



Department of Veterans Affairs Office of Inspector General

Administrative Investigation Nepotism, Abuse of Authority, Misuse of Position, Improper Hiring, and Improperly Administered Awards, OI&T, Washington, DC



DEPARTMENT OF VETERANS AFFAIRS
Office of Inspector General
Washington, DC 20420

TO: Assistant Secretary for Information and Technology

SUBJECT: Administrative Investigation – Nepotism, Abuse of Authority, Misuse of Position, Improper Hiring, and Improperly Administered Awards, OI&T, Washington, DC (2009-1123-IQ-0049)

Summary

We substantiated that Ms. Jennifer S. Duncan, former Executive Assistant to the former Assistant Secretary for Information and Technology, Mr. Robert Howard, engaged in nepotism when she improperly advocated for the hiring and advancement of [REDACTED] within VA Office of Information and Technology (OI&T). We also substantiated that she abused her authority and engaged in prohibited personnel practices when she improperly hired an acquaintance and friend and at a rate above the minimum rate of pay. Further, we found that Ms. Duncan's [REDACTED], misused her own position for the private gain of [REDACTED]. We also substantiated that [REDACTED], misused his position for the private gain of his [REDACTED] and [REDACTED] when he advocated for their VA appointments and (b)(6) his [REDACTED] above the minimum rate of pay. We further substantiated that [REDACTED] did not testify freely and honestly in matters relating to his employment and that he failed to properly discharge the duties of his position. Additionally, we substantiated that OI&T Managers improperly authorized academic degree funding for Ms. Duncan's family and friends and for [REDACTED]; that they improperly utilized the Federal Career Intern Program (FCIP) and the Direct Hire Authority (DHA) to appoint Ms. Duncan's family and friends; and that they were not fiscally responsible when they improperly administered awards.

Introduction

The VA Office of Inspector General Administrative Investigations Division investigated allegations that Ms. Duncan improperly hired relatives and friends and that [REDACTED] and [REDACTED] improperly hired relatives. To assess these allegations, we obtained sworn testimony from Ms. Duncan, [REDACTED], their respective friends and (b)(6) family members, Mr. Howard, and other VA and non-VA employees. We also reviewed official personnel, recruitment, academic, email, and other relevant files, Federal laws, regulations, and VA policy.

Background

We are providing this background section to establish the relationships between the individuals named within the report. Due to family members having the same last name, we refer to some employees by their given rather than their family name to help the reader more easily identify them.

Ms. Jennifer S. Duncan – Hereafter referred to as Ms. Duncan

In March 2003, Ms. Jennifer S. Duncan (Ms. Duncan) was laterally reassigned from an Executive Assistant position within OI&T to a Program Management Officer, GS-0343-15, position located within the Assistant Secretary for Information and Technology's office. In January 2009, she was detailed to the position of Acting Deputy Director of OI&T's Office of IT Oversight and Compliance (ITOC) and remained in that position until her retirement in April 2009. Although her official title, prior to January 2009, was Program Management Officer, Ms. Duncan performed duties as the Executive Director of the Executive Staff and Executive Assistant to Mr. Howard. As the "gatekeeper" for Mr. Howard, Ms. Duncan's duties included the typical responsibilities of a Chief of Staff, which we discuss further in Issue 1. Ms. Duncan told us that Mr. Howard gave her his full signature authority; however, Mr. Howard told us that he never gave Ms. Duncan unfettered authority to sign on his behalf.

██████████ – Hereafter referred to as ██████████ (b)(6)

██████████ is Ms. Duncan's ██████████. In September 2003, ██████████ entered VA service in OI&T via the Federal Career Intern Program (FCIP) managed by ██████████ and was non-competitively appointed to an IT Specialist GS-2210-05 position within OI&T. ██████████ received several career ladder promotions (b)(6) during her tenure and is currently a GS-13. While employed in OI&T, ██████████ obtained a Masters of Science degree from The George Washington University at VA expense.

██████████. – Hereafter referred to as ██████████

██████████ is Ms. Duncan's ██████████. In September 2007, while a full-time student attending South Charleston University in South Carolina, ██████████ was non-competitively appointed to a VA OI&T position under the FCIP program as a Management Analyst, GS-0343-05. As a full time FCIP trainee assigned to VA Central Office, ██████████ continued to live and attend college in South Carolina, over 500 miles (b)(6) from his worksite. After he graduated in December 2007, he began working in the Washington, DC, area, and in May 2008, ██████████ was converted to career-conditional status and appointed to a GS-05 IT Specialist position within OI&T.

██████████ – Hereafter referred to as ██████████

██████████ is the ██████████ of ██████████ friend, and as a result, Ms. Duncan’s social acquaintance. In July 2005, Ms. Duncan hired ██████████ as a Program Support Assistant, GS-0303-11, step 10, and ██████████ became the Administrative Assistant to a former Assistant Secretary for Information and Technology. Prior to her VA appointment, ██████████ was a mortgage loan officer in the private sector. Ms. Duncan promoted ██████████ twice, and ██████████ is currently a GS-0343-13, Management Analyst in OI&T, working in the immediate office of the Assistant Secretary for Information and Technology. (b)(6)

██████████ – Hereafter referred to as ██████████ (b)(6)

██████████ has been Ms. Duncan’s close personal friend since 1970 or 1971, and she is the ██████████ to Ms. Duncan’s ██████████, who are employed by VA. In January 2007, Ms. Duncan hired ██████████ as an IT Specialist, GS-2210-05, Step 4, and ██████████ works remotely from her residence in ██████████. Prior to her VA employment, ██████████ worked as a senior business staff member in a private medical practice.

