Conclusion:* Dr. Wray did not act reasonably when she re-evaluated and re-scored 130 research proposals that had previously earned fundable scores, less than a month before their effective funding date, and disapproved 15 of them. While VHA policy provides that an investigator's proposal will be evaluated based on his or her productivity, specific measures of productivity were not previously used. The proposals had completed the merit review process and investigators had been notified of the results before Dr. Wray assumed her position as Chief Research and Development Officer. They were expecting their projects to be funded based on the priority scores they received, in accordance with the policy. Dr. Wray may have been upset that the scores were publicized before she had an opportunity to review them, but she should not have tampered with them beyond making adjustments on an exception basis.

We are making no recommendation on this matter, but bring it to the attention of the Under Secretary for Health for whatever action is deemed appropriate.

<b>Issue 6: Whether Dr. Wray misused Government funds for an off-site meeting with select staff members</b>
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*Standard:* VHA policy requires that the Government purchase card be used only for official Government purchases [VHA Handbook 1730.1].

*Discussion:* On the afternoon of October 1, 2003, at Dr. Wray's request, she and five Research and Development Office senior staff met in a hotel meeting room near her office in Washington, DC. According to two of those present, Dr. Wray discussed that she had met with the Deputy Under Secretary for Health, and that he told her he had received a number of complaints about her. One of the attendees said Dr. Wray told them the Deputy Under Secretary planned to initiate an investigation of those complaints, and that she wanted to discuss the correct approach to take in response to this. The cost of the hotel room in which the meeting took place was \$300, which was charged to a Research and Development Office Government purchase card. The Research and Development Office workspace includes a conference room where meetings of this size and larger often take place.

*Conclusion:* Dr. Wray misused a Government purchase card to pay for a meeting that could readily have been convened in Research and Development Office workspace.

### **Recommendation 5**

The Under Secretary for Health should ensure that the Deputy Under Secretary for Health takes appropriate administrative action against Dr. Wray for misusing a Government purchase card.

#### **Under Secretary for Health response**

The Under Secretary for Health concurred with the recommendation. He told us recommended administrative action against Dr. Wray will be prepared for review and concurrence by the General Counsel and Office of Human Resources Management. The Under Secretary's full response is in the appendix to this report.

#### **Office of Inspector General comment**

The Under Secretary for Health was responsive to the recommendation. We will follow up to ensure it is fully implemented.

**Department of  
Veterans Affairs****Memorandum**

**Date:** March 16, 2004

**From:** Under Secretary for Health (10)

**Subj:** Response to OIG Draft Report, Administrative Investigation, *Use of Government Funds, Travel, Personnel, Impartiality and Management Issues, Research and Development Office, Veterans Health Administration* (Report #2003-03053-IQ-0179)

**To:** Assistant Inspector General for Investigations (51)

1. Thank you for the opportunity to review the OIG draft report, subject above, and for providing the opportunity for VHA to review the supporting evidence. The attached document provides a response to each recommendation included in the draft report.

2. In order to determine a proper course of action in some of the recommendations, we are awaiting final advice from General Counsel as to whether the funds donated by pharmaceutical companies and maintained by Friends Research Institute (FRI) are to be considered as gifts to VA or equivalent to appropriated funds. In addition, corrective actions will begin only after the Department of Justice makes a decision regarding the potential for criminal prosecution regarding any findings in the draft report.

3. As we work towards resolution of the many issues identified in the report, we appreciate the continued cooperation of your staff. Clara Trapnell of the VHA HRM Group will coordinate interim responses to your office regarding actions taken to close the remaining recommendations and provide appropriate documents as necessary. Ms. Trapnell can be reached at 859-572-6223.

*(original signed by:)*  
Robert H. Roswell, M.D.

Attachment

Attachment – VHA Response to OIG Draft Report  
2003-03052-IQ-0179

## **Issue 1: Whether Dr. Wray improperly spent funds provided by pharmaceutical companies:**

**Recommendation a.** Take appropriate administrative action against Dr. Wray for using Government funds administered by FRI for purposes other than the specific cooperative studies for which the money was given, including for food and other personal items; for allowing unauthorized staff to enter into contracts on behalf of the Government; and for allowing other violations of Federal acquisitions regulations.

**Response:** Concur. Dr. Wray occupies a position centralized to the Secretary. As such, any administrative action recommended must be reviewed by the General Counsel and the Office of Human Resource Management. A recommendation for action will be prepared for the review/concurrence of General Counsel and Office of Human Resources. Upon concurrence, action will be taken. We anticipate this review to be completed within 90 days.

