

**SENIOR EXECUTIVE SERVICE BONUSES
AND OTHER ADMINISTRATIVE MATTERS AT THE
U.S. DEPARTMENT OF VETERANS AFFAIRS**

HEARING
BEFORE THE
SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS
OF THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
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**SENIOR EXECUTIVE SERVICE BONUSES AND
OTHER ADMINISTRATIVE MATTERS AT THE
U.S. DEPARTMENT OF VETERANS AFFAIRS**

WEDNESDAY, SEPTEMBER 23, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:07 a.m., in Room 334, Cannon House Office Building, Hon. Harry E. Mitchell [Chairman of the Subcommittee] presiding.

Present: Representatives Mitchell, Walz, Adler, Hall, and Roe.
Also Present: Representative Teague.

OPENING STATEMENT OF CHAIRMAN MITCHELL

Mr. MITCHELL. Good morning and welcome to the Subcommittee on Oversight and Investigations. This is a hearing on Senior Executive Service (SES) Bonuses and other Administrative Matters at the U.S. Department of Veterans Affairs (VA). This hearing is being held on September 23, 2009. This hearing will come to order.

I ask unanimous consent that Mr. Teague be invited to sit at the dais for the Subcommittee hearing today. Hearing no objection, so ordered.

Mr. Teague, thank you for being here.

Mr. TEAGUE. Thank you.

Mr. MITCHELL. I ask unanimous consent that all members have 5 legislative days to revise and extend their remarks, and that statements may be entered into the record. Hearing no objection, so ordered.

I would like to thank everyone for attending today's Oversight and Investigations Subcommittee hearing entitled Senior Executive Service Bonuses and Other Administrative Matters at the U.S. Department of Veterans Affairs. Thank you especially to our witnesses for testifying today.

We all know that the Department of Veterans Affairs has some of the hardest working and dedicated employees; however, there are concerns about the VA bonus process and how the VA matches pay to individual and organizational performance. For example, in fiscal year 2008, the VA performance award pool was almost \$4.3 million including \$774,108 for just 21 Presidential Rank Awards, with some awards as large as \$60,270.

The VA does outstanding work in many areas, but there are some areas where improvement is needed. Just this year, this Sub-

committee has been here on more than one occasion questioning the Department's quality of care, safety standards, and lack of necessary protocol and procedures. Members of Congress on both sides have expressed frustrations over this issue, especially in the wake of recent reports suggesting that bonuses were not properly applied. The bonus system must allocate responsibility where it lies. It must also be used to adequately retain the best personnel available and to encourage excellence in performance.

The reason we are here today is to help ensure that the bonus system is being utilized in the appropriate manner, so that we can tell veterans with full confidence that these Senior Executive Service personnel are making the VA a better place, and that the VA is serving our veterans and being good stewards of American taxpayer dollars.

This Subcommittee is also here to examine hiring practices and minority hiring trends within the Department. On August 18, 2009, the VA Office of Inspector General (OIG) released two reports citing abuse of authority, nepotism, improper hiring, and improperly administered awards. The Subcommittee has concerns over these report findings, and we must ensure that these reports don't point to a potentially bigger problem within the department. However, these reports accurately show what can happen when the proper procedures go unchecked.

I am grateful that the VA Office of Inspector General has agreed to come here today to talk about their reports and give specific and limited testimony into the correct hiring procedures and protocols the VA should utilize.

Additionally, we would like to look into minority hiring practices to guarantee that the VA is utilizing a fair and equitable hiring system. Deputy Secretary Gould, along with Assistant Secretary Sepúlveda, has agreed to come here today to assure the veterans that they have safeguards in place to provide effective oversight.

In closing, I would like to make it clear that this Subcommittee is not here to denigrate the dedicated work of the VA employees. We have no intention of targeting specific employees. We have no intention of questioning whether or not the VA should award bonuses. We are all here to do what is right for our veterans and instill the trust and integrity that they should expect from their government. Our goal should also be to ensure that they are being served with a system reflective of their service and honor.

[The prepared statement of Chairman Mitchell appears on p. 25.]

Before I recognize the Ranking Republican Member for his remarks, I would like to swear in our witnesses.

I would ask all witnesses to stand and raise their right hand for both panels.

[Witnesses sworn.]

Mr. MITCHELL. I now recognize Dr. Roe for opening remarks.

OPENING STATEMENT OF HON. DAVID P. ROE

Mr. ROE. Thank you, Mr. Chairman.

Last Congress, this Subcommittee held a hearing on the Senior Executive Service's bonuses, during which then-Ranking Member Ginny Brown-Waite expressed frustration of several Members on our side of the aisle regarding the VA allocation of bonuses to em-

ployees possibly involved in quality-of-care issues at various VA medical facilities, as well as those involved in providing benefits and processing claims at the Veterans Benefits Administration (VBA).

While she cautioned Members to tread carefully through this path, we are here again reviewing these bonuses and their appropriateness, given the new reports of alleged malfeasance at the Department's Office of Information and Technology (OI&T).

Our Nation's veterans have fought faithfully for our freedom and deserve to be treated with the utmost respect. They have the right to expect their claims to be processed in a timely and appropriate manner. They have a right to expect their treatment at VA facilities to be among the best our country has to offer. And they should expect that, in all their dealings with the Department of Veterans Affairs, they will be treated with the utmost respect and dignity.

Those in the Senior Executive Service, commonly referred to as SES, are typically among the cream of the crop of our Nation's Federal employees. These are the leaders of today and tomorrow. To be elevated to these positions of responsibility, they have to complete training programs and have dedicated themselves to the service of our country.

There is no doubt in my mind that the bonuses many of these individuals received reflect the value of the services they provided. However, a few of these bonuses appear to be extremely hefty in nature.

We are in a time of economic hardship. Many of our citizens, including our veterans, are on the unemployment lines, struggling to make ends meet. Many folks are tightening their belts to put food on the table and clothes on their children's backs, and yet, several of the bonuses issued by the Department have been in the range of \$30,000.

This is more money than many in our country see in a single year. And, from what I can tell, this amount is the norm for these individuals and considered part of their expected income, as opposed to extra incentive for doing exceptional work. We need to ensure that the VA is allocating these resources wisely.

While many Americans are unemployed or are taking cuts in salaries, or cuts in bonuses, we need to ascertain if it is fiscally possible for the VA to issue such high bonus payments. Are the bonuses being issued by the VA truly deserved, or is it just considered a matter of course that these bonuses continue to be awarded? We must make certain that the criteria and performance metrics the VA is using to determine the amount of bonuses issued to an individual in the Senior Executive Service continues to be a fair and equitable process.

Mr. Chairman, these are the questions I would like to ferret out during these hearings. I appreciate your bringing the witnesses in today to testify, and look forward to hearing them speak. Again, thank you, and I yield back the balance of my time.

[The prepared statement of Congressman Roe appears on p. 26.]
Mr. MITCHELL. Mr. Hall.

OPENING STATEMENT OF HON. JOHN J. HALL

Mr. HALL. Thank you, Mr. Chairman and Ranking Member Roe, for holding this hearing and for the opportunity to address this Subcommittee today.

Thank you to the witnesses who have taken their time to come before us. With a new administration, it is important that we evaluate procedures and policies which might need to be changed.

Since 2007, I have been, and this Committee has been, deeply concerned about the issue of bonus awards at the Department of Veterans Affairs. I hope that this hearing will demonstrate the steps that the VA has taken to make bonuses about rewarding excellence, not about helping friends or family.

Recent news articles and reports from the VA's Inspector General have shed light on rampant nepotism and abuse by those in positions of power. The Associated Press detailed an embarrassing detail in which a VA employee, having an affair with their superior, was reimbursed for 22 flights between Florida and Washington. One office at the VA received \$24 million in bonuses over a 2-year period. Twenty-four million dollars is a lot of money in this economic climate, with many veterans living on an ever-tightening budget; and it is irresponsible for us to allow this to continue without taking a careful look at who is earning the bonuses and who is not.

As many of you know, I introduced a bill in the last Congress that required no bonuses to be paid out to senior VA officials until the claims backlog was under 100,000 claims.

I think we can all agree that our first priority is to the veterans who serve their country, our country, and who paid the price. In this Congress, I am considering other ways to make sure that bonuses are awarded fairly and within reason. And, to me, an increasing backlog is an indication that there are some at VA who should not be receiving bonuses.

I am not saying there are not many or even most at the department who have done a stellar job and deserve recognition; however, I am saying that we need to make sure the system rewards only those who have earned it.

Thank you again, Mr. Chairman. And to our panelists, I look forward to hearing the discussion and answers to our questions and testimony; and I will submit more of my statement for the record. [No statement was submitted.]

Mr. MITCHELL. Thank you.

Mr. Walz.

OPENING STATEMENT OF HON. TIMOTHY J. WALZ

Mr. WALZ. Well, thank you, Mr. Chairman and Ranking Member.

Again, I am very appreciative of your holding these hearings, of our doing our responsibility of oversight. I want to thank all of our panelists who are here today and those folks in the VA and in the OIG who are, I know, committed to trying to deliver the best possible care to our veterans.

I have often said that I am the strongest supporter of the VA and, because of that, I will be the strongest critic. And I think my colleagues here today have summed it up right. We absolutely understand, we have stellar personnel. Members of the SES are folks

that could go work in the private sector for far more money. We understand that. And trying to keep and retain that high-quality personnel is absolutely critical.

I think the question here is making sure that bonuses are paid based on performance, not on standard or set procedure, on autopilot; making sure that we have the criteria in place, and then making sure that in a climate such as we are in—and as Mr. Hall clearly pointed out—that the focus here has to be on the veterans, has to be on reducing a claims backlog that all of us agree was an embarrassment and is wrong for our veterans.

And I think by holding this hearing, by getting the answers, by collaborating together, all of us want to see the best care for our veterans, all of us want to see the best possible people retained, and all of us want to see a system that rewards for quality and excellence and output, that we can, as the Chairman said, be proud to go back and talk about why we have the best people delivering the best quality care to the Americans who put themselves on the line.

So I want to thank you all for being here.

We also know that many of you in the VA are veterans yourselves, and you understand this on both sides of the issue. So I appreciate your being here helping us understand this, helping make sure the American public feels like we are doing—as Mr. Hall said, again—absolutely right by our veterans.

So I yield back.

Mr. MITCHELL. Thank you.

Mr. Teague.

Mr. TEAGUE. Mr. Chairman, Ranking Member, and other Members, I do have an opening statement, but to better use the time of not only this Subcommittee but of the witnesses that we have here today, I will submit my statement for the record.

[The prepared statement of Congressman Teague appears on p. 26.]

Mr. MITCHELL. At this time, I would like to ask Panel One to come to the witness table.

Joining us on our first panel is James O'Neill, Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Veterans Affairs.

Mr. O'Neill is accompanied by Joseph Sullivan, Jr., Deputy Inspector General for Investigations, Office of Inspector General, U.S. Department of Veterans Affairs, and Michael Bennett, Attorney Advisor, Office of Inspector General.

I ask all witnesses to please stay within 5 minutes for their opening remarks. Your complete statements will be made part of the hearing record. Thank you.

Mr. O'Neill.

STATEMENT OF JAMES J. O'NEILL, ASSISTANT INSPECTOR GENERAL FOR INVESTIGATIONS, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY JOSEPH G. SULLIVAN, JR., DEPUTY INSPECTOR GENERAL FOR INVESTIGATIONS, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS; AND MICHAEL R. BENNETT, ATTORNEY ADVISOR, OFFICE OF INVESTIGATIONS, OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS

Mr. O'NEILL. Good morning, Mr. Chairman and Members of the Subcommittee.

My office conducts criminal and administrative investigations related to the programs and operations of VA. I have been invited today to discuss the results of two recent administrative investigations into allegations of a variety of prohibited personnel practices in VA's Office of Information and Technology.

In the first investigation, we received an allegation that an OI&T executive improperly hired a friend and did so at an unauthorized high rate of pay. In the second case, we received allegations of a different OI&T management official, and two of her subordinates hiring several of their family members.

These investigations were focused reviews that initially were limited to these specific allegations. During our investigation, we discovered numerous additional improprieties relating to the individuals involved in the initial allegations. Included in the 45 recommendations we made to VA in these two reports were to take appropriate administrative action against eight individuals, recover funds expended as a result of nepotism and improperly paid educational expenses, determine appropriate corrective actions regarding inappropriate hiring and promotion actions cited in these two reports, and to review other appointments made by use of direct hire authority and Federal career intern program and to examine the appropriateness of each OI&T retention bonus and expenditure related to academic degree funding.

Among our findings of administrative misconduct were the following:

An OI&T executive engaged in prohibited personnel practices related to her efforts to have a VA contractor and, later, VA hire her friend. Three other OI&T officials were involved in prohibited personnel practices when they participated in the preselection of four GS-15s in OI&T.

A former VA management official engaged in nepotism when she advocated for the hiring of her relatives. She also hired an acquaintance and a friend at a rate above the minimum pay.

Two other OI&T officials improperly involved themselves in the hiring of five of their family members.

OI&T employees were improperly hired using expired direct hiring authority and an inappropriately administered Federal career intern program.

OI&T improperly paid for graduate degrees without having employees or programs that complied with requirements for fair competition and adequate recordkeeping. VA records were so lacking that we had to issue subpoenas to the private universities to determine how much VA improperly spent on each of the individuals.

Some OI&T managers approved awards in exorbitant amounts with inadequate or no justification and without authority to make such awards.