██████████ – Hereafter referred to as ██████████

██████████ is ██████████ childhood friend, and she is ██████████. In October 2004, ██████████ entered VA service within OI&T via the FCIP program established by Ms. Duncan, and ██████████ was non-competitively appointed to an IT Specialist, GS-2210-07 position. In October 2007, ██████████ changed career fields, and is currently employed at Veterans Health Administration (VHA) as a Management Analyst, GS-0343-13. While employed in OI&T, ██████████ obtained a Masters of Science Degree from The George Washington University at VA expense. (b)(6)

██████████ – Hereafter referred to as ██████████

██████████ is ██████████ childhood friend. In September 2003, ██████████ entered VA service via the FCIP program established by Ms. Duncan, and she was non-competitively appointed to an IT Specialist, GS-2210-07, position within OI&T. ██████████ was hired the same day as ██████████ ██████████ received career ladder promotions annually, and she is currently a GS-13 serving on the Executive Staff of the Assistant Secretary for Information and Technology. While employed in OI&T, ██████████ obtained a Masters of Science degree from The George Washington University at VA expense. (b)(6)

██████████ – Hereafter referred to as ██████████

██████████ is ██████████ college friend. In March 2007, ██████████ was non-competitively appointed under the FCIP program to a Management Analyst, GS-0343-07 position within OI&T. During his first 5 months of employment within OI&T, ██████████ lived with the Duncan family. ██████████ has since been promoted to GS-11. ██████████ is currently pursuing a Masters of Business Administration degree from Norwich University at VA expense. (b)(6)

██████████ – Hereafter referred to as ██████████

██████████ is the son of an acquaintance of Ms. Duncan. In February 2007, Ms. Duncan appointed ██████████ to an IT Specialist, GS-2210-05 position within OI&T. ██████████ has since been promoted to GS-9. He is pursuing a Masters of Science degree from The George Washington University at VA expense.

██████████ – Hereafter referred to as ██████████

██████████ was first employed by VA in December 2001 in the VA Central Office (VACO) Human Resources (HR) Service as an HR Assistant, specializing in classification and staffing. In August 2004, ██████████ became a Supervisory Management Analyst, GS-0343-14 position, and he assumed the title and duties as ██████████. (b)(6)

██████████ – Hereafter referred to as ██████████

██████████. In October 2006, ██████████ was appointed non-competitively to a Program Specialist, GS-0301-09 position within OI&T. Previously she was a Secretary, GS-07, at the Securities and Exchange Commission. She has since been promoted to GS-11 within OI&T.

██████████ – Hereafter referred to as ██████████

██████████ is ██████████. In April 2007, Ms. Duncan, using the FCIP program, non-competitively appointed ██████████, at a higher than minimum rate of pay, to a Management Analyst, GS-0343-09, Step 7, position within OI&T. Prior to her VA employment, ██████████ worked in the private sector specializing in the field of information (document) security. (b)(6)

██████████ – Hereafter referred to as ██████████

██████████ a GS-14, was Ms. Duncan’s ██████████ assigned to the Executive Staff of the Assistant Secretary for information and Technology at the time (b)(6) that Ms. Duncan was the Program Management Officer/EA to Mr. Howard.

██████████ – Hereafter referred to as ██████████

██████████ is ██████████. In February 2007, ██████████ was appointed by Ms. Duncan, using Direct Hire Authority, to an IT Specialist, GS-2210-05 position within OI&T. Since then, Ms. Duncan promoted ██████████ to GS-07.

██████████ – Hereafter referred to as ██████████

██████████ is ██████████. In June 2008, ██████████ began his VA career as an OI&T Summer Intern. On October 1, 2008, ██████████ received an Excepted Service appointment in OI&T as a ██████████, and on October 12, he received a subsequent Excepted Service appointment in OI&T as a ██████████ in Information Arts, ██████████. He is still in that position.

██████████ – Hereafter referred to as ██████████

██████████. In February 2007, Ms. Duncan appointed ██████████, using Direct Hire Authority, to an IT Specialist, GS-2210-05 (b)(6) position within OI&T. ██████████ has since been promoted to GS-07.

Results

Issue 1: Whether Ms. Duncan Misused Her Position and Engaged in 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. 5 USC § 3110. 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. *Id.* In a 2006 decision, the U.S. Merit System Protection Board (MSPB) stated that, “A reasonable person in the appellant’s position could believe that [a public official] was violating 5 USC § 2302(b)(7) and 3110 by employing her son and/or assisting in the advancement of her son by giving him preferential treatment in training....” *Hudson v. Department of Veterans Affairs*, 104 MSPR, 283, 289 (2006).

Federal law requires that the recruitment, selection, and advancement of Federal employees be based on merit after fair and open competition. 5 USC § 2301(b). The law defines a public official as an employee and any other individual in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency. 5 USC § 3110 (a)(2). The law also stipulates that “an individual appointed, employed, promoted, or advanced in violation of this section is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed employed, promoted, or advanced.” 5 USC § 3110 (c).

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. 5 CFR § 2635.702.

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; that money shall not be paid from the Treasury as pay to an individual appointed, employed, promoted, or advanced in violation of this section; and that “(e)xtreme 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 organization element or chain of command. VA Handbook 5025, Part VII, Paragraph 3.

Background

In 2003, a former Assistant Secretary for Information and Technology (CIO) approved Ms. Duncan’s lateral reassignment from an Executive Assistant position to a Program Management Officer position located within the Office of the Assistant Secretary, Information and Technology (OI&T). Although her title was Program Management Officer, Ms. Duncan’s duties included the responsibilities typically carried out by a Chief of Staff, as reflected in her 2003 and 2004 Performance Appraisals, which highlighted her ability to communicate assignments from the CIO to the OI&T staff. Further, senior officials within OI&T referred to Ms. Duncan as the OI&T Chief of Staff. Mr. Howard, whose tenure ended in January 2009, told us that Ms. Duncan was his “de-facto Chief of Staff,” because OI&T was not authorized to have a Chief of Staff due to Senior Executive Service (SES) limitations. Moreover, Ms. Duncan frequently signed correspondence and email with the title “Chief of Staff” affixed below her name.