**Recommendation b:** Take appropriate administrative action against **(b)(6)**..... for initiating and approving improper expenditures from FRI-administered accounts, providing inaccurate information to Dr. Wray regarding the pharmaceutical companies' intended use of the money, and not thoroughly reviewing the agreements to determine if unspent funds must be returned.

**Response:** Concur, however, **(b)(6)**..... has accepted a position with the **(b)(6)**..... He left employment with the Department of Veterans Affairs on February 7, 2004.

**Recommendation c.** Take appropriate administrative action against Mr. Bradley for failing to determine how FRI-administered funds should properly be spent.

**Response:** Concur. Mr. Bradley occupies a position centralized to the Secretary. As such, any administrative action recommended must be reviewed by the General Counsel and the Office of Human Resource Management. A recommendation for action will be prepared for the concurrence of General Counsel and Office of Human Resources. Upon concurrence, action will be taken. We anticipate this review to be completed within 90 days.

**Recommendation d.** Ensure that all Research and Development Office staff are educated regarding the proper use of money provided by pharmaceutical companies for VA cooperative research studies.

**Response:** Concur. Guidance has been provided to staff in a memo dated December 15, 2003, copy attached.



**Recommendation e.** Direct the Chief Research and Development Officer to immediately cease spending FRI administered funds.

**Response:** Concur. The December 15, 2003 memo, referenced above, requires that all Office of Research and Development Staff discontinue the expenditure of any FRI administered funds unless approved by the Deputy Under Secretary for Health.

**Recommendation f.** Coordinate with the pharmaceutical companies to properly dispose of the excess funds in accordance with the agreements between VHA and the pharmaceutical companies and in accordance with appropriate federal regulations.

**Response:** Concur. VHA will review the agreements made with the pharmaceutical company and act in full compliance with the agreement. If the agreement stipulated that excess funds be returned, then we will comply with the agreement. If the excess funds were intended to be used in support of VA Research, we will identify an appropriate research activity to use the remaining funds.

**Recommendation g.** Transfer remaining funds from on-going studies from FRI to an appropriate VA affiliated nonprofit research corporation or to the general post fund.

**Response:** Concur. We will work with General Counsel to assure all legal requirements are met in accomplishing the transfer of funds.

**Recommendation h.** Issue bills of collection to Dr. Wray and all other current and former VA employees responsible for approving the use of FRI administered funds since January 2002 for their own or others' personal benefit.

**Response:** Concur, if General Counsel decides that the government can require employees and former employees to repay non-appropriated dollars improperly received or approved for their own or others' personal benefit.

**Recommendation i.** Provide explicit guidance to all VA medical center directors and executive directors of all VA-affiliated nonprofit research corporations regarding the prohibition against using funds intended for VA research for other purposes.

**Response:** Concur. Guidance has been issued to all VA medical center directors and other appropriate staff. A copy of the memo, dated December 15, 2003, is attached. The Acting Chief Research and Development Officer will also reiterate advice to field Chiefs of Research to provide the guidance to all executive directors of all VA-affiliated nonprofit research corporations. General Counsel may issue further guidance regarding the use of funds donated to VA or VA affiliated non-profit organizations for research. In the event further guidance is received, VHA will assure the field facilities are educated regarding any new information.

## Issue 2: Whether Dr. Wray misused and wasted VA travel funds.

**Recommendation a.** Take appropriate administrative action against Dr. Wray for misusing and wasting over \$39,737 in travel funds between January 2003 and October 2003, including funds incurred by two Houston VA Medical Center employees on temporary duty assignment to assist Dr. Wray's transition to her Chief Research and Development Officer position.

**Response:** Concur. Dr. Wray occupies a position centralized to the Secretary. As such, any administrative action recommended must be reviewed by the General Counsel and the Office of Human Resource Management. A recommendation for action will be prepared for the review/concurrence of General Counsel and Office of Human Resources. Upon concurrence, action will be taken. We anticipate this review to be completed within 90 days.

**Recommendation b.** Issue a bill of collection for \$9,737 to Dr. Wray to recoup the cost of travel she took that was not officially necessary, or that was otherwise improperly claimed.

**Response:** Concur with the recommendation to issue a bill of collection. A member of the VHA HRM Group is working with your office to review the evidentiary documents and create an itemized listing of the payments made to Dr. Wray determined to be inappropriate. This document will be used to support the bill of collection.

**Recommendation c.** Charge Dr. Wray 6 days of annual leave for time spent away from her duty station without official necessity.

**Response:** Concur. Dr. Wray's time card will be corrected to annual leave for the following dates listed below. Copies of corrected time cards will be provided to your office.