Because of favoritism and preferential treatment, better qualified applicants were not selected for some positions and the rights of preference-eligible veterans were sometimes ignored. In addition, those who approved improper expenditure of funds did not know or determine the propriety of these expenditures.

Federal ethics regulations provide that public service is a public trust. Federal employees cannot use their public office and taxpayer funds for private gain or for the gain of their families and friends. OI&T officials broke the rules to hire, favor, and financially benefit their friends and family. In so doing, they wasted VA resources that could have been put to better use, and they failed to ensure that the best qualified individuals were hired so veterans can receive the best possible service that they deserve and have earned.

This concludes my opening statement, and we would be happy to answer any questions you may have.

[The prepared statement of Mr. O'Neill appears on p. 27.]

Mr. MITCHELL. Thank you, Mr. O'Neill.

Let me ask a couple questions.

First of all, why did you just go to OI&T? How did you happen to pick that? Have you done other divisions or departments, or were you tipped off?

Mr. O'NEILL. It was an allegation that we received, sir, specifically about certain individuals in OI&T. That launched our investigation.

Mr. MITCHELL. And this is the only section that you have looked into, the OI&T?

Mr. O'NEILL. In this matter, yes, sir.

Mr. MITCHELL. But you don't know if nepotism or the bonus or anything in other departments—or you would find the same type of behavior in other departments?

Mr. O'NEILL. That would be speculation, because I don't have any data to support it.

We periodically have conducted investigations relating to allegations of nepotism in the past, but frankly, I can't recall the last one we had. It has been a while.

Mr. MITCHELL. I guess what I am saying is that a lot of your investigations are based on somebody coming forward and making allegations against some misuse or improper procedure?

Mr. O'NEILL. Particularly administrative investigations, yes, sir.

Mr. MITCHELL. What are the top three recommendations that you have made to the VA to ensure that the procedures that you have outlined, and we know are there, are actually enforced?

Mr. O'NEILL. Well, in this particular matter, we recommended that they determine and apply the appropriate administrative actions against the eight individuals that were cited in the report; that they issue bills of collection, where appropriate, for improper payments related to the graduate degrees in particular; determine what corrective actions would be appropriate to deal with the problems that we identified during our investigation—someone hired under an expired direct hire authority, the VA has to take some

corrective action, provide training on hiring and the provision of awards throughout OI&T; and review the use of the hiring authorities and the funding for academic degrees and retention allowances to ensure compliance with applicable standards.

Mr. MITCHELL. I guess maybe you have kind of answered this, but what oversight function of the VA broke down in the human resources (HR) process?

Mr. O'NEILL. I would say that the leadership of OI&T did not pay adequate attention to the awards that were being distributed, the hiring practices that we cite in our report, and of course, the payment for academic degrees.

So I would lay it at the feet of the management of OI&T at the time. And whatever oversight H.R. would provide would probably also need addressing.

Mr. MITCHELL. It is mainly oversight. The procedures are in place, the rules and regulations are all very clear. It was just the oversight?

Mr. O'NEILL. Yes, sir. We cite all the applicable regulations, and they just failed to adhere to them.

Mr. MITCHELL. Thank you.

Dr. Roe.

Mr. ROE. Thank you, Mr. O'Neill, for being here. I have just a couple of questions.

One, as I read your testimony in here, it said, "Further, we identified two GS-5s who received 17 percent of the total amount of cash awards given to all GS-5s that year and who received awards for the time period that predated their employment. Additionally we found a GS-13 employee who, within the first 90 days of her employment, received a \$4,500 performance award from the former VA official who said that she did not even remember her."

How does that happen? I mean, I have run a business and helped run a city, and so has the Chairman. That just shouldn't happen. How in the world does something that egregious happen?

Mr. O'NEILL. Again, sir, the lack of proper oversight by the management of OI&T.

These individuals you cite were favored individuals by the people who could award them financially, and they benefited from that. There wasn't oversight over the individual responsible for issuing the awards.

Mr. ROE. Well, that is absolutely, totally intolerable right there when you see something like that.

That personally does a couple things. One, it destroys the morale of the organization. I can promise you, having run a business for 30-plus years, if you did that in a private business, the morale of your organization would be totally ruined because people figure that out pretty quick. And nobody is supposed to talk about what they make, but they do. And people are not supposed to talk about the bonuses, but they do.

I guess the next question is, what happens to somebody who does something like that? I mean, I read through this where \$139,000 of money—education money was spent. What happens to people who do something this egregious, that paragraph I just read? What occurs to them? What is the penalty?

Mr. O'NEILL. That penalty depends if the person is still employed by the government. But if they are employed by the government, the Office of Information and Technology collaborates with the Office of General Counsel and with Human Resources to determine what administrative penalties can be applied and sustained, if challenged.

So I would imagine a range of penalties can be the normal range, anywhere from reprimand to removal. But, again, I am not suggesting that—

Mr. ROE. I understand.

Mr. O'NEILL [continuing]. That I understand what they will do.

Mr. ROE. I understand that. And you are not here to do that, nor am I. But I just wondered what penalties were there.

I mean, you get—\$4,500 is a significant bonus for somebody who had been there in the first 90—there isn't any way in the world that should have been awarded. And these others, where two people get most of the—get a fifth of all the bonus money. I just wondered.

And the other question, and of course this is speculative, too. I don't believe this could be systemic. I think this is—you are looking at an organization that has 230,000 employees and a lot of really good managers.

Is this the only place you have looked at so far, just this one? And the reason you looked is because of the tip that you got on the hotline; is that correct?

Mr. O'NEILL. Yes, sir. We looked at a rather small slice of the OI&T world. And we have recommended, though, that the department do a thorough review of the remainder of these questionable awards and particularly retention bonuses and educational benefits throughout OI&T. But I wouldn't be able to speculate.

Mr. ROE. I do understand that. Until you looked into it, there would be no way you could offer an opinion on that.

And I know, in August, your office had said that there were 45 recommendations, and 11 were listed in Misuse of Position, Abuse of Authority, Prohibited Personnel Practices, OI&T, Washington, DC, were expected to be addressed and be completed by the 19th of September, which is just a couple days ago.

Has that been done, as far as you know?

Mr. O'NEILL. As far as I know, those recommendations pertain to the one report involving the senior executive and others. And I believe that there has been an extension requested, but I am not certain, sir.

So I would just as soon not comment.

Mr. ROE. And I guess the last question is just, should the VA H.R. have reviewed these personnel actions and bonus awards? Should the Human Resources folks have looked at that?

Mr. O'NEILL. We did not carry this investigation further because there were no signs of misconduct relating to H.R. officials outside of the OI&T H.R. So, again, it would be speculation.

But there are indications, and I believe they will be thoroughly vetted because of this report, but I don't have any data for you.

Mr. ROE. Just one last comment. I know, if I had looked at this—I mean, if anybody who had looked at some of the things we have seen here would know that this absolutely doesn't—you can't hire

your family. You know that. And that is very clear to anybody who has been around the Federal Government for 2 seconds. And I don't know how that wasn't picked up.

Thank you for your comments.

I yield back, Mr. Chairman.

Mr. MITCHELL. Thank you.

Mr. Hall.

Mr. HALL. Thank you, Mr. Chairman. And following up on Ranking Member Roe's questions, Mr. O'Neill—and thank you for your testimony and for being here—I understand that because of personnel issues and policies, that maybe that there are things that you can't talk about in public.

Mr. O'NEILL. Yes, sir.

Mr. HALL. But, nonetheless, among the 40 recommendations that you made to the Assistant Secretary for the Office of Information and Technology, were some of those recommendations for termination or various other kinds of discipline or perhaps recovering some of the money that was paid?

Mr. O'NEILL. Some were recommendations to recover money that was improperly spent.

We do not recommend specific administrative action. Our recommendations are always to take appropriate administrative action, because the department actually has to take that administrative action and be able to sustain it. So that is their responsibility.

Mr. HALL. Does the department have guidelines for administrative action to cover this type of behavior, for instance, hiring multiple members of one's family?

Mr. O'NEILL. Certainly, sir.

Mr. HALL. Glad to hear it.

Is there a timeline for the implementation of your recommendations by the Office of Human Resources?

Mr. O'NEILL. Well, as I mentioned earlier, I believe that a request came in to extend, in order to take the recommended action, the individual against whom the action is recommended had a period of time for appeal.

And so I think that the request is to allow that time to provide a formal response to us. But I have reason to believe that this is on track.

Mr. HALL. I will take that to mean that we shouldn't have to worry that the VA is looking at this with the seriousness with which the public and this Subcommittee sees it.

Mr. O'NEILL. I am absolutely confident they are looking at it with quite serious eyes.

Mr. HALL. What do you think is the top, number one recommendation out of your report that would improve the way bonuses are given out? We are all expressing a concern that they reflect performance rather than just be an automatic, yearly—like a Christmas gift.

Mr. O'NEILL. Well, we made a specific recommendation to review retention bonuses within the Office of Information and Technology.

Retention bonuses make up a large portion of the bonus pool that is expended in that area and, perhaps, elsewhere in VA. But our recommendation, I think, is very specifically directed at retention bonuses. We didn't make a formal recommendation to look at

awards beyond that, but it would be clear to me, after reading this report, that the current management would feel required to look at it.

This is pretty appalling when you talk about a \$4,500 award for a GS-5. I have been administering awards for a long time, and we have GS-13s that risk their lives and don't get anything close to that. So it is glaring. I think that our report will prompt a close review of these processes.

Mr. HALL. Well, that is good to hear. Have you seen many of these same issues among the other employees of the VA? Or are some SES employees uniquely able to take advantage of the bonus system?

Mr. O'NEILL. Sir, we didn't do any work on the SES bonus issue, so I couldn't comment on that at all. We were focused on particular allegations. Some allegations were made against SES officials, but it didn't have anything to do with any bonuses they may or may not have received. So I wouldn't be able to help you with that.

Mr. HALL. Regarding OI&T, we heard testimony before the Subcommittee on Disability Assistance and Memorial Affairs and the full Committee this summer to the extent that, for the first time now—after years of our asking and the veterans community asking, for the first time, they are able to make an electronic handoff from the U.S. Department of Defense to VA of a veteran's medical service record, which is critical to timely processing of a claim, not to mention to the veteran's care.

So I am wondering, have you seen any correlation of the bonuses in the Office of OI&T between this achievement and those who have managed to do the technological fix to get two different, incompatible systems to talk to each other?

The bonuses, have you identified yet what the reasons for those bonuses were?

Mr. O'NEILL. None of the awards that we looked at, that I can recall, cited anything to do with that electronic handoff of information. Again, we didn't look at a large slice of OI&T, so I suspect that the individuals we weren't looking at were those who were tasked with that electronic handoff.

So the fact that I didn't see it doesn't mean much except that it wasn't related to our investigation.

Mr. HALL. They might have been too far down the food chain to qualify for a bonus.

But, at any rate, there are people who deserve bonuses, and let's hope that we can move toward getting them rewarded properly and making sure the abuses are halted. Thank you for your work, sir.

And thank you, Mr. Chairman.

Mr. MITCHELL. Thank you.

Mr. Walz.

Mr. WALZ. Thank you again, Mr. Chairman.

And, Mr. O'Neill, I truly thank you. I want you to know it is not a thankless job you do. You are going to get plenty of thanks from us. This is an important and critical step in ensuring proper use of resources, making sure we reduce fraud, waste, and abuse; and, most importantly, precious tax dollars and public resources go to the cause that they are supposed to.

This panel and this Chairman and the Ranking Member have championed expansion of your office for quite some time now. We will continue to do that.

I know it is a very difficult job you do, but absolutely critical. And I think your being here, this hearing happening, your bringing this forward—for the breakdowns in the system, the safety valve was still there; and for that I am thankful. I think we are making good progress, and I am very appreciative of that.

I think the question is obviously the nepotism issues and some of the hiring issues. Those have to be addressed. The question that we are being asked, that I am not sure you have the ability to answer, is how big a systemic problem this is. But I think it is very important for this Committee to clearly separate performance bonuses, based on measurable outcomes for, whether it be SES—and I say this as a former GS-7, who had the ability to qualify for these. And I was in a work environment where the standards were clearly laid out, the minimum standards—where you were supposed to be, what would constitute excellence and awards and put you in a position where you can be put in for an award. It was very clear, it was very measurable, and those outcomes had a direct impact on the mission that we were trying to accomplish.

My questions are—and the thing I would say on this, and I would appreciate the Ranking Member's comments. But this type of thing is not the sole institution of government doing this, lest I remind bonuses at AIG, Enron, Lehman Brothers, United Health Group; that goes on and on and on. We have a problem of, how do we get this for performance?

So my question is, Mr. O'Neill, if you can help me on this, are there uniform hiring procedures and uniform bonus procedures in place, like the one I described in the organization I was in, where it was clearly laid out, and in my yearly evaluations and my 6-month evaluations, my supervisor was clearly stating where I was, and these were measurable goals of achievement, trying to reach a point where you could qualify for the bonuses?

Is that happening inside the VA?

Mr. O'NEILL. Again, it really wasn't part of our specific administrative investigations to review bonuses afforded SES and whether they are tied to measurable outcomes. That wasn't part of this. I wish I could help you, but it wasn't really a part of it.

There are definitely hiring standards that need to be complied with, and we cited where they weren't complied with.

Mr. WALZ. Mr. Roe was very clear. We all know, you don't have to have vast experience to know you don't hire your relative, you don't give bonuses to those. That is very clear.