Ms. Duncan had substantial involvement in establishing and staffing OI&T's Information Security Officer (ISO) FCIP. In 2003 and 2004, she was recognized for her development of "the highly successful OI&T Intern Program," and in 2006 and 2007, she was commended for volunteering "to take on and lead the Human Resources (HR) hiring/staffing component of the ISO Intern Program." Ms. Duncan's [REDACTED], and [REDACTED], entered Federal service in 2003 and 2007, respectively, via the VA OI&T FCIP program that Ms. Duncan established. (b)(6)

Ms. Duncan's Improper Involvement in [REDACTED] VA Appointment

On September 21, 2003, Mr. Thomas Barritt, who at that time was the Director of OI&T HR Career Development and a direct subordinate of Ms. Duncan, appointed [REDACTED] to an OI&T position under the FCIP program. Ms. Duncan told us that she had minimal involvement with the FCIP program; that it was Mr. Barritt's program; and that she could not comment on it. As previously stated, Ms. Duncan played a significant role in establishing the OI&T FCIP program, and Mr. Barritt confirmed that Ms. Duncan was heavily involved in the program. He further said that, although Ms. Duncan told him that [REDACTED] submitted an application for FCIP, he felt that his selection of [REDACTED] was merit based and not influenced by Ms. Duncan. He acknowledged however that others, due to his reporting relationship with the [REDACTED], might perceive the [REDACTED] selection differently. In fact, Ms. Duncan advised her subordinate, Mr. Barritt, that [REDACTED] was seeking employment in OI&T in the FCIP program, and it is difficult to imagine a subordinate who would not be influenced in such a situation. (b)(6)

Six months after [REDACTED] FCIP appointment, Ms. Duncan signed "for" the then Deputy Associate Deputy Assistant Secretary (DADAS) as the individual preparing the performance standards on [REDACTED] initial 2003-2004 performance evaluation. While this was not an actual appraisal, it did establish [REDACTED] evaluation standards. Two weeks later, on April 1, 2004, Mr. Barritt gave [REDACTED] a "successful" rating of record for the reporting year.

Ms. Duncan's Improper Involvement in [REDACTED] VA Career

On August 31, 2006, [REDACTED] forwarded an email string to Ms. Duncan describing how a supervisor denied her request for a work schedule change to make it easier for her to attend evening graduate courses. [REDACTED] told us that she forwarded the emails to [REDACTED] as a way of "venting" about her "boss" and "was not necessarily looking for action" on [REDACTED] part. To the contrary, we found that [REDACTED] wrote to Ms. Duncan, "FYI - -, " signing it with "Thanks." Ms. Duncan then forwarded the email string to Mr. Barritt, acknowledging that she should not interfere, but stating "don't you think this is abit [sic] too much???" A short time later, Ms. Duncan forwarded the email string again to Mr. Barritt and also to [REDACTED] stating: (b)(6)

Hi Guys, re the below, she [REDACTED] and others in that office are under the impression that both of you have told members of this group that they cannot appeal such a decision...That is NOT correct...Ok? Ok.

Ms. Duncan told us that she forwarded the email string to Mr. Barritt and [REDACTED], because she thought the situation might warrant their attention, due to the supervisor in question creating a hostile work environment for employees.

On February 6, 2009, [REDACTED] sent Ms. Duncan an email with the subject line, "I didn't get my bonus." One minute later, Ms. Duncan forwarded the email to her staff assistant, [REDACTED], requesting that she have "someone check into this." [REDACTED] told us that the award stemmed from her efforts as part of a team. She said that she sent [REDACTED] (b)(6) the email because inquiries through appropriate channels as to the status of the award were unsuccessful. Ms. Duncan claimed that by forwarding the email to [REDACTED], she recused herself from [REDACTED] award issue. She also said that she requested that [REDACTED] check not only [REDACTED] award but all awards that were approved for team members. Ms. Duncan said that in hindsight it was a "mistake" and "oversight" to forward [REDACTED] email to [REDACTED]. Clearly, a pattern was established whereby [REDACTED] came to [REDACTED] with various work-related grievances and issues. Invariably, Ms. Duncan took official action, often with her subordinates, to resolve the situation in a way that was advantageous to [REDACTED].

Ms. Duncan's Involvement in [REDACTED] VA-Funded Education

[REDACTED] completed numerous VA funded courses leading to a Project Management (b)(6) Certificate in May 2006 and to a Masters of Science (MS) degree from The George Washington University (GW) in May 2007. News articles named GW as one of the 10 most expensive private universities in the country. [REDACTED] told us that [REDACTED] was not involved in approving her graduate education; however, we found three Standard Forms (SFs) 182 (Request, Authorization, Agreement and Certification of Training Form) signed by Ms. Duncan authorizing a total expenditure of \$7,887 in VA funds for [REDACTED] education. Ms. Duncan signed the first SF 182 on or about April 27, 2004, authorizing \$2,631, and she signed the other two on August 26, 2004, authorizing two expenditures of \$2,628 each.

We also found numerous SFs 182 for [REDACTED] signed by Ms. Duncan's [REDACTED], [REDACTED] told us that Ms. Duncan delegated signature authority to her so that she could sign the SFs 182, and on August 24, 2006, [REDACTED] authorized the (b)(6) expenditure of \$9,136.90 in VA funds to pay for three graduate courses for [REDACTED]. These signed forms bypassed the Director of Field Operations, listed as [REDACTED] immediate supervisor; the Executive Director of Field Operations, listed as her second line supervisor; and a Human Resources Liaison, listed as the responsible Training Officer. Subsequently, on January 8, 2007, [REDACTED] signed another SF 182

authorizing the expenditure of \$3,052.50 in VA funds to pay for another GW graduate course for ██████, signing the form as her immediate and second line supervisor; however, ██████ was not in ██████ chain of command. ██████ told us that (b)(6) she signed these forms at Ms. Duncan's direction.

Ms. Duncan's Improper Involvement in ██████ VA Appointment

█████ worked for VA as a summer intern with the VA Office of Security and Law Enforcement (SLE) during academic years 2006 and 2007. At the end of each collegiate break he resigned from SLE, and his corresponding resignation paperwork identified the reason for his departures as "returning to school." However, on Friday, August 17, 2007, ██████ resigned from SLE with no explanation.