Wednesday, April 16, 2003

Thursday, April 17, 2003

Friday, April 18, 2003

Thursday, April 24, 2003

Friday, April 25, 2003

Monday, November 3, 2003

**Recommendation d.** Take appropriate administrative action against Mr. Bradley for approving Dr. Wray's travel vouchers without questioning her improper claims.

**Response:** Concur. Mr. Bradley occupies a position centralized to the Secretary. As such, any administrative action recommended must be reviewed by the General Counsel and the Office of Human Resource Management. A recommendation for action will be prepared for the review/concurrence of General Counsel and Office of Human Resources. Upon concurrence, action will be taken. We anticipate this review to be completed within 90 days.

**Recommendation e.** Take appropriate administrative action against **(b)(6)**..... for approving Dr. Wray's travel vouchers without questioning her improper claims.

**Response:** Concur.

**Recommendation f.** Provide detailed training on Federal and VA travel regulations to (b)(6).....

**Response:** Concur.

**Recommendation g.** Review the travel vouchers of those staff who routinely traveled with Dr. Wray to determine if similar irregularities exist in their claims.

**Response:** Concur. Arrangements will be made for the Financial Assistance Office in VHA to conduct a comparative review of the travel of others who routinely traveled with Dr. Wray.

### **Issue 3: Whether Dr. Wray unfairly promoted, hired, and managed staff**

**Recommendation a.** Take appropriate administrative action against Dr. Wray for granting unlawful preferences to four employees or applicants for employment to improve prospects for employment.

**Response:** Concur. Dr. Wray occupies a position centralized to the Secretary. As such, any administrative action recommended must be reviewed by the General Counsel and the Office of Human Resource Management. A recommendation for action will be prepared for the review/concurrence of General Counsel and Office of Human Resources. Upon concurrence, action will be taken. We anticipate this review to be completed within 90 days.

**Recommendation b.** Review the propriety of all Research and Development Office staff appointments under Schedule B authority and take action, if appropriate, to correct them.

**Response:** Concur. We have requested all position description descriptions and appointment documents from all Schedule B Appointments for review from the following VAMC's: Baltimore, Miami, Atlanta, Durham and Washington DC. Corrective action will be taken for any appointment found not to be compliant with the Schedule B authority.

**Recommendation c.** Conduct a review of all positions appointed by field facilities and determine if the employee should be returned to the field.

**Response:** Concur. A review will be completed on all positions currently on the roles of field VA Medical Centers, but the employee is virtually working in ORD, Washington, DC. Changes in duty station will be made where appropriate.

**Recommendation d.** Review Dr. Wray's actions to transfer the duties of the former Director of Administration, the Special Assistant, and the Assistant Chief Research Development Officer, and, if appropriate, reinstate those duties to them.

**Response:** Concur. The former Director of Administration was selected for a new job in VHA on December 13, 2003; the Special Assistant's duties were reinstated and the Assistant Chief Research Development Officer resigned.

**Recommendation e.** Take appropriate action against Dr. Wray for failing to seek advice and follow proper procedures to address perceived performance deficiencies and to implement significant changes in assignment of duties.

**Response:** Concur. Dr. Wray occupies a position centralized to the Secretary. As such, any administrative action recommended must be reviewed by the General Counsel and the Office of Human Resource Management. A recommendation for action will be prepared for the review/concurrence of General Counsel and Office of Human Resources. Upon concurrence, action will be taken. We anticipate this review to be completed within 90 days.

#### **Issue 4: Whether Dr. Wray failed to act impartially when she approved projects for a non-VA researcher at the Baylor College of Medicine**

**Recommendation:** Take appropriate administrative action against Dr. Wray for giving the appearance of favoritism towards a colleague of hers at Baylor College of Medicine.

**Response:** Concur. Dr. Wray occupies a position centralized to the Secretary. As such, any administrative action recommended must be reviewed by the General Counsel and the Office of Human Resource Management. A recommendation for action will be prepared for the review/concurrence of General Counsel and Office of Human Resources. Upon concurrence, action will be taken. We anticipate this review to be completed within 90 days.

#### **Issue 5: Whether Dr. Wray acted reasonably in disapproving funding for previously merit-reviewed research projects**

No recommendations made.

#### **Issue 6: Whether Dr. Wray misused Government funds for an off-site meeting with select staff members**

**Recommendation** Take appropriate administrative action against Dr. Wray for misusing a Government purchase card.

**Response:** Concur. Dr. Wray occupies a position centralized to the Secretary. As such, any administrative action recommended must be reviewed by the General Counsel and the Office of

Human Resource Management. A recommendation for action will be prepared for the review/concurrence of General Counsel and Office of Human Resources. Upon concurrence, action will be taken. We anticipate this review to be completed within 90 days.