And the checks and balances in there, you wouldn't think it would have to go very high above the person doing it to have the system kick into place and red flag those.

So I am glad it eventually worked. I am glad you were there. That is why I continue to say, you must be there. But I am concerned, and I guess we will hear from the next panel more where those procedures are in place.

Maybe, again, this is a question for the next—I'll save it.

Trying to understand that maybe one of the problems we have here, especially when it comes to retention bonuses, do we need to

take an honest and hard look at what we are paying people if we are counting on retention bonuses to be the sole measure?

Maybe we need to make sure that the initial salaries are where they need to be to make that happen. Because my problem, and I guess the thing I am most concerned about, Mr. Chairman, is—as Mr. Hall and Mr. Roe and everyone has pointed out—when this type of incident happens, we lump together those that are deserving and those that received a bonus on all the right criteria, we lump them together with incidents of malfeasance that pollute the whole system.

So, again, thank you for being here. You are in a very important position, Mr. O'Neill, and one that I very much appreciate. I know how hard it is to do what you do, but you are making it better for our veterans.

So I yield back.

Mr. MITCHELL. Thank you.

Mr. Teague.

Mr. TEAGUE. Thank you, Mr. Chairman and Ranking Member and other Members, for allowing me, again, to be here today.

Mr. O'Neill, thank you for coming before us today and thank you very much for your testimony. And I want you to know that I appreciate the work that you do.

And I think that most of our managers, all the way through the VA, are doing a good job, but unfortunately, we do have some people that need to be ferreted out. But, you know, I am amazed that this problem can go unchecked for so long. Can you explain the process that the VA set up for these bonuses?

And it is evident that we did not have people acting without supervision. There was a process that was set up with different layers of oversight, yet this still occurred. So evidently we had a breakdown in the system.

When you found that spot, did you check up and down in the system—and laterally, both—to see how far it went?

Mr. O'NEILL. To the degree possible, we did. And we certainly followed the administrative misconduct. The most egregious examples of awards we have heard about today result from misconduct, not mistakes but lack of attention from people above those that were responsible for misconduct, this wasn't just the way people do business.

So we looked at that, but a number of the people most responsible were gone by the time we issued our report. So we wouldn't be citing them for administrative action if they are no longer with the government.

But I do believe that our recommendations for the Department to follow up on these as they apply to OI&T—and I suspect this will prompt throughout VA, I believe closer attention being paid to awards.

When you read justifications for a \$2,500 award for a GS-5 and the justification is ridiculously brief and off point, then someone who approved that wasn't doing their job. Now, on those particular cases, the person who approved it was approving it as a result of misconduct, we believe, not because they thought that the individual actually deserved those awards. So there was favoritism.

Preferential treatment associated with these awards was the big issue.

But retention bonuses may just be something that requires attention and may never have involved misconduct in the decision, at least in most of these retention bonuses. But our, at least, indications are that this needs further attention.

Mr. TEAGUE. And you also stated that one former VA official had repeatedly violated the nepotism regulations that are very clearly laid out. But for this to have gone on for so long, do you think that there is an environment or a culture that we are fostering to discourage people to report wrongdoings?

Mr. O'NEILL. I really don't have any reason to believe that. I believe that our report will encourage responsible VA employees to report instances of this.

And, of course, that is how we learned about it. Someone who knew what was going on reported it, was offended by it.

And so I don't have any data to know if it is widespread or not, but certainly the number of referrals are not overwhelming, when it comes to nepotism in particular.

Mr. TEAGUE. When you hire someone at a higher rate of pay, how much additional paperwork do you have to do and how many people have to see that?

Mr. O'NEILL. Well, I took some notes on that.

When you want to hire someone at a particular grade level, normally if they are new to government, they come in as a Step 1.

But if you want to increase their pay, then you have to provide adequate justification. And you look at the efforts that were taken to recruit people and how they failed, you look at the candidate's superior qualifications compared to the other candidates. You are looking for prior salary of the individual to see if they were earning far more than the Step 1 would have, and why you were recommending hiring at that step as opposed to a recruitment bonus.

All those steps are required. But in the cases we have identified, they weren't followed at all. So the individuals controlled the environment, and they allowed it to happen. So that is the difficulty where someone above them wasn't paying attention to what was going on.

Mr. TEAGUE. Mr. O'Neill, once again, I want to thank you for appearing today and for your testimony, and I appreciate the answers that you gave me also.

And, Mr. Chairman, once again, thank you for allowing me to be here.

Mr. MITCHELL. One last question, Mr. O'Neill. We know that there were some policies that were not followed and procedures not followed and, also, some laws that were broken. Are we pursuing legally any of these people who broke this law, or were they just dismissed?

Is there any legal action against any of these people?

Mr. O'NEILL. We looked at the actions that occurred, and in open session, I would rather not discuss it. But there is still ongoing work to look if any laws were violated.

If you don't mind, I would just as soon keep it to that.

Mr. MITCHELL. No. Thank you. And thank you for being here today. As everyone said, we appreciate the work that you are doing. Thank you, sir.

Mr. O'NEILL. Thank you.

Mr. MITCHELL. I would like the welcome Panel Two to the witness table.

For our second panel we will hear from the Honorable W. Scott Gould, Deputy Secretary, U.S. Department of Veterans Affairs, accompanied by John Gingrich, Chief of Staff, U.S. Department of Veterans Affairs; the Honorable John Sepúlveda, Assistant Secretary for Human Resources and Administration, U.S. Department of Veterans Affairs; and Willie Hensley, Principal Deputy Assistant Secretary for Human Resources and Administration, U.S. Department of Veterans Affairs.

And like the other panel, Mr. Gould, I would want to ask you to keep your comments to 5 minutes, and anything that you have in a written statement will be added to the record. Thank you for being here.

STATEMENT OF HON. W. SCOTT GOULD, DEPUTY SECRETARY, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY JOHN R. GINGRICH, CHIEF OF STAFF, U.S. DEPARTMENT OF VETERANS AFFAIRS; HON. JOHN U. SEPÚLVEDA, ASSISTANT SECRETARY FOR HUMAN RESOURCES AND ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; AND WILLIE L. HENSLEY, PRINCIPAL DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES AND ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

Mr. GOULD. Thank you, Mr. Chairman. And with your permission, I can begin my oral statement? Thank you.

Mr. Chairman, Mr. Ranking Member, and Members of the Subcommittee, I appreciate very much the opportunity to discuss VA's progress in determining our senior executive performance awards. VA has made many improvements since the previous hearing in June of 2007, and we look forward to sharing them with the Subcommittee today.

I am joined by Mr. John Gingrich, Chief of Staff of the VA to my right; the Honorable John Sepúlveda, Assistant Secretary for Human Resources and Administration immediately to my right; and to my left, Willie Hensley, who is our Principal Deputy Assistant Secretary for Human Resources and Administration. I ask that my full written statement be entered into the record.

Let me begin with a simple statement: People are VA's most important asset. They make it possible to fulfill our mission to our Nation's veterans; and day in and day out, VA's 292,000 employees provide world-class health care, pay critical benefits, and render final honors to millions of veterans.

Only 313 of these employees are Members of the Senior Executive Service. This small group of men and women who comprise our SES corps play a critical role in providing the leadership, shaping the culture, and promoting excellence in VA. Whether it is here in Washington, DC, or out in the field, our senior executives are responsible for the operations of hundreds of facilities and for meeting the highest standards of performance and integrity.

Importantly, they are responsible for ensuring that our VA's daily operations meet our veterans' expectations for quality care and services. Consequently, we seek to reward those executives who excel in service to our veterans.

The authorization for the current SES performance award program is set in law. The law puts forward a simple premise: Encourage excellence by senior executives and do so fairly.

The law required evaluation and compensation of SES personnel based strictly on their performance. It eliminated the six existing pay levels in favor of an open pay range, and it eliminated locality pay and across-the-board pay increases to which the SES had become accustomed.

Now, VA strives to implement the letter of the law and its spirit and intent. To that end, we have followed closely the advice of the Office of Personnel Management (OPM), the U.S. Government Accountability Office (GAO), and this Committee by implementing recommendations to make sure that awards are made properly.

For example, the VA ensures that all performance plans focus on achieving measurable results. We revised the awards determination process to ensure awards are granted based on individual and organizational performance and results achieved.

We train new and serving Performance Review Board, or PRB members on the policies and guidance of the SES PRB process and their role on the PRB. And we enhance our PRBs by appointing members from outside VA. VA has heard your recommendations and acted on them.

Finally, VA has taken further steps to ensure excellence and institute reforms by increasing the criteria for performance awards to ensure that only those SES who are rated as excellent or outstanding can receive them, placing caps on performance awards and reducing the maximum pay adjustment percentages allowable in a given year.

We believe that the steps we have taken to implement the law, Committee recommendations, and our own initiatives will have a strong impact on SES performance.

But every system can be improved, and in keeping with Secretary Shinseki's vision for a 21st century VA, we are in the process of implementing additional initiatives to improve SES management and development, including leadership training, career development, greater emphasis on mobility, and more rigorous SES application and selection processes.

The men and women of the VA Senior Executive Service are held to the highest standards of service. They routinely face enormous challenges in delivering the best possible care and benefits services to our veterans. We strive to reward those whose success sets the standards for others to follow, and we will hold those accountable whose character or quality of service is not up to the standards of the SES.

Mr. Chairman, I want to thank you, the Ranking Member, and all the Members of this Subcommittee for setting the tone of the hearing today, which is a balanced perspective between the vast majority of stellar performers and personnel who work at VA and the unfortunate exceptions. I look forward to answering your questions, but more so in working with you to encourage excellence in

performance by our senior executives for the benefit of all veterans and the VA employees whom they lead.

Thank you, sir.

[The prepared statement of Mr. Gould appears on p. 32.]

Mr. MITCHELL. Thank you very much. Just a couple follow-up questions.

I know that you are fairly new to this position. We had a hearing in the last Congress over the bonus issue. And I just want to say hopefully, you are doing things different than was done in the past as a result of the last hearing.

Can you give us an example of what you are doing that is different and how you are overlooking these bonuses?

Mr. GOULD. Yes, sir, I can. There are a number of things we have done as a team that reflects the career continuity that is here at the table and also the new political team that is here, focusing real leadership on this.

Some quick examples: We have included non-VA executives on our Performance Review Board, so we are reaching out for that external perspective from VA to bring it into the discussion about performance.

We have strengthened the performance plans themselves, linking performance to the organization's strategic goals and objectives and operating plans.

We require organizational heads to certify in writing that the executives under their leadership are not pending any disciplinary actions.

So this is one of the key points of self-discovery. It is a very long process. It takes several months. Things can be revealed along the way. We want to make sure that the OIG, that medical investigations and so on, has a chance to put their input into this process even as those packages are moving through the system.

Two more quick ones: We have instituted mandatory training for PRB members. As with any people-oriented process, it is the training and the education of those individuals that really determines your success, in my view.

And we work closely with OPM to create a performance management training guide for our senior executives that we think will be especially helpful.

So those are some of the examples of the improvements that we have made since the 2007 Subcommittee hearing.

Mr. MITCHELL. So, in a sense, you have really standardized throughout the VA so that all these bonuses will go through the same rigor?

Mr. GOULD. Yes, sir.

It is a human process, and there are judgments being applied there. But to the extent possible, we have multiple levels of review now that start with the individual rater who sits down and develops a performance plan for the year, meets with their employee at the 6-month mark, evaluates them at the end, writes a 2-page evaluation.

That evaluation then goes to a PRB and, ultimately, from there, to a department-wide PRB.

And then it is pretty much across this table. The Chief of Staff is going to read it, review it, and evaluate it. We are going to get

that external input from the OIG that I mentioned. I personally will review those. And then the Secretary does so.

For these 313 senior executives, we have a lot of review, a minimum of four levels of review, to make sure that this is happening.

Mr. MITCHELL. Very good.

One last question: Can you discuss the apparent disproportion between minorities at the lower-level GS positions, compared to the middle and upper management, to include the SES positions? And do you have any plans to implement or fix this challenge?

Mr. GOULD. Yes, sir. I think probably the best way to describe this with respect to diversity in our SES ranks is that we have a long way to go. And we are committed as a leadership team to make sure that those improvements in diversity among our senior execs are made.

I can tell you a few things that we are doing, and I would like to turn to Mr. Sepúlveda and get a little bit of a better sense, a fuller sense, for you and this Committee about what we are doing.

But at all levels, we are trying to first make sure that our current SESs have included in their performance evaluations a focus on diversity.

Number two, at the middle level we are trying to develop, and we have created, SES development programs that reach down to 14s and 15s and give them an opportunity to participate in that, get the special schooling, the developmental assignments that will help them get into the SES.

And then, finally, reaching deep down into how we recruit, targeted outreach to various communities, colleges, and universities and so on, all with a long-term goal of making communities aware of the opportunity for service at the VA and then development.

And perhaps Mr. Sepúlveda could give us some additional perspective here.

Mr. SEPÚLVEDA. Thank you, Mr. Chairman.

Diversity is a high priority for this administration, and certainly that is something that we have been working on internally in terms of not only developing VA's first strategic plan focused on diversity, but as the Deputy Secretary mentioned making sure that diversity is something against which SESers are managed and evaluated on.