Four days after ██████ resigned from SLE, Ms. Duncan sent three emails to ██████ (b)(6). In the first, sent at 3:14 p.m. and marked as "High" importance, Ms. Duncan wrote in the subject line: "I think you have to push this one." In the body of the email, she told ██████:

Attainment of a Bachelor's degree, or equivalent education and experience, = GS-5, 3 and a half years of college and 6 months of experience in federal service in this field. Add in part time experience-over the high school and college years. He qualifies as a GS-5 trainee. I think you need to push this one.

In the second email, sent 3 minutes later, Ms. Duncan told ██████:

Other option, put that ██████ pd out there and then move him on that one. I am worried about a FREEZE.

In the third email, sent at 4:35 p.m., Ms. Duncan wrote in the subject line: "I found his internship letters from both 06 and 07." In the body of the email, she told ██████ and ██████:

I will bring them in tomorrow. Maybe that will provide sufficient justification. SLA would have hired him but he did not want to be a cop. Hope this will help....

There is no doubt that, in each of the three emails, Ms. Duncan was referring to ██████, ██████. While she attempted to disguise this by not naming him in the emails, the experience and education are identical to that of Ms. Duncan's ██████ and no one else. In (b)(6) essence, Ms. Duncan advised the ██████ that her ██████ qualified at the GS-05 level.

Ms. Duncan admitted that the emails described someone who "does sound like my ██████...he might have applied for a job and didn't have the internship letters. I don't

know.” She further said that she told ██████ that she would bring the additional information herself the following day instead of having ██████ do it, because “that’s just what ██████ do.” She also admitted that she helped ██████ get his application “package together.” ██████ told us that Ms. Duncan sent him the emails and that he (b)(6) attached ██████ Internship letters to his FCIP application package. Ms. Duncan later admitted that she instructed ██████, through her email correspondence, to “push” ██████ hiring. She also admitted asking the then Office of IT Oversight and Compliance (ITOC) Director to interview ██████ to “see if he would be a good fit in this organization.” The former ITOC Director, who has since left VA, told us that he interviewed ██████ at Ms. Duncan’s request, and in an August 29, 2007, email, the former ITOC Director instructed ██████ to “proceed with the hiring” of ██████.

On September 16, 2007, less than 1 month after his resignation from SLE, ██████ received an FCIP appointment within OI&T as a part-time Management Analyst located in Washington, DC. (Although there is an Oath of Office form in his personnel file, it was not signed. Federal law requires individuals appointed to an office in the civil service to take the Oath of Office. 5 USC § 3331) About 2 weeks after his appointment, on September 30, ██████ changed his tour of duty to full time; however, he also returned to college in Charleston, SC, to finish his last academic semester prior to (b)(6) graduating.

████████ time and attendance records showed that during the period that he was a full time employee, assigned to Washington, DC, and attending school as a full time student over 500 miles away, he was in a Leave Without Pay (LWOP) status for 4 hours each work day, except for the 2007 Thanksgiving Holiday period when he reverted to full time status. The OI&T Emergency Response Team (ERT) Director, who was ██████ immediate supervisor at that time, told us that ██████ worked as a virtual employee from his off-site college location for 4 hours per day; however, he thought that ██████ was a part-time employee. He told us that he was unaware that ██████ took LWOP for 4 hours each work day and was a full time employee. He also said that ██████ should not have been assigned to his organization, as he was “totally out of his element.”

████████ graduated with a Bachelors of Science in Criminal Justice on December 15, 2007, and he returned to a full time duty status on December 21. It was not clear that ██████s provided VA any legitimate services prior to December 21, since he was a brand new OI&T employee working 500 miles from his supervisor while at the same time he was completing his undergraduate studies in a field completely unrelated to OI&T.

Ms. Duncan’s Improper Involvement in ██████ Career

Because of a misconduct issue, the then ITOC Director recommended that ██████s be (b)(6) dismissed from VA in early 2008. As a result of this recommendation, Ms. Duncan approached the Critical Infrastructure Protection Service (CIPS) Director to see if there was a place for ██████ within his OI&T organization. (We learned that Ms. Duncan

appointed the [REDACTED] [REDACTED] to a position within OI&T the previous year.) In an April 7, 2008, email, sent with High importance to the [REDACTED], Ms. Duncan stated in the subject line: "IF YOU HAVE A GOOD FIT, [REDACTED] HAS ADVISED HE WILL HANDLE-SO JUST LET ME KNOW. THANKS." The [REDACTED] [REDACTED] told us that this message was a follow up to a conversation he had with Ms. Duncan in which she tried to find a "good work environment with a mentor for her (b)(6) [REDACTED]. He said that Ms. Duncan told him that [REDACTED] was mistreated by his then supervisors and that [REDACTED] needed a new placement. The [REDACTED] told us that he met with [REDACTED] in early April 2008, and he realized that [REDACTED] qualifications and the [REDACTED] organization vacancies were not compatible. He said that he then referred [REDACTED] to the OI&T Enterprise Security Solution Service (ESSS) Director, thinking that organization might have a more suitable position available.

In his reply to Ms. Duncan's April 7 email, the [REDACTED] told Ms. Duncan that the ESSS Director had a suitable position for [REDACTED], and Ms. Duncan then responded that [REDACTED] would handle the logistics of the transfer, signing her email as the "Chief of Staff, Office of the Assistant Secretary for Information and Technology." The ESSS Director told us that the [REDACTED] informed him that he was not comfortable hiring Ms. Duncan's [REDACTED] into his organization, due to "political reasons," so he asked if there was a vacancy for [REDACTED] in ESSS. The ESSS Director said that shortly thereafter, [REDACTED] told him that [REDACTED] would be reporting to the ESSS Director. The ESSS (b)(6) Director told us that he was aware that [REDACTED] did not have a strong IT background, and he volunteered to train [REDACTED] the same way he trained [REDACTED].