Date: December 15, 2003  
From: Deputy Under Secretary for Health (10A)  
Subj: Subject: Non-Profit Corporation Expenditures  
To: All Staff, Office of Research and Development (12)

1. As you are all aware, recent reports of the Office of the Inspector General have highlighted improprieties related to the use of funds donated to VA non-profit corporations (NPC). The attached memo is being distributed to the field today as a reminder of each employee's accountability and responsibilities in this regard.
2. Similarly, I would like to take this opportunity to remind Office of Research and Development (ORD) staff of their personal responsibility in assuring that they, themselves, adhere to the principles outlined in the VHA Handbook 1200.17 (VHA Handbook 1400.2 - Education-only NPCs). Use of other funds donated to VHA (directly or indirectly) to support VA research-must be carefully scrutinized to assure that each expenditure is directly related to the research project supported by the funds. Employees are expected to use good judgment in the assessment of legitimate research expenses.
3. On one issue, I would like to be explicit. ORD staff are NOT authorized to use credit cards provided by VA non profit corporations (NPC) or other 501(c)(3) corporations. Any use of funds donated by Friends Research Institute, Inc. (or similar organizations) by ORD staff must be personally reviewed and approved by the office of the Deputy Under Secretary for Health (10A). I do not anticipate situations in which use of these expenditures would be approved until such time as the Office of General Counsel has reviewed the acceptability of the proposed use of the donated funds and until we have establish revised formal guidance.
4. I appreciate your dedicated efforts to support VA research at a national level. I know that you appreciate and understand my concerns. It is important that ORD staff continue to be the example for all Research and Development programs in terms of ethical behavior and integrity:

*(original signed by:)*

Jonathan B. Perlin, MD, PhD, MSHA, FACP

**Department of  
Veterans Affairs**

**Memorandum**

Date: December 15, 2003

From: Deputy Under Secretary for Health (10A)  
Acting Chief Research and Development Officer (12)

Subj: Subject: Non-Profit Corporation Expenditures

To: VA Medical Center Directors  
VA Chiefs of Staff  
VA Associate Chiefs of Staff for Research

Thru: Deputy Under Secretary for Health for Operations and Management (10N) *{signed}*  
VISN Directors (10N-X)

1. In light of the findings from the recent Inspector General's Investigation, I am issuing a reminder to those individuals who have responsibility for managing/administering funds that are donated to support VA research and education. These funds must be used in accordance with the applicable Federal regulations and VHA Handbooks.
2. VHA Handbook 1200.17 (VHA Handbook 1400.2 - Education-only NPCs) provides that the VA non-profit corporations (NPCs) exist solely to facilitate VA research and education at VA medical centers. NPCs can only expend funds on research projects or education activities that have been reviewed and approved by a VA Research and Development or Education Committee, respectively.
  - a). Funds may also be expended to generally further VA's research and education missions and/or to administer the corporation. In every instance, corporation and VA officials must determine that the expenditure of donated resources is appropriate and the best use to which such resources can be put in the furtherance of VA research and/or education.
  - b). The VA statute authoring the creation of the NPCs (38 USC 7361-7368) and the Handbooks are the definitive applicable guidance for VA statutory corporations and should also be used as guidelines for managing other funds donated (directly or indirectly), to support VA research and education.
3. Other guidelines on the appropriateness of expenditures for non-profit organizations (IRS regulations, OMB Circular A-122) do not control the purposes for which VA corporations may expend monies.
  - a). For example, while the OMB circular may allow expenditures for meals or refreshments to boost employee morale and performance, this would not be considered a legitimate expenditure for a VA corporation. Reasonably priced meals or refreshments (i.e., what an individual would pay with personal funds) may be appropriate expenditures where they

are incidental to a business meeting or conference that was in furtherance of the VA research mission.

- b). While there may always be some subjectivity in determining whether or not a particular expenditure supports the VA research and education mission , I do expect that these decisions will be made with the highest ethical standards. It is important to keep in mind that once funds are accepted to support VA research they are to be administered in the public trust for the benefit of VA research and education, and considerable thought should to given as how to best use them.
4. NPC Boards of Directors have a responsibility to draft, implement and ensure compliance with policies governing the individual NPCs, including policies on allowable expenditures. However, while the Medical Center Director is only one member of the NPC Board of Directors, he or she is accountable to ensure that NPC expenditures are made in accordance with VHA Handbooks and the statutory purposes of the corporations.

*(original signed by:)*

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