The reality is that if we don't have our senior executives focused on diversity in terms of the development of their staff—doing the kind of outreach that is necessary, the kind of training—then we won't develop the pipeline that ultimately feeds into increasing the numbers of SES at the VA level. As the Deputy Secretary said, we have a ways to go.

The good thing to mention is that VA's record in terms of diversity, I think, is a good one. In terms of African American representation, the VA is about close to 24 percent and Hispanic, 6.5 percent; Asian American, Pacific Islander, about 7 percent. But the reality is that that doesn't translate into better levels of representation at the SES level, and we recognize that.

That is why the candidate development program that the Deputy Secretary mentioned is a great opportunity to get those folks that are in the pipeline into the kind of training, because once they have completed that program—that is a 12 to 24-month program,

very vigorous—once they've completed that program and they're qualified by OPM, they can be appointed noncompetitively into an SES position.

So we're looking forward to working on that. And I can assure you, sir, I have been a longstanding advocate and champion for diversity, and that is something I am going to be focusing on during my tenure as Assistant Secretary.

Mr. MITCHELL. Dr. Roe.

Mr. ROE. Are you having difficulty, Mr. Secretary, on retaining good people? And basically are these bonuses retention bonuses, or is it just to reward, you know, obviously excellent service. Which would it be, or is it both?

Mr. GOULD. It is for the purpose of encouraging excellence among our senior executives. We do not use it as a tool for retention nor as a tool to establish pay equity with the private sector. So it is exclusively focused on encouraging excellence.

Mr. ROE. Here is a question. I come at it from this, not from the public sector, but the private. It says in your testimony, the VA prudently used our financial resources in 2008 by reducing the maximum pay adjustment percentage for senior executives who were rated fully successful from 5 to 3.

That looks to me like a COLA that you're giving, a 3-percent increase, and actually from 7 to 6. And this—I guess we talked about this beforehand. Did all of the employees get a 3 percent, or did all employees at the VA get a “go,” if they were excellent, from a 7 percent to a 6 percent? And this was in 2008 when we were shedding jobs like a dog shedding hair. It was difficult. I know in the city where I was Mayor, nobody got a raise this year, and a lot of people's pay went down. They were really glad just to hang onto their job. I know these are 313 very, very good people, but did this filter through the other 290,000 VA employees?

Mr. GOULD. Well, sir, a couple of points, first being this is not a COLA. And as you know, when the law changed in 2004, we created a situation for our senior execs where there was no automatic pay increase at all. So the base pay adjustments that are made through the PRB process are the sole way in which we address inflation.

So unlike our General Schedule employees who do get a COLA that is established by government, it kind of works across the board, the SES do not.

And to your second point, sir, about the context of this. I loved that expression. That really makes a lot of sense. I think all of us have to be sensitive to and aware of the hurt that the general community is facing, the economic downturn, and they see folks earning money in government or getting performance awards, maybe a question gets raised in their mind.

In our view I believe that this is a time when we need to be sensitive about that, and when our Secretary issues his guidance to the PRB this year, I am sure that will be a factor in his determination of what those limits will be. But it is also a time when we need to be encouraging our VA employees to—now that these services are needed more than ever—to be setting a standard for high quality and excellence, and that is what those performance awards are.

Mr. ROE. I've got counties where the unemployment rate is 17 percent, and they look at someone getting a \$30,000 bonus in a 3-year, or a 7-percent increase, a 6-percent increase in their salary, it is pretty hard to explain to them.

Did the folks get bonuses? We have held hearings—the Chairman's held—we have been on two hearings on the colonoscopies where those particular institutions had institutional problems. Were they bonuses? And I know where we've been to Detroit where records were shredded. And those areas, did those folks get bonuses?

Mr. GOULD. If we have a substantiated OIG investigation or a problem there, I would think it unlikely that a person would qualify for a bonus, or at least it would diminish, dramatically diminish, their opportunity before a PRB.

Mr. ROE. I'm not asking you today, but I would like to know after this whether those folks got bonuses or not.

Mr. GOULD. Dr. Roe, to the best of my understanding, that would be a process yet to occur, so that is going to be in the future. And I'm just indicating that that would be a factor in the PRB process.

Mr. ROE. The other question I have is in the private sector, at least in the city where I was Mayor, what happens to the money if you don't spend it? If you feel like that the organization is having a tough year—I know that is what we did in the city—or our business was having the hard year, what happens to the money then? Does it go back? Does it stay there? What happens to it?

Mr. GOULD. Sir, that is a great question. It is part of our resource for funds under wage and salary. The pool each year is created under law. So for the SESs it is a certain percentage of the total payroll. And if it is not used, it would be returned for use in the VA to purchase time for additional people, or if at the end of the year it was not absorbed, then it would roll into what is called a carryover and would be unexpended funds at the end of the year and would be available for use in the following year.

Mr. ROE. So you could keep it. Leaving it in the city, it would go to a fund balance, or in your business you would use it as capital in investments. So you could actually hire other personnel if you didn't use that money; is that correct?

Mr. GOULD. That is correct.

Mr. MITCHELL. Thank you.

Mr. Hall.

Mr. HALL. Deputy Secretary Gould, thank you for your testimony and work on behalf of your veterans.

Do you see a problem, sir, with Members of the SES at the VBA receiving bonuses at a time when the claims backlog continues to rise?

Mr. GOULD. Sure. SES performance awards are now tied to organizational performance. It is specifically a part of our PRB review process. So for those individuals who were tied exclusively to that problem, that would be a factor in determining whether or not they should receive a performance award for the year.

But, sir, I do want to point out, it is easy to kind of lump everybody together, and, you know, there are probably five big business units there. So if you put somebody who runs our loan guarantee or our insurance operation at the SES level, which has spectacular

customer service, customer satisfaction rates, and you lump them in there with that, then you can see in that PRB process you wouldn't want to do that because they don't actually influence that backlog.

So the PRB's job is to integrate organizational performance and make sure that it really is focused on that particular individual. They have control over the outcome.

Mr. HALL. Right. I understand it. That makes sense. I agree with that. At the same time, VBA, last we heard, was considering a claim to be backlogged when it was over 125 days and still not resolved. I personally think that is a long time before you start considering a backlog, given the returning veterans that we have from the conflicts in Afghanistan and Iraq and the homelessness, the suicide rate, the divorce and the bankruptcy rates that we're seeing among the veterans community.

So I just was wondering if you could quantify that or be more specific with us about what constitutes performance that justifies a bonus in those instances, not for people who are dealing with loans or educational benefits, but specifically with the claims process.

Mr. GOULD. Thank you for that question.

And Secretary Shinseki and I and this leadership team are focused on directing that backlog issue. It is serious. We need to address it. And as you know, we have a major initiative under way to use new business processes and technology to go after that.

As I'm sure that you're also aware there are a certain minimum days required where the VA literally has to hold and wait for our veteran to give them adequate time. That element of due process adds to what I would regard as an overly long process that we absolutely must reduce, and we're focused on making that happen.

You asked for some examples of what might actually constitute a positive result for a performance award. I've got a couple that may be helpful. For example, this came out of last year's batch. We had a senior exec to improve the regional office claims processing productivity by 77 percent and met up to 95 percent of the office's goals.

So if you look at the distribution of performance among the regional offices where these claims are being processed, you will actually see some that are much, much more successful than others at this. Now, the average is too slow and too long, but there are some exemplars there, like this person, who received a performance award, and I would feel good about signing off on that and recommending that to the Secretary.

Mr. HALL. Thank you. I feel good about your saying that, and I would be happy to stand there and shake the person's hand for that big of an improvement in a year in any regional office or any department.

Are there PRB boards that help determine bonuses for those who are not in SES?

Mr. GOULD. Sir, will you repeat the question, please?

Mr. HALL. Are there PRB boards or similar boards that determine who qualifies for a bonus for those not in the SES, or is that simply done by you and the other top executives at VA?

Mr. GOULD. Let me ask Mr. Hensley to respond to that question for you. I don't have the information personally.

Mr. HENSLEY. Congressman, just to comment on the fact that by law the Performance Review Board process is established by law and is responsible for looking at bonus recommendations relative to the Senior Executive Corps. Bonus processes or performance awards, as we would refer to them as, or for General Schedule employees are handled through policy. We have policy that guides how that should take place, the level of reviews that should be in place before those are awarded, before they are processed. So there is no board. It is a supervisor's recommendation. There are, again, three levels of review after the supervisor signs off in an effort to make sure that they are valid and that they move through the process.

Mr. HALL. Thank you very much for your enlightening us, and, Deputy Secretary Gould, thank you. This is the first time, I believe, in the time that I've been here that we've heard somebody explain specific instances that justify a bonus, and that is what we have all been looking for. And I think you're moving in the right direction, and I can compliment you on that and wish you all of the best in succeeding in that mission.

I yield back. Thank you, Mr. Chairman.

Mr. MITCHELL. Mr. Walz.

Mr. WALZ. Thank you, Mr. Chairman, and Deputy Secretary and your staff here today. I very much appreciate it.

As I said earlier, we're all here for the care of our veterans. Many of you sitting at that table are veterans yourselves and should understand this issue very well, and I'm very appreciative of that; also understanding that each of you have—I wish people would look at this—our SES folks.

Mr. Hensley, for example, I wish they would look at your resume and see the type of quality of people we're getting and understand where—this retaining you folks is critically important.

And, Mr. Gould, yourself coming from IBM and choosing to serve our veterans, I think it is very important.

So the issue, we're all in it together to use those precious resources, which I think many of us up here now feel are finally reaching adequate levels. My fear, as always, though, if we fully fund and misuse that money, it is going to set us back a long, long ways. And that is why we have to be very, very focused on this.

I think you answered many of the questions I was looking at, and I would agree with Mr. Hall on this, his question. Mr. Hensley was very good about that procedure. I said myself in my experience I think it worked very fairly in that sector as in my private-sector jobs where there were clear-cut criteria, there was midyear evaluations, there were metrics to be measured to see if I got there, and it was put out accordingly. I think that is a great tool.

We would like to think that everybody is going to do their very best regardless of that, but we know that market of incentives can boost folks up. So I am very curious about that.

My biggest concerns, and the ones that I am going to focus on, I think, here, are on the nepotism and the minority hiring that we're trying to get here, a couple of things.

The first thing I would like—and I know this can all happen. You listened to the OIG, Deputy Secretary. You think there is a sys-

temic problem here with nepotism and some of the oversight, or do you think this is an isolated incident that probably isn't happening widespread, just in your evaluation?

Mr. GOULD. First of all, we're all incredibly disappointed in the performance here, professionally disturbed, disgusted by the behavior here. It is inexcusable.

We're also, though, arbiters of a process, a due process, a fair process. We're going through systematically that process now, and I believe that there will be a point in time when we're able to report back to you a status on what has happened and what the consequences of that are.

I believe that the OIG did a very thorough job in OI&T. We self-initiated an H.R.-led review of other systems inside the VA asking the very same question you're posing. We did not get any negatives from that, but I think every single leader in the organization on down from the Secretary is somehow disturbed by this and now is more vigilant as a result. And so you see in our process we're about to go through a greater leadership commitment and focus to make sure that cannot happen on our watch.

Mr. WALZ. Very good.

Mr. Hensley, I noticed in your past you worked for the Center for Minority Veterans, very important position. Could you give your evaluation of how we're doing on this in terms of—and I know I listened to—the Deputy Secretary, I think, gave a good example and talked about what we needed to do to increase participation on that. There is a gap, if I'm not mistaken, between the entry-level GS position midgrades and the SES. Are we moving in the right direction there?

Mr. HENSLEY. Yes, sir, we are. As Assistant Secretary Sepúlveda pointed out, our candidate development program is a very solid program, 18-months to 24-month developmental program. I'm a graduate of that program. I started in VA—left the military on a Friday, started on a Monday morning in the Center. Very delighted about what I do for the department, a great passion for serving veterans.

I absolutely believe we're moving in the right direction. We're seeing great numbers in terms of the 15 to 14 levels in terms of outreach, targeted—outreach in those particular areas. I have an opportunity as well to talk to, mentor, coach minorities as well in the department.

So I'm committed to that, as is Assistant Secretary Sepúlveda. We do have a ways to go. I believe we're on the right track.

Mr. WALZ. Thank you very much. I appreciate your involvement in this. Again, we're trying to get this right for our veterans. We know we share that absolute concern, and I'm very appreciative of all of your service.

And, Mr. Gingrich, as a former artillery man, I hope we were speaking loudly enough for you.

I yield back.

Mr. MITCHELL. Thank you very much. Thank you for the service you're doing. I know you've been in about 6 months. But I think from what I've heard and what I've read that you're headed in the right direction.

There are an awful lot of people depending on the VA's services. Just even in your own testimony, I was looking at the statistics about the number of veterans versus the number in the medical service. And you had almost 25 million veterans; there are only about 8 million that are actually registered. And, of course, we're trying to find out why and increase that. But those 8 million people, just by my observation, I think everybody here, they need this, they need it desperately. And those trying to get into it need it.

So we appreciate all that you are doing to try to make that happen, and to get rid of that backlog, and to serve the veterans, which so richly deserve it.

Thank you so much, again, for your testimony, and this hearing is adjourned.

[Whereupon, at 11:20 a.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Hon. Harry E. Mitchell, Chairman, Subcommittee on Oversight and Investigations

I would like to thank everyone for attending today's Oversight and Investigations Subcommittee hearing entitled, *Senior Executive Service Bonuses and Other Administrative Matters at the U.S. Department of Veterans Affairs*. Thank you especially to our witnesses for testifying today.