On April 9, 2008, [REDACTED] asked the [REDACTED], in an email, about the pending transfer, and when he did not receive an immediate response, less than an hour later he forwarded his email to Ms. Duncan. He told Ms. Duncan, "This is what I sent him... no response yet." Less than an hour after receiving [REDACTED] email, Ms. Duncan wrote to the [REDACTED] asking him to provide an introduction to the ESSS Director for [REDACTED]. After telling Ms. Duncan in an email that he would initiate the introduction and asked if [REDACTED] would process it, Ms. Duncan replied, "Yeppee." Subsequent emails showed [REDACTED] involvement in [REDACTED] recruitment process. [REDACTED] told us that [REDACTED] directed him to arrange for [REDACTED] transfer from ITOC to the ESSS Director's organization and to ensure that [REDACTED] was hired as an IT Specialist.

Personnel files contained an undated application that [REDACTED] submitted in April 2008 for a GS-2210-GS-5 Career/Career-Conditional appointment advertised as Certificate #103-067-08. Although his application contained no Knowledge, Skills and Abilities (KSA) factors, his name was referred on a Certificate of Eligibles, dated April 24, 2008, as the only eligible candidate. The Field Security Service (FSS) Director, the selecting official, (b)(6) told us that [REDACTED] told him of [REDACTED] Certificate eligibility; that he knew Ms. Duncan was [REDACTED]; but that [REDACTED] advised him that there was no conflict of interest, as long as Ms. Duncan did not influence the selection decision.

The FSS Director also said that based on his discussion with both Ms. Duncan and the ESSS Director, he was aware of [REDACTED] difficulties with the prior ITOC Director; however, he said that [REDACTED] then current VA employee status, work history, degree attainment, and potential were reasons to select him. Personnel records reflected that the FSS Director selected [REDACTED] for an IT Specialist position on May 6, 2008, and [REDACTED] then transferred from a GS-0343-5, Step 1, to a GS-2210-5, Step 1, under a Direct Hire Authority. Although [REDACTED] retained his GS-05 rating, he received a \$5,019 salary (b)(6) increase, because by law (5 USC § 5305), occupational specialists in the 2210 career field may receive higher pay. On May 11, 2008, [REDACTED] converted to a Career Conditional Appointment subject to completion of a 1-year initial probationary period that began with his initial hire date of September 16, 2007.

Conclusion

Ms. Duncan misused her official position and abused her authority by using her public office for the private gain of a relative when she alerted her subordinate, who was also the selecting official, that [REDACTED] applied for an FCIP position. Her action created the appearance that she wanted her subordinate to provide a benefit, a job, to [REDACTED]. Ms. Duncan also misused her position as the de facto Chief of Staff when she involved herself in a conflict between [REDACTED] and [REDACTED] supervisor regarding a change in work schedule as well as directing her subordinate to check on the status of [REDACTED] cash award. Additionally, Ms. Duncan violated the anti-nepotism (b)(6) law when she authorized the expenditure and directed her subordinate to authorize the expenditure of VA funds, in the total amount of \$12,189.40, to pay for graduate courses for [REDACTED], resulting in [REDACTED] obtaining a graduate degree. Ms. Duncan's actions violated 5 USC §§ 2302(b)(7) and 3110, because she assisted in the advancement of [REDACTED] by giving her preferential treatment in training, i.e., advanced academic degrees. *Hudson v. VA*, 104 MSPR 283, 289 (2006). Ms. Duncan improperly used her position and authority to advance [REDACTED] by authorizing the use of VA funds to pay for [REDACTED] graduate education. We also found it problematic that Ms. Duncan and [REDACTED] bypassed [REDACTED] first and second line supervisors, as well as the designated Training Officer, to pay for these courses. Moreover, because Ms. Duncan was universally recognized by others within OI&T as the de facto Chief of Staff, a status confirmed by Mr. Howard, she exercised great authority and control over various OI&T matters, including personnel matters.

Ms. Duncan further engaged in nepotism when she advocated for the hiring of [REDACTED] on two separate occasions for two different positions. She not only helped [REDACTED] put his applicant package together, but she told a subordinate that [REDACTED] was qualified for a (b)(6) GS-5 position and submitted arguments and documents in an effort to advocate for her assertion that he was, in fact, qualified. Further, she asked the selecting official to interview [REDACTED], and instructed the [REDACTED], a subordinate, to "push" [REDACTED] application as an FCIP candidate. Ms. Duncan had substantial and significant

participation in the process with respect to making sure [REDACTED] was deemed qualified and interviewed, and as the de facto Chief of Staff and Executive Assistant to the OI&T Assistant Secretary, she made it clear that [REDACTED] was to be hired. Ms. Duncan again engaged in nepotism when the ITOC Director recommended terminating [REDACTED] VA employment. Ms. Duncan used her position as the de facto Chief of Staff to (b)(6) communicate with the CIPS Director to arrange and advocate for [REDACTED] to transfer from ITOC to another OI&T organization. During this time, she also communicated with the selecting official of OI&T's April 2008 IT Specialists merit promotions while [REDACTED] application was concurrently being considered for one of these openings by conveying to him that [REDACTED] was unhappy with his then current position within ITOC. Her actions in getting [REDACTED] transferred to a higher paying position constitute advocating for advancement.

We found it problematic that Ms. Duncan [REDACTED], 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 his managers and duty station. We found no plausible rationale supporting any aspect of this peculiar arrangement, and we have never known of any other new VA employee provided such favorable treatment, such as being permitted to work part-time from college with little oversight and receiving full time Federal benefits. The only reasonable explanation is that this unique and unusual arrangement was due to Ms. Duncan's role as the OI&T de facto Chief of Staff and that because she wielded the authority of Mr. Howard, OI&T employees took extra-ordinary (b)(6) steps to make sure that Ms. Duncan's [REDACTED] received favorable treatment.

Recommendation 1. We recommend that the Assistant Secretary for Information and Technology ensure that the total amount of funds unlawfully expended to pay for [REDACTED] salary since his initial OI&T appointment on September 16, 2007, is determined, and ensure that a bill of collection is issued to [REDACTED] in that amount.

Recommendation 2. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] VA appointments, and take such action.