We all know that the Department of Veterans Affairs has some of the hardest working, and dedicated employees. However, there are concerns about the VA Bonus process and how the VA matches pay to individual and organizational performance. For example, in Fiscal Year 2008, the VA's performance award pool was almost \$4.3 million, including \$774,108 for just 21 Presidential Rank Awards—with some awards as large as \$60,270 dollars!

The VA does outstanding work in many areas, but there are some areas where improvement is needed. Just this year, this Subcommittee has been here, on more than one occasion, questioning the department's quality of care, safety standards, and lack of necessary protocols and procedures. We are here today to ensure that the VA is making sure that its bonuses and awards closely match levels of performance, not just individually, but organizationally.

Members of Congress on both sides have expressed frustration over this issue, especially in the wake of recent reports suggesting that bonuses were not appropriately applied. The bonus system must allocate responsibility where it lies. It must also be used to adequately retain the best personnel available and to encourage excellence in performance.

The reason we are here today, is to help ensure that the bonus system is being utilized in the appropriate manner, so that we can tell veterans with full confidence that these Senior Executive Service personnel are making the VA a better place. And that the VA is serving our veterans and being good stewards of American taxpayer dollars.

The Subcommittee is also here to examine hiring practices and minority hiring trends within the department. On August 18, 2009 the VA Office of Inspector General released two reports, citing abuse of authority, nepotism, improper hiring and improperly administered awards. The Subcommittee has concerns over these reports findings, and we must ensure that these reports don't point to a potentially bigger problem within the department. However, these reports accurately show what can happen when the proper procedures go unchecked. I am grateful that the VA Office of Inspector General has agreed to come here today to talk about their reports and give specific and limited testimony into the correct hiring procedures and protocols the VA should utilize. Additionally, we would like to look into minority hiring practices, to guarantee that the VA is utilizing a fair and equitable hiring system.

Deputy Secretary Gould, along with Assistant Secretary Sepúlveda have agreed to come here today to assure the veterans that they have safeguards in place to provide effective oversight.

In closing, I would like to make it clear, that this Committee is not here to denigrate the dedicated work of the VA's employees. We have no intention of targeting specific employees, and we have no intention of questioning whether or not the VA should award bonuses. We are all here to do what's right for our veterans, and instill the trust and integrity that they should expect from their government. Our goals should always be to ensure that they are being served with a system reflective of their service and honor.

**Prepared Statement of Hon. David P. Roe, Ranking Republican
Member, Subcommittee on Oversight and Investigations**

Thank you Mr. Chairman.

Last Congress, this Subcommittee held a hearing on the Senior Executive Service bonuses, during which then Ranking Member Ginny Brown-Waite expressed the frustration of several members on our side of the aisle regarding the VA allocation of bonuses to employees possibly involved in quality of care issues at various VA medical facilities, as well as those involved in providing benefits and processing claims at the Veterans Benefits Administration. While she cautioned members to tread carefully through this path, we are again here reviewing these bonuses and their appropriateness given new reports of alleged malfeasance at the department in the Office of Technology and Information.

Our Nation's veterans have fought faithfully for our freedom, and deserve to be treated with the utmost respect. They have a right to expect their claims to be processed in a timely and appropriate manner; they have a right to expect their treatment at VA medical facilities to be among the best our country has to offer, and they should expect that in all their dealings with the Department of Veterans Affairs, they will be treated with the utmost respect and dignity.

Those in the Senior Executive Service, commonly referred to as SES, are typically among the cream of the crop in our Nation's Federal employees. These are the leaders of today and tomorrow. To be elevated to these positions of responsibility they have completed training programs and have dedicated themselves to the service of our country. There is no doubt in my mind that the bonuses many of these individuals received reflect the value of the service they have provided.

However, a few of these bonuses appear to be extremely hefty in nature. We are in a time of economic hardship. Many of our citizens, including veterans, are on the unemployment line, struggling to make ends meet. Many folks are tightening their belts to put food on the table and clothes on their children's backs. And yet, several of the bonuses issued by the department have been in the \$30,000 range. This is more money than many in our country see in a single year, and from what I can tell, this amount is the norm for these individuals and considered part of their expected income as opposed to an extra incentive for doing exceptional work.

We need to ensure that VA is allocating these resources wisely. While many Americans are unemployed or are taking cuts in salary, and cuts in bonuses, we need to ascertain if it is fiscally responsible for the VA to issue such high bonus payments? Are the bonuses that are being issued by the VA truly deserved, or is it just considered a matter of course that these bonuses continue to be awarded? We must make certain that the criteria and performance metrics VA is using to determine the amount of a bonus issued to an individual in the Senior Executive Service continues to be a fair and equitable process.

Mr. Chairman, these are the questions I would like to ferret out of these hearings. I appreciate you bringing the witnesses in today to testify, and look forward to hearing them speak. Thank you again and I yield back my time.

Prepared Statement of Hon. Harry Teague

Mr. Chairman and Ranking Member, thank you very much for allowing me to participate in this hearing today. When I first heard about the findings from the Inspector General's report, I sent a letter asking Chairman Bob Filner to conduct hearings on these incidents so that we could find out what went wrong and take steps to remedy these problems.

Our constituents expect us to be responsible stewards of their tax dollars. They expect us to treat the Federal treasury as a resource that belongs to all Americans. When they feel that we haven't done a good job of watching over their tax dollars, they let us hear about it and every 2 years they can let us know how much they disapprove by sending us home.

But this isn't the case for everyone in the Federal Government. Sometimes our resources are expended in ways that are wrong. When that happens, it is up to us to exercise our constitutional authority and exercise our oversight powers to make sure that officials in the Federal bureaucracy are responsible and accountable. When they're not, we need to send them home, but more importantly, we need to make sure it doesn't happen again.

That's what I hope we can do here today. It's always easy to let someone have it when they've been caught doing something wrong. It's easy and quick and we get to score some political points in the short run, but it really doesn't help anything in the long run. We need to make sure that when we are presented with a problem

such as this that we are using it as a moment where we can learn from our mistakes and take steps to ensure that it isn't repeated.

We can use this as a way to make sure that our system is run better and that we are delivering quality care and benefits to our veterans who are the real victims here.

I hope that's what we can accomplish today. I hope that we can work together across party lines to build this system up and not tear it down.

**Prepared Statement of James J. O'Neill, Assistant Inspector
General for Investigations, Office of
Inspector General, U.S. Department of
Veterans Affairs**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to discuss several issues that were the subject of two recent Office of Inspector General (OIG) reports, *Administrative Investigation—Misuse of Position, Abuse of Authority, and Prohibited Personnel Practices Office of Information & Technology, Washington, DC*, and *Administrative Investigation—Nepotism, Abuse of Authority, Misuse of Position, Improper Hiring, and Improperly Administered Awards, OI&T, Washington, DC*. I am accompanied by Mr. Joseph G. Sullivan, Jr., Deputy Assistant Inspector General for Investigations, and Mr. Michael R. Bennett, Attorney Advisor.

While the reports deal with different VA officials, many of the same issues are contained in both reports. In keeping with the Subcommittee's instructions, we will discuss the issues related to the hiring process and other administrative actions, which include: nepotism, misuse of position, prohibited personnel practices, misuse of hiring authorities, improper funding of academic degrees, and improper administration of awards.

NEPOTISM

Federal law states that a public official may not appoint, employ, promote, advance, or advocate for the appointment, employment, promotion, or advancement, in or to a civilian position any person who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative. It further states that money shall not be paid from the Treasury as pay to an individual appointed, employed, promoted, or advanced in violation of this section.

The Standards of Ethical Conduct for employees of the Executive Branch prohibit an employee from using his or her public office for the private gain of relatives and prohibits the use of his or her Government position or title or any authority associated with his or her public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise to himself, to friends, or to relatives.

VA policy mandates that the restrictions on the employment of relatives apply to all VA employees; that public officials may not recommend or refer a relative for consideration by a public official standing lower in the chain of command; and that "extreme care must be taken to avoid any possibility of likelihood that the nepotism law may be violated in an employment action." The policy further requires that management officials "take appropriate actions to avoid situations which have the potential for, or appearance of, being a violation of nepotism requirements" and at a minimum, document cases where relatives are employed or being considered for employment in the same organizational element or chain of command.

One of the reports details the actions of a former VA official who was involved in the hiring of two family members through the Federal Career Intern Program (FCIP). In fact, the former VA official advocated for the hiring of one family member on two separate occasions for two different positions. However, her improper actions were not limited to the hiring of the family members but also included hiring friends, involving herself in a change of work schedule for her relative, checking on the status of a cash award for the family member, and authorizing expenditures for graduate courses for family member. This former VA official also helped put a family member's application package together, and she told a subordinate that the family member was qualified for a GS-5 position and submitted arguments and documents in an effort to advocate for her assertion that the family member was, in fact,

qualified. Further, she asked the selecting official to interview her family member, and instructed a subordinate, to “push” the family member’s application as an FCIP candidate.

We found it problematic that the former VA official’s relative, after being hired as a part-time intern trainee, was able to convert to a full-time position working a part-time schedule from a remote location over 500 miles away from the relative’s managers and duty station. We found no plausible rationale supporting any aspect of this peculiar arrangement.

Misuse of Position

The Standards of Ethical Conduct for Employees of the Executive Branch state that public service is a public trust; that each employee has a responsibility to place loyalty to the Constitution, laws, and ethical principles above private gain; and that employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards. The Standards also state that an employee shall not use his public office for his own private gain or for the private gain of friends or persons with whom the employee is affiliated in a nongovernmental capacity, and they prohibit an employee engaged in a financial transaction from using nonpublic information or allowing the improper use of nonpublic information to further his own private interest or that of another, whether through advice, recommendation, or by unauthorized disclosure. Also, Federal Acquisition Regulations state that Government business must be conducted in a manner above reproach and with complete impartiality and with preferential treatment for none.

We found that a VA official misused her official position for the personal gain of a friend when she told a potential VA contractor that they should consider hiring a long time friend of the VA official and provided that friend’s resume to the contractor. While the contractor was never told to hire the friend, the contractor did ask the friend to help them put together their proposal and offered her full-time employment should VA award them the contract. While there may not have been an expressed *quid pro quo*, the VA official clearly and improperly pressured the contractor to hire the friend while the VA official was involved in setting up a VA contract.

We found that the same VA official violated Federal acquisition regulations when she shared nonpublic VA procurement information with her friend by telling her that VA planned to issue a request for proposal, that a certain contractor was a potential vendor, and suggested that her friend contact the contractor for employment, resulting in a personal gain for her friend. We found it problematic that the VA official also shared nonpublic VA information with another friend who was not employed by VA or the contractor, and allowed him to act as an emissary for a VA procurement. This gave the friend an opportunity to exploit the situation for his own personal gain and possible employment with the contractor, and it also gave the contractor a significant advantage in obtaining a VA contract.

We found that a former VA official abused her authority and engaged in prohibited personnel practices in the hiring of friends when as the appointing official she gave preference to her two friends when she selected them for positions within the Office of Information & Technology (OI&T). In addition, her selection of three other individuals constituted pre-selection based on a previous relationship.

This same former VA official also improperly appointed her two friends at rates above the minimum salary. Personnel records contain no justification for their appointments at a higher pay rate, and the justification memorandum for one friend’s higher salary did not comply with all the requirements outlined in VA policy. It appeared that these appointments at a higher than minimum pay rate were predicated merely on the prior existing relationships between the former VA official and these individuals, since the documentation justifying the benefit is either nonexistent or insufficient.

We found that an OI&T manager misused his position for the private gain of a family member when he helped her obtain employment within OI&T by recommending her to the hiring official. This manager was well aware that the hiring official was desperate for administrative help, and he exploited her need, perceived or otherwise, to the benefit of his family member. In addition, he knew that when he recommended his relative for the position, separate from the competitive review process, he was orchestrating a means for the relative to bypass the competitive process for the position. We also concluded that his relative’s appointment did not comply with merit system principles, was made improperly, and his actions led to his relative’s appointment to a position for which she was not qualified.

In addition, the same manager misused his public office for the private gain of another family member when he advocated to the Austin Human Resource staff for

her appointment and a higher than minimum salary. Furthermore, a former VA official improperly appointed this family member non-competitively under the FCIP at a pay rate above the minimum salary. We found no documentation to justify the appointment at a rate above the minimum.

Prohibited Personnel Practices

Federal law states that recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a workforce from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity. This is the essence of hiring based on merit. The law further provides that any employee, who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment for the purpose of improving or injuring the prospects of any particular person for employment, as well as knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement. The Merit Systems Protection Board defines an "abuse of authority" as an arbitrary or capricious exercise of power by a Federal official or employee that adversely affects the rights of any person or that results in personal gain to preferred other persons.

We found that a VA official abused her authority and engaged in a prohibited personnel practice when she expressed to her subordinates, who were also the rating and selecting officials, that her preference was for them to hire her friend, giving the friend an advantage over other applicants, and when she failed to assure that all applicants received an equal opportunity, in particular those with veterans' preference. The VA official's efforts to hire her friend as her Executive Assistant started when the friend was a contractor employee and the VA official began integrating her into government day-to-day business. The VA official went to the extent of requesting that a position be re-announced so that her friend had an opportunity to apply; closed out the certificate because her friend could not be hired due to a 10-point veteran blocking her; and then planned to hire her as a Supervisory Information Technology (IT) Specialist so that she could later laterally move her into an Executive Assistant position.

Additionally, the VA official expressed to the selecting official, that she "really wanted her friend to come on board," and they developed a plan to hire the friend into a GS-15 Supervisory IT Specialist position under the selecting official's area of responsibility. The selecting official selected the friend as the best qualified for the position based solely on the VA official's recommendation and desire to get the friend "on board" into Federal service; however an independent review of the applicant packages disclosed that the friend was not the best qualified. The friend even admitted to us that she did not have the technical skills necessary for the position and that it made better sense to put her skills to use as an Executive Assistant. Moreover, the VA official did not comply with VA policy when she requested that the friend be appointed at a rate above the minimum based on her qualifications and private sector salary. The VA official's limited justification did not comply with VA policy requiring her to provide a description of her recruitment efforts, a comparison of the friend's qualifications to the other applicants, or the reason for the rate instead of a recruitment incentive.

We found that another VA official abused her authority and engaged in prohibited personnel practices when she preselected three other individuals for GS-15 positions. The selecting official selected the individuals from certificates without taking the required steps to determine the best qualified candidate and with a total disregard for fair and open competition in violation of merit systems principles.

We further concluded that three other OI&T employees abused their authority and engaged in prohibited personnel practices when they knowingly failed to properly process applicant packages for four GS-15 positions. Four individuals were preselected for positions, false spreadsheets were created and backdated, and the preferred candidates were listed on top.

Misuse of Hiring Authorities

Federal Career Intern Program

Executive Order 13162, dated July 6, 2000, authorized the establishment of the FCIP to assist agencies in recruiting and attracting exceptional individuals with a variety of experiences, academic disciplines, and competencies necessary for the ef-

fective analysis and execution of public programs. Federal regulations provide that appointments made under FCIP expire after 2 years; however, civil service status may be granted to career interns who successfully complete their internships and meet all qualification, suitability, and performance requirements. Regulations further state that agencies are required to provide the career interns with formal training and developmental opportunities to acquire the appropriate agency-identified competencies needed for conversion to permanent Federal employment. The U.S. Office of Personnel Management (OPM) Web site states that the benefits to using the FCIP program are that there is no requirement to publically announce the positions; it can be used with a targeted recruitment program; it provides flexibility in training; and that after 2 years, the employee can be noncompetitively converted to a permanent appointment.

VA policy requires that any occupation for which a Career Intern Program is established must lend itself to a formal training and development component. Components of a program should include, but are not limited to, individual development plans, performance standards, position descriptions, rotational assignments, specific skills to be acquired, etc. Policy further states that H.R. personnel, in collaboration with the selecting official/subject matter expert, are required to identify appropriate targeted recruitment sources of candidates with the appropriate background, skills, or education; and develop a career intern formal training and development plan, provided one does not already exist elsewhere within VA for the specific career. Policy also requires H.R. management officers at local facilities to ensure a Career Intern Program complies with policy.

We identified three specific instances of improper appointments to Management Analyst, GS-5 positions under FCIP. We found no evidence that OI&T established a Career Intern Program for Management Analysts or that a formal plan existed for trainees to acquire the appropriate agency-identified competencies needed for conversion to permanent employment. Given the scope of recruitment activities that took place as a result of the 2006 OI&T reorganization efforts and other large scale OI&T hiring initiatives, it appears, based on personnel records reviewed, that OI&T hiring officials made additional improper Management Analyst FCIP appointments and subsequently failed to provide the required 2-year formal training program.

Improper Use of Direct-Hire Authority

Federal law provides agencies with the authority to appoint candidates directly to jobs for which OPM determines that there was a severe shortage of candidates or a critical hiring need. OPM's Web site states that the Direct-Hire Authority (DHA) is an appointment authority that enables an agency to hire, after public notice is given, any qualified applicant without regard to rules requiring competitive rating and ranking, veterans' preference, and "rule of three" procedures.

Federal law permits an agency with delegated examining authority to use DHA for a permanent or non-permanent position or group of positions in the competitive service if OPM determines that there is either a severe shortage of candidates or a critical hiring need for such positions.

We identified four people who were appointed for IT Specialist positions at the GS-5 level under the DHA. However VA's authority for IT Specialists at the GS-5 level expired on June 14, 2004, which was prior to their appointments. We notified VA Central Office's Office of Human Resources of VA's improper use of the DHA to hire these employees. The Director of Central Office Human Resource Service told us that she conferred with the Director of Recruitment and Placement Policy Service, Office of Human Resources Management, and that she verified that VA did not have DHA for any Title 5 positions to include IT Specialists at pay grades below GS-9. We referred the improper use of DHA to the Acting Assistant Secretary for Human Resource and Administration for his immediate review and action.

Improper Funding of Academic Degrees

The Homeland Security Act of 2002 amended the Government Employee Training Act 1958 by expanding an agency's authority to pay or reimburse an employee for the costs of academic degree training. VA employee development policy promulgates this authority and allows an employee to obtain an academic degree at VA expense only when such training contributes to: (1) significantly meeting an identified agency, administration, or staff office training need that is consistent with VA's Strategic Plan; (2) solving an identified agency staffing problem; (3) accomplishing goals in VA's Strategic Human Capital Management Plan; and (4) a planned, systemic, and coordinated program of professional development.

VA training policy stipulates that VA officials exercising this authority must require employees selected to benefit from this provision to sign a continued service agreement prior to training. It also requires that prior to implementing academic degree training, VA officials in implementing offices are to establish a system of records and develop written plans and procedures for: (1) accounting of funds spent for academic degree training and the number of employees and types of programs enrolled in or completed; (2) ensuring competitive procedures for selecting employees for academic degree training are consistent with the requirements of 5 CFR §335; (3) ensuring educational institutions awarding an academic degree are accredited by a nationally recognized body, as recognized by the U.S. Department of Education; and (4) certifying how such training will meet VA training needs, resolve an identified VA staffing problem, or accomplish a VA goal in the VA Strategic Human Capital Management Plan. Finally, VA policy provides that employees may take training from non-Government sources if the following conditions are met: (1) adequate training is not reasonably available by, in, or through a government facility; (2) the training is the most practical and least costly to the government; and (3) the non-Government facility does not discriminate based on race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent.

We found six instances where OI&T managers as well as approving officials, improperly authorized the expenditure of VA funds to pay for academic degrees for OI&T employees. There was no documentation whatsoever to connect the academic training to the individuals' VA position and justify the training. Furthermore, OI&T managers were fiscally irresponsible when they not only authorized \$139,330.88 in improper degree funding, but also by authorizing graduate degree funding at George Washington University (GWU), one of the Nation's most expensive private universities. There is no evidence or documentation that would justify a GWU program or degree over those at other universities in Washington, DC.

OI&T did not have a program, as required by law, to allow VA to pay for academic degrees for its employees. In fact, in order to determine how much VA spent on each employee, we had to issue subpoenas to the universities in question. We found no existing OI&T system of records to account for VA funds spent for academic degree training or for the number of employees and types of programs enrolled in or completed. We found no documentation indicating that OI&T had a Masters Degree Program. We also found no records to reflect that funding was dispersed through a competitive process for selecting employees for academic degree training, ensuring that the educational institutions awarding an academic degree were accredited, or how such training would meet VA training needs, resolve an identified VA staffing problem, or accomplish a VA goal in the VA Strategic Human Capital Management Plan. Further, we found no records to indicate that employees sought their training through a government source or from a source that was the least costly to the government.

Improper Administration of Awards

Federal regulations require Federal employees to act impartially and to not give preferential treatment to any individual. VA policy authorizes awards to recognize individual employees who make contributions in support of the mission, organizational goals and objectives, and VA's Strategic Plan.

The September 4, 2007, OI&T Delegation of Authority Memorandum delegated award approval authority to the Principal Deputy Assistant Secretary (DAS) and various Deputy Assistant Secretaries, Executive Directors, VACO Service Line Directors, and Regional Directors, as well as first and second line supervisors having the authority to approve performance and special contribution awards. Award limits were defined by management levels and further defined by individual and group amounts. The memorandum did not delegate any authority to approve incentive awards to the Director of the Executive Staff. A subsequent January 10, 2008, memorandum rescinded the earlier one, and it issued new award guidance, including the position, Director of the Executive Staff, as an award approving official. Both the 2007 and 2008 memoranda identified the Principal Deputy Assistant Secretary and Deputy Assistant Secretaries as the only individuals authorized to act as both the recommending and approving officials.

OI&T senior managers recognized that there was an OI&T budgetary shortfall, but OI&T managers still spent over \$24 million on awards and retention bonuses in a 2-year time period while working under a deficit. We recognize that OI&T's mass reorganization efforts were the major causes of the deficit; however, we found that not all managers were fiscally responsible when rewarding employees. One former VA official acted as if she was given a blank check book to write unlimited monetary awards. We also found that she failed to properly administer VA awards

policy. Prior to the issuance of the September 2007 and January 2008 memoranda re-delegating the authority to approve awards, the former VA official was not authorized to approve awards; however, she improperly approved numerous awards worth thousands of dollars. Additionally, she violated awards policy when she signed as both the recommending and approving official. Although our investigation focused on these specific allegations, we found similar violations of the awards policy by other OI&T managers.

We found four GS-15s who received about \$60,000, \$73,000, \$58,000, and \$59,000, respectively, over a 2-year period, with some personnel files containing insufficient or questionable justification. We found that various managers gave a GS-14 about \$15,000 within a 9-month time period for the same body of work that was part of his primary job duties. Further, we identified two GS-5s who received 17 percent of the total amount of cash awards given to all GS-5s that year and who received awards for time periods that predated their employment. Additionally, we found a GS-13 employee who within the first 90 days of her employment received a \$4,500 performance award from the former VA official who said that she did not even remember her.

A current and former DAS both told us that they were “stunned” by the total amount of appropriated funds that OI&T spent on awards/bonuses. Although we did not find that the dollar amounts given to each employee violated VA policy, we found that the money spent on many of the annual awards we examined were fiscally irresponsible, and in many cases, highly questionable.

Conclusion

In the two reports, we made over 40 recommendations to the Assistant Secretary for Information and Technology covering the issues discussed in this statement as well as others. He concurred with all of our recommendations and said that he would confer with the Office of Human Resources and Administration and the Office of General Counsel to ensure that appropriate administrative and corrective actions are taken. We will follow up in accordance with our policy to ensure that the recommendations are fully implemented.

Mr. Chairman, this concludes my statement and we would be pleased to answer any questions that you or other Members of the Subcommittee may have on these issues we have presented.

Prepared Statement of Hon. W. Scott Gould, Deputy Secretary, U.S. Department of Veterans Affairs

Mr. Chairman, Members of the Subcommittee, I am accompanied today by John Gingrich, the Chief of Staff, John Sepúlveda, the Assistant Secretary for Human Resources and Administration, and Willie Hensley the Principal Deputy Assistant Secretary for Human Resources and Administration.

I am very pleased at the opportunity to come before you today to provide an overview of the Senior Executive Service (SES) performance management system for the Department of Veterans Affairs (VA).

Let me say that in these 7 months, we have observed that, as a group, VA's Senior Executives are extremely professional and dedicated. They strive every day to deliver the best possible services and medical support to our Nation's Veterans. They are dedicated professionals who desire to move VA into the 21st Century organization that the President has charged Secretary Shinseki with accomplishing.

Today, and for the near future, there are 23.4 million Veterans in this country who have put themselves on the line for our safety and our well-being. Currently, 7.8 million Veterans are enrolled in our medical services system. In 1997, VA developed and distributed enterprise-wide the most comprehensive electronic health record (EHR) system in the country, linking our 153 medical centers to their 768 Community Based Outpatient Clinics (CBOCs), 232 Veterans Centers, as well as outreach and mobile clinics. This EHR, called VistA, makes VA the largest, integrated health care provider in the country.

VA also operates the largest national cemetery system with 130 cemeteries and the Nation's eighth largest life insurance enterprise with \$1.3 trillion in coverage. VA is second only to the Pell grant Program in providing education benefits, totaling \$8 billion annually, and we guarantee nearly 1.3 million individual home loans having an unpaid balance of \$175 billion.

The scope of services delivered through these complex systems makes VA the second largest Federal Department. As such, we require sufficient resources and capa-

bilities to address the needs and expectations of our Veterans. Employees are our most important resource. Our senior executives are directly responsible for the success or failure of these systems and programs and meeting our obligations to Veterans and their families. In 2008, we had approximately 308 career executives and approximately 260,000 employees—1 executive for every 844 employees—one of the smallest executive-to-employee ratios in Federal Government. On a daily basis, our senior executives are responsible for demonstrating the highest levels of performance to fulfill the department’s mission while also effectively managing the performance of a large number of subordinates.

VA operates its performance award system in strict adherence to Federal law and the Office of Personnel Management’s (OPM) policies and procedures in order to ensure accountability, transparency, and the integrity of the system.

With the passage of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108–136), agencies were required to implement a new performance-based pay system which established a clear and direct linkage between executive performance and pay. The system was created based on the premise that, “equal pay should be provided for work of equal value and appropriate incentives and recognition should be provided for excellence in performance.”

The law eliminated the six senior executive pay levels that had been used to set pay for over two decades in favor of an open pay range. Prior to the passage of this Act, senior executives were accustomed to receiving locality pay with annual adjustments and/or annual across-the-board pay increases, which were mandated by Executive Order. After the implementation of the new system, senior executives were no longer afforded locality pay or these adjustments, and they are now required to be evaluated and compensated based strictly on their performance.