Recommendation 3. We recommend that the Assistant Secretary for Information and Technology ensure that the total amount of funds unlawfully expended to pay for [REDACTED] salary since April 27, 2004, the first instance of Ms. Duncan (b)(6) authorizing the expenditure of VA funds to pay for [REDACTED] education and to advance [REDACTED] career, is determined, and ensure that a bill of collection is issued to [REDACTED] in that amount.

Recommendation 4. We recommend that the Assistant Secretary for Information and Technology ensure that OI&T leadership and employees receive guidance concerning nepotism, preferential treatment, misuse of position, and other relevant ethics standards.

Issue 2: Whether Ms. Duncan Abused Her Authority and Engaged in Prohibited Personnel Practices in the Hiring of Friends

Federal law requires that recruitment be from qualified individuals from appropriate sources in an endeavor to achieve a work force 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. 5 USC § 2301 (b). 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. 5 USC § 2302 (b). The Merit System 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. D’Elia v. Department of the Treasury, 60 M.S.P.R. 226, 232 (1993).

Ms. Duncan Improperly Appointed [REDACTED] and at a Rate Above the Minimum Salary (b)(6)

VA policy states that an appointment at a rate above the minimum salary of a General Schedule grade may be made based on the superior qualifications of a candidate, and that requests for approval will be submitted to Central Office Human Resources for technical review and concurrence prior to submission to the approving official. VA Handbook 5007, Part II, Chapter 3, Paragraph 4 and Appendix D. Policy further states that the justification must include a description of the recruitment efforts; a description of the candidate’s superior qualifications and a comparison of the candidate’s skills to those of other available applicants; documentation of existing pay; explanation of how the proposed rate was determined to be appropriate; and reasons for the rate instead of, or in addition to, a recruitment incentive.

Federal regulations require employees to provide information and testify freely and honestly in cases regarding employment and disciplinary matters and that refusal to testify, concealment of material facts, or willfully inaccurate testimony in connection with an investigation may be grounds for disciplinary action. 38 CFR § 0.735.12.

Personnel records reflected that Ms. Duncan signed the Request for Personnel Action (SF-52) associated with [REDACTED] appointment, effective July 10, 2005, as a Program Support Assistant within the Office of the Assistant Secretary of OI&T. Records also (b)(6) showed that [REDACTED] had no prior Federal service; however, Ms. Duncan authorized her appointment as a GS-0303-11, step 10, which is above the minimum rate of Step 1. Office of Personnel Management’s (OPM) Qualification Standards defines the 0303 occupational series assigned to employees as “Miscellaneous Clerk and Assistant Series.” [REDACTED] initial VA Position Description reflected administrative tasks that generally mirrored her resume, except for the requirement that the incumbent be knowledgeable

“...of the OI&T organizations, its functions, goals and priorities as well as its relationship to other organizations in the Department.” ██████████, a former mortgage specialist in the private sector, told us that her only prior familiarity of the VA was the VA Loan Guaranty Program. Ms. Duncan told us that the Assistant Secretary interviewed ██████████ for the position and that one of the prime considerations for filling the position was that the person be “mature.” To the contrary, ██████████ told us that she was not interviewed prior to her selection. Personnel records contained no documents or any information to justify the appointment at a rate above the minimum.

██████████ and Ms. Duncan both denied having a friendship prior to ██████████ VA employment; however, ██████████ admitted that after being employed, she once allowed Ms. Duncan to park a sailboat at her house so as to keep it a secret from Ms. Duncan’s husband. An internet mapping site showed that Ms. Duncan and ██████████ lived in close proximity to one another, but ██████████ said that their only pre-VA connection was that their ██████████ attended the same high school. ██████████ said that her VA employment resulted from a normal application process rather than any pre-existing relationship with Ms. Duncan. However, ██████████, told us that she ██████████ socialized with Ms. Duncan’s family, and that ██████████ and Ms. Duncan previously interacted during formal occasions such as at her and ██████████ high school graduation. In addition, records obtained from GW contained a letter that Ms. Duncan wrote 6 months prior to ██████████ VA appointment, recommending that ██████████ be accepted into a GW graduate program.

The current Special Assistant to the Assistant Secretary for HR told us that he worked within OI&T during ██████████ initial tenure, and he said that ██████████ and Ms. Duncan appeared to be somewhat close. He also said that their friendship appeared to exist prior to ██████████ VA employment, but he could provide no specifics other than Ms. Duncan stating prior to ██████████ selection that “she knew some people...that would be excellent” for the front office position. ██████████ told us that ██████████ Ms. Duncan’s ██████████, and ██████████, as well as another OI&T employee, ██████████ were friends since elementary school. ██████████ told us that she had been ██████████ friend since the age of 12 and that she ██████████ and ██████████ attended the same middle and high school, and had social interactions such as sleepovers. She also said that her family and the Duncan and ██████████ families interacted at various social functions, such as birthday and high school graduation parties.

Ms. Duncan Improperly Appointed ██████████ and at a Rate Above the Minimum Salary

██████████ told us that she and Ms. Duncan met in 1970 or 1971 when both were students at Elon College in North Carolina, and that they have remained friends since (b)(6) then. She said that she regularly spoke to Ms. Duncan; that they vacationed together at least yearly; and that she was the ██████████ to Ms. Duncan’s ██████████ told us that due to her concerns about job security in the private sector, she told Ms. Duncan that she was searching for employment, and Ms. Duncan directed her to a VA OI&T

vacancy announcement posted on the internet, assisting her with some aspects of her application. [REDACTED] further said that she applied for and was telephonically offered a (b)(6) position within OI&T; however, she said that she was not interviewed for the position.