While the level of responsibility for our senior executives has not changed, the vast majority of positions have increased in complexity, demands, and scope. Additionally, the manner in which senior executives are compensated for the execution of their duties is more transparent, centralized, accountable and regulated.

Federal regulations (5 CFR 430.301) require agencies to establish performance management systems that hold senior executives accountable for their individual and organizational performance, and to use the results of their performance as a basis for pay, awards, development, retention, removal, and other personnel decisions. Agencies must establish one or more Performance Review Boards (PRBs) to make recommendations to the Secretary on the performance of its senior executives. The names of each PRB member must be published in the Federal Register before he or she can serve on the Board and make recommendations to the Secretary. More than one-half of the PRB members must be career senior executives.

Board members make recommendations to the Secretary on performance appraisals, ratings, awards and pay adjustments. In accordance with Federal regulations [5 CFR 534.405 (c)], performance awards must be at least 5 percent but no more than 20 percent of a career senior executive’s base salary.

In 2007, 3 years after the new system was implemented, OPM and the Government Accountability Office (GAO) conducted an extensive review of VA’s performance management system, and VA leaders subsequently participated in a hearing before this Subcommittee in June 2007.

Those reviews and that hearing, yielded four recommendations for improvements, and established the need for additional consideration of three elements of VA’s senior executive performance evaluation process. The recommendations were:

- Ensure all performance plans focus at least 60 percent on achieving measurable results;
- Revise the VA PRB awards determination process to ensure awards are granted based primarily on individual and organizational performance and results achieved. Discussions within the VA PRB should center on measurable results achieved, and the awards scoring form used by the VA PRB (which leads the discussion and scoring) should more clearly focus on results;
- Train new PRB members on the policies and guidance of the SES PRB process and their role on the PRB. All PRB members should receive refresher training annually; and
- Management guidance issued to PRB members regarding how to consider organizational performance when determining ratings and awards should be made clear to all PRB members. A report summarizing organizational performance should be provided to PRB members with instructions on how to use the information in its deliberations.

The three elements requiring further consideration were:

- Consider during the PRB process, and review by the Secretary, the existence and results of investigations by the VA Inspector General and/or the Office of Medical Investigations;
- Appoint PRB members who are not VA employees; and
- Assess VA SES bonuses in comparison with bonuses awarded at other Federal agencies.

We have fully implemented all of the recommendations, confirmed that the additional three elements are included in our process and made our own internal modifications. As a result of the significant improvements to our system, OPM and the Office of Management and Budget (OMB) have granted full certification of our performance management system through July 21, 2010. The criteria for certification are outlined in the Code of Federal Regulations, and VA has met every one of them. But there is more to be done.

We are committed to continuously improving our senior executive management and further strengthening the linkage between senior executive performance and VA strategic goals and operating plans. As we begin the process for recertification of our system in January 2010, we will be working closely with OPM and OMB staffs to set the highest standards of excellence for our management and performance merit processes.

As mentioned previously, in 2008, we had 308 career executives and approximately 260,000 employees—one executive for every 844 employees. Let me emphasize again that this represents one of the smallest executive-to-employee ratios in Federal Government.

Federal regulations [5 CFR 534.405 (b) (1) (i)] allow agencies to establish a performance awards pool using a maximum of 10 percent of the aggregate career executive salaries. As stated earlier, the individual award must be no less than 5 percent but no more than 20 percent of the senior executive's base pay. Historically, VA has used 9 percent—less than the maximum amount allowed. The award pool for 2008 was 9 percent, or approximately \$4.3 million. Overall, VA salaries were approximately \$10.6 billion. For every \$1 million in salaries, VA awarded just over \$400 in awards in 2008, and a higher percentage (12.7 percent) of the award pool funds were unspent as compared to the funds in 2007.

VA executed our performance merit process with transparency and strict accountability ensuring compliance with guidance from this Committee, OPM, GAO, and Federal statute. There remain areas for improvement, however, which I will discuss later. The justifications for awards and pay adjustments we provided to the Committee a few weeks ago are the product of a more strict and rigorous performance management process compared to previous years.

- VA places great value on honesty and integrity. Thus, we held executives to a higher standard by factoring in any pending administrative investigations. When allegations were substantiated, the SES did not receive any awards. This was the case for three senior executives in 2008.
- VA ramped up the criteria for performance awards. The statute allows senior executives who are rated at the fully successful level or higher to be considered for performance awards. VA, among a handful of agencies, only considered those senior executives rated at the excellent or outstanding level to be eligible for performance awards. Therefore, senior executives who were fully successful did not receive performance awards last year; this constitutes approximately 11 percent of the total senior executive pool. In most instances, newly appointed senior executives during their period of probation are rated at the fully successful level and therefore do not receive performance awards. This results from the fact that new senior executives generally have not had sufficient time to make significant contributions to their organization.
- VA prudently used our financial resources in 2008 by:
 - reducing the maximum pay adjustment percentage allowed for senior executives who were rated at the fully successful from 5 percent to 3 percent, and excellent from 7 percent to 6 percent. Performance awards are one-time payments, but pay adjustments are long-term and factor into an executive's retirement. As a result, our reduction in percentages makes an even greater impact on VA's financial resources than the immediate reductions in award caps.
 - instituting an internal cap on the total performance-based compensation (awards and adjustments) that senior executives could receive in 2008. The total amount for performance awards and pay adjustments was capped at \$35,000, with the maximum performance award amount not to exceed \$30,000 for any senior executive. By comparison, the statutory

limit for the performance award alone was \$34,440. By implementing this cap, for example, a senior executive who received a \$30,000 performance award could receive up to a \$5,000 pay adjustment. All of the awards were reviewed and many were adjusted at the PRB level before reaching the Secretary for review and approval.

- making meaningful distinctions between senior executive positions and responsibilities. VA places senior executives into one of three pay bands. A senior executive's salary is capped at the maximum limit for his or her respective pay band. The maximum salary for an executive is currently \$177,000, and approximately 34 percent of our senior executives are in the most complex positions that justify being in band one with the potential of earning this amount.

For 2008 these limitations restricted senior executives to \$35,000 for performance-based pay, which is below the potential performance-based pay of \$60,000 or more.

In addition, some of our newly appointed senior executives, with broader spans of control and greater responsibilities, earn less than high level General Schedule employees (i.e., Grade 15 non-executives) with less control and responsibility. This occurs because, unlike General Schedule employees, senior executives are not eligible for across-the-board pay increases, periodic or accelerated step increases, or locality pay as mentioned previously.

VA is very appreciative of the recommendations from the Subcommittee, OPM, and GAO. As we have described, these recommendations, as well as our internal performance policy guidance, have resulted in more accountability for every SES member; enhanced the credibility and integrity of our system; and, promoted excellence in support of our Nation's Veterans and their families.

While we are here today to discuss last year's process, I must stress we have and plan to take actions that will produce more visibility and accountability for the future.

We are currently preparing for the FY 2009 process by benchmarking other Federal agencies for best practices, and drafting end-of-annual performance appraisal instructions as well as award and pay adjustment guidelines.

VA will continue to seek guidance from OPM and OMB on ways to continuously improve our system through:

- Training;
- Strengthening adherence to OPM's criteria for certification;
- Ensuring fairness and equity for all executives in the performance management process; and
- Linking FY 2010 performance plans to VA operating plans.

We are adding additional oversight. All senior executive actions will be critically reviewed by the Assistant Secretary for Human Resources and Administration, who is also the department's Chief Human Capital Officer, before being forwarded to the Chief of Staff and eventually through the Deputy Secretary to the Secretary for final approval. Every Performance Review Board recommendation regarding senior executive performance awards and/or pay adjustment recommendations is reexamined. As part of that reexamination, every PRB recommendation is weighed against measurable organizational results, including reports from the Offices of the Inspector General, General Counsel, Medical Investigations, Resolution Management and public scrutiny.

The Assistant Secretary for Human Resources and Administration will also serve as the Chair of the Performance Review Board to ensure that all performance actions are aligned with Federal law and OPM criteria.

As one last verification, the Secretary has charged the Chief of Staff to personally interview all individuals who are recommended for senior executive positions in the department prior to approval. This ensures consistency across the department in several areas including: understanding VA's strategic direction; their responsibility as senior executives to successfully perform at the executive level; and the need to demonstrate the character and integrity that the public deserves from all civil servants.

We are standing up a Corporate SES Management Office to better manage and oversee all SES recruiting, retention, assignments, promotions, incentives, and awards to more effectively develop and maintain standards for performance of senior leaders throughout VA. The Corporate Office will be responsible for implementing leadership training and a new certification program for senior executives. The program will require senior executives to receive leadership training and development and demonstrate that they have the knowledge, skills, and abilities to con-

tinue to operate at the executive level. VA's senior executives will be certified every 3 years.

The Corporate Office will also be responsible for managing the Senior Executive Candidate Development Program, which is a formally structured developmental program designed to establish the bench strength in our executive talent pool. High performing General Schedule employees are chosen for the program through a rigorous selection process. From 2008 to 2009, approximately 337 individuals have applied to VA's program and 60 were selected. Upon completion of the program and certification by OPM, graduates are eligible for noncompetitive appointments to senior executive positions. We are committed to using the program as an effective tool to increase diversity in the leadership ranks and to mirror the diversity across the department. We are making progress in this area as approximately 15 percent of the program participants for 2008 and 2009 are African American, 3 percent are Hispanic, and 2 percent are Pacific Islanders. Overall, 50 percent of the participants are female.

We are also holding our SES' accountable for personal actions. For those who do not perform, we take the proper procedures to either improve deficiencies or remove the individual from the SES ranks.

Secretary Shinseki is committed to transforming VA into a "People-centric, Results-driven, and Forward-looking" department. In this regard, he will continue to use performance-based pay as a way to recognize those executives who make significant contributions to the transformation of VA. We will hold every senior executive accountable for achieving measurable results. Senior executives who excel, while maintaining the highest degree of public trust, confidence, honesty and integrity, will be rewarded within the Federal guidelines established.

Thank you for your time and interest to better serve our Nation's Veterans. I look forward to your questions.

MATERIAL SUBMITTED FOR THE RECORD

Committee on Veterans' Affairs
Subcommittee on Oversight and Investigations
Washington, DC.
September 25, 2009

Honorable George J. Opfer
Inspector General
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Inspector General Opfer:

Thank you for the testimony of the James J. O'Neill, Assistant Deputy Inspector General for Inspections, Office of Inspector General, Joseph G. Sullivan, Jr., Deputy Assistant Inspector General for the Office of Investigations, Office of Inspector General, and Michael R. Bennett, Attorney Advisor for the Office of Investigations, Office of Inspector General, at the U.S. House of Representatives Committee on Veterans' Affairs Subcommittee on Oversight and Investigations hearing that took place on September 23, 2009 on "Senior Executive Service Bonuses and Other Administrative Matters at the U.S. Department of Veterans Affairs." Please provide answers to the following questions by COB on Tuesday, November 3, 2009, to Todd Chambers, Legislative Assistant to the Subcommittee on Oversight and Investigations.

1. There is a concern that many of the allegations made in the two reports detailed in the VA OIG testimony may also be occurring in other offices within the VA. Has the Inspector General received any other hotline reports or allegations of abuse within the scope of hiring and personnel practices at the Department of Veterans Affairs? Are the instances relayed in the reports from August the most egregious you have seen at the department?

Thank you again for taking the time to answer these questions. The Committee looks forward to receiving your answers. If you have any questions concerning these questions, please contact Subcommittee on Oversight and Investigations Majority Staff Director, Martin Herbert, at (202) 225-3569 or the Subcommittee Minority Staff Director, Arthur Wu, at (202) 225-3527.

Sincerely,

Harry E. Mitchell
Chairman

David P. Roe
Ranking Republican Member

MH/tc

[An identical letter was sent to Hon. David P. Roe, Ranking Republican Member, Subcommittee on Oversight and Investigations, Committee on Veterans' Affairs.]

U.S. Department of Veterans Affairs
Office of Inspector General
Washington, DC.
November 2, 2009

Hon. Harry E. Mitchell
Chairman
Subcommittee on Oversight and Investigations
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

This is in response to your September 25, 2009, letter following the September 23, 2009, hearing on *Senior Executive Service Bonuses and Other Administrative Matters at the U.S. Department of Veterans Affairs*. Enclosed is our response to the additional hearing question. This information has also been provided to Congressman David P. Roe, Ranking Republican Member, Subcommittee on Oversight and Investigations.

Thank you for your interest in the Department of Veterans Affairs.

Sincerely,

GEORGE J. OPFER
Inspector General

Enclosure

**Questions for the Honorable George J. Opfer Inspector General,
U.S. Department of Veterans Affairs Before the Subcommittee
on Oversight and Investigations Committee on Veterans' Affairs
United States House of Representatives Hearing on Senior
Executive Service Bonuses and Other Administrative Matters
at the U.S. Department of Veterans Affairs**

Question 1: There is a concern that many of the allegations made in the two reports detailed in the VA Office of Inspector General (OIG) testimony may also be occurring in other offices within the VA. Has the Inspector General received any other hotline reports or allegations of abuse within the scope of hiring and personnel practices at the Department of Veterans Affairs? Are the instances relayed in the reports from August the most egregious you have seen at the department?

Response: In the past 2 years, the OIG opened 34 cases alleging abuse in hiring and personnel practices. Of the 34 cases opened, 4 were substantiated. Details on these cases are available to the Subcommittee upon request. Since we issued the reports on the Office of Information and Technology in August, we have opened four cases. The instances in the August reports are the most egregious that we have seen at VA.

Committee on Veterans' Affairs
Subcommittee on Oversight and Investigations
Washington, DC.
September 25, 2009

Honorable Eric K. Shinseki
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary Shinseki:

Thank you for the testimony of the Honorable W. Scott Gould, Deputy Secretary, U.S. Department of Veterans Affairs, John Gingrich, Chief of Staff, U.S. Department of Veterans Affairs, the Honorable John U. Sepúlveda, Assistant Secretary for Human Resources and Administration, U.S. Department of Veterans Affairs, and Willie Hensley, Principal Deputy Assistant Secretary for Human Resources and Administration, U.S. Department of Veterans Affairs at the U.S. House of Representatives Committee on Veterans' Affairs Subcommittee on Oversight and Investigations hearing that took place on September 23, 2009 on "Senior Executive Service Bonuses and Other Administrative Matters at the U.S. Department of Veterans Affairs."

Please provide answers to the following questions by COB on Tuesday, November 3, 2009, to Todd Chambers, Legislative Assistant to the Subcommittee on Oversight and Investigations.

1. Have any OI&T employees implicated in the OIG report, *Administrative Investigation Nepotism, Abuse of Authority, Misuse of Position, Improper Hiring, and Improperly Administered Awards, OI&T, Washington, DC*, Report Number 09-01123-196 (8/18/2009), recently been promoted?
 - a. If so, has Assistant Secretary Sepúlveda been made aware of this promotion?
2. Will you commit to do a top down audit throughout the entire VA system to scrutinize whether other overt acts of nepotism exist?
 - a. If so, when can this Subcommittee expect the audit to commence, and when can we expect to read this result?

3. The Subcommittee is troubled by the fact that Assistant Secretary Sepúlveda does not have direct line authority to the other heads of Human Resources (HR) from the other Administrations within VA. In your opinion, does this organizational structure pose a problem?
 - a. If *so*, please explain the challenges that the current HR organizational structure poses.
 - b. If *not*, please defend your position as to why the current HR structure, Assistant Secretary Sepúlveda not having direct line authority to other heads of HR system-wide, is adequate.
4. How many FTEs does the office of the Assistant Secretary for Human Resources and Administration currently have available?
 - a. Out of these positions, how many are currently filled?
 - b. Do they currently possess the expertise, resources, and support to conduct an audit system-wide of how pervasive nepotism is in VA?
5. Regarding minority hiring trends in VA, please articulate the strategic plan you have in place that you will implement to recruit and include more minorities in middle and upper management, and within the Senior Executive Service.
 - a. When will this plan be executed?
 - b. When do you foresee seeing tangible improvements?
6. VA-wide, how many minorities currently are SES certified?
 - a. Please list information by percentages; break down by race/ gender, and departments within VA.
7. In VA OIG's recent report, *Administrative Investigation Nepotism, Abuse of Authority, Misuse of Position, Improper Hiring, and Improperly Administered Awards, OI&T, Washington, DC*, Report Number 09-01123-196 (8/18/2009), the IG criticized the Federal Career Intern Program (FCIP). What assurances can you articulate to give this Subcommittee confidence that these programs, as well as others similarly situated, are not being abused?
 - a. What oversight measures do you have in place to ensure that the FCIP and other programs similarly situated are not being abused?
 - b. What oversight improvements will you initiate, if any?
8. In the two reports issued in August, there were a total of 45 recommendations by the Office of Inspector General. Eleven of these recommendations were expected to be addressed and completed by September 19, 2009; the other thirty-four recommendations were expected to be completed by October 15, 2009. Has VA addressed the first eleven recommendations, and is VA on target to address the remaining recommendations on time?
9. Federal Regulation [5 CFR 430.301] establishes the guidelines in which an agency is required to establish a performance management system. How many members are normally chosen to sit on the Performance Review Board (PRB) and how many PRB's are selected to advise the Secretary?
10. What criteria are given to the board, in order to establish the 5-20 percent performance award?
11. If a senior executive meets fully successful criteria but does not perform beyond their executive duties, why is a performance award given?

Thank you again for taking the time to answer these questions. The Committee looks forward to receiving your answers. If you have any questions concerning these questions, please contact Subcommittee on Oversight and Investigations Majority Staff Director, Martin Herbert, at (202) 225-3569 or the Subcommittee Minority Staff Director, Arthur Wu, at (202) 225-3527.

Sincerely,

Harry E. Mitchell
Chairman

David P. Roe
Ranking Republican Member

MH/tc

**DEPARTMENT OF VETERANS AFFAIRS RESPONSE TO ADDITIONAL
QUESTIONS FROM SEPTEMBER 23, 2009 HEARING, SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS, HOUSE COMMITTEE ON
VETERANS' AFFAIRS**

Question 1: Have any OI&T employees implicated in the OIG report, *Administrative Investigation Nepotism, Abuse of Authority, Misuse of Position, Improper Hiring, and Improperly Administered Awards, OI&T, Washington, DC*, Report Number 09-01123-196 (8/18/2009), recently been promoted? If so, has Assistant Secretary Sepúlveda been made aware of this promotion?

Response: Since the beginning of the investigation, VA has carefully reviewed personnel and payroll data and confirmed that no employee implicated in this Office of Inspector General (OIG) report has been promoted.

Question 2: Will you commit to do a top down audit throughout the entire VA system to scrutinize whether other overt acts of nepotism exist? If so, when can this Subcommittee expect the audit to commence, and when can we expect to read this result?

Response: At this time, the Department does not believe that an audit is necessary, as this was an unusual, isolated incident precipitated by a senior aide to the previous Assistant Secretary. There is no evidence or information that suggests that this is a widespread problem; in fact, the Department's Human Resources Office was already reviewing the Office of Information and Technology's hiring practices, including allegations of possible nepotism and other prohibited personnel practices, when it was asked by the OIG to provide the results of inquiries for review by OIG investigators. VA takes this matter seriously and will continue to address any possible prohibited personnel actions. We continue to work with field human resources staff to train, educate, and inform them of prohibited personnel practices and the importance of monitoring and identifying prohibited actions. The Department will look at bolstering its human resources oversight and compliance program.

Question 3: The Subcommittee is troubled by the fact that Assistant Secretary Sepúlveda does not have direct line authority to the other heads of Human Resources (HR) from the other Administrations within VA. In your opinion, does this organizational structure pose a problem? If so, please explain the challenges that the current HR organizational structure poses. If not, please defend your position as to why the current HR structure, Assistant Secretary Sepúlveda not having direct line authority to other heads of HR system-wide, is adequate.

Response: The Department's Office of Human Resources and Administration staff coordinate with human resource leaders in each Administration and field office to accomplish the human resources goals and objectives of the Department. Before considering changing current organizational structure, the Department will implement training for human resources professionals to create consistency and standardization in the application of personnel programs; strengthen its audit and compliance review processes; and enhance the working relationships with human resources leaders from each of the Administrations. We will monitor and assess the effectiveness of these efforts before instituting organizational changes or alignments. In addition, the Department's present Human Resources program is heavily manual/paper-based with outdated personnel systems. Ongoing automation initiatives will provide integrated human resources systems. Such systems are essential to a consolidated, standardized, cost effective human resources program.

Question 4: How many FTEs does the office of the Assistant Secretary for Human Resources and Administration currently have available? Out of these positions, how many are currently filled? Do they currently possess the expertise, resources, and support to conduct an audit system-wide of how pervasive nepotism is in VA?

Response: The Office of Human Resources and Administration is currently budgeted for 534 FTE, and the most recent data reflects 522 positions filled. The audit team within the Office of the Assistant Secretary for Human Resources and Administration possesses the expertise and experience to conduct audits and review hiring practices. While it has the capability to do audits each year, it cannot conduct a system-wide audit with existing resources. However, the Department does not believe a system-wide audit into nepotism is necessary, as this was an unusual, isolated incident precipitated by a senior aide to the previous Assistant Secretary.

Question 5: Regarding minority hiring trends in VA, please articulate the strategic plan you have in place that you will implement to recruit and include more

minorities in middle and upper management, and within the Senior Executive Service. When will this plan be executed? When do you foresee seeing tangible improvements?

Response: The VA issued its first 5-year Department-wide Diversity and Inclusion Strategic Plan in February of 2009. It is one of the first and few such diversity-focused strategic plans in Federal Government. The plan contains specific goals, objectives, strategies, and performance targets and metrics aimed at eradicating barriers to equal opportunity and promoting diversity and inclusion at all levels of the VA workforce, including middle and senior management. A framework for monitoring the implementation of this Plan was incorporated in the VA's Annual EEO Report, required by EEOC Management Directive 715. The Department has already taken proactive steps to implement these strategies and hold every senior executive accountable through a mandatory performance element in all senior executive performance plans expressly linked to the Diversity and Inclusion Strategic Plan.

The Department is making steady progress in eliminating potential barriers to women and minorities in its workforce. From Fiscal Year 1999 to Fiscal Year 2009, the on-board representation of minorities grew from 36.3 to 38.6 percent, a difference of almost 35,000 employees. Our analysis showed no statistically significant disparity in promotion rates among women and minority groups. Finally, minority representation in the leadership ranks grew from 11.7 to 17.8 percent over the same 10-year period. To continually improve on our commitment to diversity and inclusion, we are developing executive talent in the Department through our Senior Executive Service (SES) Candidate Development Program. This is a formally structured 18-to-24 month program that prepares high performing non-SES employees at the GS-14 and GS-15 levels for future positions in the SES corps. We also have established leadership development programs for the next level in the organization to develop a diverse group of employees and prepare them to compete for SES positions. We have implemented targeted outreach initiatives, and we participate in several internship programs as a way to identify potential talent, bring them into the workforce pipeline at the lower level, and groom them for potential opportunity in the SES. We anticipate measurable improvement in all these areas within 3 years.

Question 6: VA-wide, how many minorities currently are SES certified? Please list information by percentages; break down by race/ gender, and departments within VA.

Response: All of VA's SES are certified. Currently, 10 percent of our Senior Executives are Black, 1 percent American Indian, 3 percent Asian/Pacific Islander, 2 percent Hispanic, 2 percent identified with Nation origins, and 82 percent are White. Please see additional details in the attached chart. [The chart has been retained in the Committee files.]

Question 7: In VA OIG's recent report, *Administrative Investigation Nepotism, Abuse of Authority, Misuse of Position, Improper Hiring, and Improperly Administered Awards, OI&T, Washington, DC*, Report Number 09-01123-196 (8/18/2009), the IG criticized the Federal Career Intern Program (FCIP). What assurances can you articulate to give this Subcommittee confidence that these programs, as well as others similarly situated, are not being abused? What oversight measures do you have in place to ensure that the FCIP and other programs similarly situated are not being abused? What oversight improvements will you initiate, if any?

Response: The Department has established a comprehensive policy that covers the Federal Career Intern Program (FCIP), 5 CFR §213.3202(o). The VA policy is explained in VA Handbook 5005, *Appointments*, Part II, Chapter 2. Human resources professionals have been reminded of their responsibility to advise management officials on the policies and procedures governing FCIP. HR field officials have also been tasked to monitor the use of the FCIP and other hiring authorities. Currently, compliance with FCIP policies is one of many hiring authorities that are reviewed during human resources audits. As an oversight improvement, we are looking to bolster the number of oversight and compliance reviews conducted annually.

Question 8: In the two reports issued in August, there were a total of 45 recommendations by the Office of Inspector General. Eleven of these recommendations were expected to be addressed and completed by September 19, 2009; the other thirty-four recommendations were expected to be completed by October 15, 2009. Has VA addressed the first eleven recommendations, and is VA on target to address the remaining recommendations on time?

Response: An updated response is being sent under separate cover due to the sensitivity and confidentiality of the material. [The information was received by the Committee staff and will be retained in the Committee files.]

Question 9: Federal Regulation [5 CFR 430.301] establishes the guidelines in which an agency is required to establish a performance management system. How many members are normally chosen to sit on the Performance Review Board (PRB) and how many PRB's are selected to advise the Secretary?

Response: VA has 3 PRBs (Veterans Affairs (VA), Veterans Benefits Administration (VBA), and Veterans Health Administration (VHA)). The VA PRB (with 11 current members) is the overarching board that provides instructions and guidelines to the VBA (8 current members) and VHA PRBs (20 current members).

Question 10: What criteria are given to the board, in order to establish the 5-20 percent performance award?

Response: In accordance with 5 CFR § 534.405(c), a performance award may not be less than 5 percent nor more than 20 percent of a career senior executive's base pay. Board members receive training on performance management which includes balancing organizational results against individual accomplishments; a briefing on the Department's performance for the fiscal year; and a copy of the performance plan and appraisal for each senior executive recommended for an award. Using this information, board members make recommendations on the ratings, award percentages within statutory limits, and pay adjustments for senior executives. Board members cannot participate in discussions related to their own ratings, awards, and pay adjustments.

Question 11: If a senior executive meets fully successful criteria, but does not perform beyond their executive duties, why is a performance award given?

Response: Although 5 U.S.C. § 5384 encourages the recognition of executives whose performance is at the fully successful level, VA's policy restricts performance awards to senior executives who exceed the fully successful criteria. Therefore, the Department only considers performance awards for those senior executives who have exceeded the fully successful criteria by receiving either an Excellent or Outstanding rating.