Records reflected that Ms. Duncan initiated a direct hire recruitment action under Vacancy Announcement #IT-07-205, IT Specialist GS-2210-05/12. The HR Specialist who processed the recruitment action told us that there were 22 minimally qualified applicants for this recruitment; therefore, HR convened a rating panel consisting of two rating officials. She said that after completing the rating and ranking process, they determined that seven applicants were “Best Qualified” and placed on the GS-2210-05 Certificate, dated December 22, 2006. The HR Specialist further said that she gave the Certificate to Ms. Duncan, who was the selecting official, along with guidance on how to determine the “Best Qualified” of those seven candidates. The HR Specialist told us that Ms. Duncan could choose to conduct interviews, conduct a panel review, or extensively review the applications and make a selection. She said that Ms. Duncan made her selections on the same day that she received the Certificate, which indicated to the HR Specialist that Ms. Duncan did not conduct interviews. She further said that when a selecting official returned a Certificate with their selections on the same day that it was given to them, in her opinion, it was indicative of a “pre-selection,” defining a pre-selection as the selecting official knowing in advance who he or she wants to hire.

HR records showed that Ms. Duncan signed the Certificate of eligible candidates on December 22, 2006, selecting [REDACTED], with an appointment date of January 7, 2007. Records also contained a memorandum, dated January 4, 2006 [sic], that (b)(6) Ms. Duncan signed to justify appointing [REDACTED] above the minimum pay rate of Step 1 to Step 4. Further, records showed that Ms. Duncan selected [REDACTED] and [REDACTED], [REDACTED] of her then [REDACTED], and [REDACTED] of someone Ms. Duncan met at her hairdresser’s. [REDACTED] told us that Ms. Duncan and [REDACTED] interviewed him several months prior to the vacancy being announced and his subsequent application for the position. [REDACTED] told us that no one interviewed them for their respective positions, prior to being selected.

Ms. Duncan selected five employees from this vacancy announcement, but [REDACTED] was the only one that Ms. Duncan requested an appointment above the minimum pay rate. In addition, Ms. Duncan failed to follow VA policy in her attempt to justify an above the minimum rate, as she provided a limited description of recruitment efforts. Additionally, in her justification, she listed only this one vacancy announcement in which she selected five candidates, and she did not compare [REDACTED] “superior (b)(6) qualifications” to the other applicants’ skills or provide reasons for the increased rate instead of a recruitment incentive. Although the Director of Central Office of HR Service concurred by signature on the memorandum, it did not fully comply with the requirements in VA policy. Moreover, Ms. Duncan said in the memorandum that

██████████ would work for OI&T in Washington, DC, rather than disclosing that she (b)(6) instead lived and worked in ██████████, an area with a lower locality rate. ██████████ told us that she was a virtual employee working from her ██████████ home, and that she was never physically located in the Washington, DC, area.

Conclusion

Ms. Duncan abused her authority and engaged in prohibited personnel practices when as the appointing official she gave preference to her two friends, ██████████, when she selected them for positions within VA OI&T. In addition, her selection of the other three, ██████████ constituted pre-selection based on a previous relationship. Although both denied any prior relationship, we found (b)(6) that ██████████ and Ms. Duncan were acquainted through their ██████████ long time friendship and interactions, such as attending joint family functions. Further, Ms. Duncan felt close and comfortable enough with ██████████, a subordinate, that she asked her to “hide” a sailboat at her house as a favor so that Ms. Duncan could surprise her husband. ██████████, a friend of Ms. Duncan, ██████████, also told us that ██████████ and Ms. Duncan interacted at functions, such as birthday and graduation parties. Furthermore, Ms. Duncan’s almost 30 year friendship with ██████████ was one in which they not only vacationed together but ██████████ is the ██████████ to Ms. Duncan’s ██████████. Additionally, Ms. Duncan not only assisted ██████████ in the application process for her position, but based on their prior existing relationships, Ms. Duncan felt that she knew them both well enough that she did not even interview them prior to selecting them for their respective positions. Given the relationship between Ms. Duncan and ██████████, Ms. Duncan’s hiring of ██████████, at a minimum, created the appearance of preferential treatment.

Ms. Duncan also improperly appointed ██████████ at rates above the (b)(6) minimum salary. Personnel records contain no justification for ██████████ appointment at a high pay rate, and the justification memorandum for ██████████ higher salary did not disclose her physical work location or comply with all the requirements as 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 Ms. Duncan and these individuals, since the documentation justifying the benefit is either nonexistent or insufficient.

Recommendation 5. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against ██████████ for not (b)(6) testifying freely and honestly in a matter regarding her employment.

Recommendation 6. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] appointment, to include her appointment at a rate above the minimum, and take such action.

Recommendation 7. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] appointment, to include her appointment at a rate above the minimum, and take such action.

Recommendation 8. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] locality pay rate, based on her physically living and (b)(6) working in [REDACTED], and take such action.

Issue 3: Whether [REDACTED] Misused His Position for the Private Gain of Family

The Standards of Ethical Conduct for Employees of the Executive Branch require employees to act impartially and not give preferential treatment to any individual. 5 CFR § 2635.101. The Standards also prohibit employees from using their public office for their own private gain or for the private gain of friends and relatives. 5 CFR § 2635.702

Federal regulations allow a career or career-conditional employee of one agency to transfer to a competitive position in another agency. 5 CFR § 315.501. They further state that if such a transfer is made to a position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service, the action is considered a competitive action and requires the agency to use competitive procedures in filling the position. 5 CFR § 335.103 (c)(1) (v).

[REDACTED] *Involvement in [REDACTED] VA Appointment* (b)(6)

Personnel records reflected that [REDACTED] [REDACTED], was appointed to an OI&T Program Specialist, GS-0301-09 position, on October 29, 2006. Prior to her appointment, she was employed at the Securities and Exchange Commission (SEC) as a secretary at a GS-07 pay grade level. Included in the personnel records was a June 28, 2006, memorandum in which her former SEC supervisor described her responsibilities as keeping track of time and attendance, processing travel related matters, maintaining files and calendars, distributing mail, and assisting in office-related administrative tasks.

Records also reflected that the VA position that [REDACTED] transferred into was vacancy (b)(6) announcement number IT06-495, Program Specialist, GS-0301-07/09, advertised September 8-26, 2006. The announcement stated that the position could be filled at the

GS-7 or GS-9 level with promotion potential to the GS-12 level. The announcement listed the rating factors of the position as follows:

- Ability to establish, maintain and control projects, reports, correspondence, and office files to provide procedural guidance to appropriate personnel;
- Ability to organize multiple tasks, meet deadlines, and perform administrative duties, and;
- Ability to communicate both orally and in writing, clear, logical and concise explanation of information required for policy, planning and acquisition activities.

Records showed that Ms. Amanda Graves, then Director of VACO Staff and Program Office, Support Management, initiated and authorized the request for personnel action to appoint [REDACTED] as a Program Specialist. Ms. Graves told us that sometime around the May 2006 timeframe she lost her support staff due to an OI&T reorganization and that she was desperate for administrative help. She further said that she worked with [REDACTED] to develop a position description and to advertise two new Program Analyst positions. (b)(6)

Ms. Graves told us that she could not recall how the paneling was done for the positions, but she said that she selected one of at least two candidates who applied for the position. She also said that the one selected previously worked for VHA. Ms. Graves said that separate from the paneling and selection process, [REDACTED] approached her and highly recommended [REDACTED] for the position. Ms. Graves said that she was aware that [REDACTED] were siblings; however, [REDACTED] told her to “trust him.” She said that based on his recommendation, she agreed to non-competitively select [REDACTED] for the second position. Ms. Graves told us that although [REDACTED] was not one of the applicants who went through the panel review process, she was given “special treatment,” because she was [REDACTED]. Ms. Graves said that she never saw [REDACTED] resume and agreed to hire her solely on [REDACTED] word. She further said that [REDACTED] personally hand-carried [REDACTED] recruitment paperwork to her (Ms. Graves) to sign, which included a request for the personnel action form and a Certificate of eligible candidates for the position. (b)(6)

Ms. Graves told us that shortly after [REDACTED] began working for her, she (Ms. Graves) realized that [REDACTED] did not have the necessary skills to perform the job. Ms. Graves said that she spoke to [REDACTED] about her concerns; however, [REDACTED] replied that (b)(6) it was no longer his problem. Ms. Graves said that [REDACTED] attendance was poor; that she was unable to perform the duties as outlined in the vacancy announcement; and that soon after she started, she requested 2 weeks of annual leave for a vacation she previously planned. Ms. Graves later discovered that [REDACTED] did not have enough leave saved from her previous employment to cover the time period and expected to be granted advanced leave; however, Ms. Graves required her to take leave without pay.

Failed to Testify Freely and Honestly

(b)(6)

Federal regulations require employees to provide information and testify freely and honestly in cases respecting employment and disciplinary matters and that refusal to testify, concealment of material facts, or willfully inaccurate testimony in connection with an investigation may be grounds for disciplinary action. 38 CFR § 0.735.12.

We found several email messages between [REDACTED]. The first, dated August 28, 2006, was an auto-reply message from [REDACTED] VA email account to [REDACTED] then SEC email account alerting her that [REDACTED] deleted her message without reading it. The subject line stated "Form 50." In an email the next day, [REDACTED] wrote to [REDACTED]:

You didn't even take the time to look at my form 50 when you asked me to send it to you! You deleted it! Thanks a lot, I see what time it is now and from my own [REDACTED]! Don't worry, I won't ask of a-n-y-t-h-i-n-g else!

[REDACTED] replied to [REDACTED] an hour later, telling her that he did not know why her first email was deleted and told her, "I know what's on a form 50...what was I looking at it for..." The next day, [REDACTED] sent her another email apologizing for "not helping sooner." He told her, "You[r] 100% correct on me not helping. Send me your resume, (b)(6) latest SF-50 & performance appraisal and I will work my contacts." On August 31, [REDACTED] replied, "Apology accepted...I am not asking for a handout, just help getting a foot in the door!" Subsequent e-mails between the two have [REDACTED] asking for [REDACTED] resume a second time and then her advising that she sent it to him.

[REDACTED] told us that his [REDACTED] was an OI&T employee, but he denied that he was involved in any way with her gaining VA employment. He said that he did not mix family and business and that the only thing he did was to let her know of the job opening. He further said that he "may have looked" at her resume and given her some tips. However, after we informed [REDACTED] of the emails we had, he said that he "kind of" remembered; that he was unsure if the emails were related to this particular position; that it was "possible" that he helped her with her resume for the VA position; but that he did not recall doing anything for this particular job.

[REDACTED] later told us that the August 30 email in which he apologized to his [REDACTED] for "not helping sooner" and asking her to send her resume and other items so that he could "work his contacts" was his "standard" response to anyone wanting to send him their (b)(6) resume. He said that he would then give the resume to "someone" (hiring official) but that it was up to the applicant to get an interview. He explained that he asked [REDACTED] to send her resume to him a second time, because he did not want "my [REDACTED] mad at me because the guilt trip is already there...maybe I did help her with the resume..."

██████████ finally admitted that he “might” have given his ██████████ resume to either (b)(6) ██████████ or someone at HR, but he could not recall for sure what he did with it.

██████████ told us that she learned of the job vacancy through the USAJOBS website. She said that she then spoke to her ██████████ about the position and he told her to “go for it,” so she applied for the position by giving her resume and her SF-50 to ██████████. She further said that ██████████ hand delivered her resume to the HR office. She said that ██████████ did not help her write her resume and that the only assistance he gave her was hand delivering it along with her SF-50. ██████████ said that about 2 months later, VA HR sent her a letter offering her the position. She said that no one interviewed her, and she did not know who selected her for the position.

██████████ *Involvement in His ██████████ VA Appointment at a Rate Above the Minimum*

VA policy states that an appointment at a rate above the minimum of a General Schedule grade may be made based on the superior qualifications of a candidate, and that requests for approval will be submitted to VACO HR for technical review and concurrence prior to submission to the approving official. VA Handbook 5007, Part II, Chapter 3, Paragraph 4 and Appendix D. Policy further states that the justification must include a description of the recruitment efforts; a description of the candidate’s superior qualifications and a comparison of the candidate’s skills to those of other available applicants; documentation of existing pay; explanation of how the proposed rate was determined to be appropriate; and reasons for the rate instead of, or in addition to, a recruitment incentive.

Personnel records reflected that on April 1, 2007, ██████████ ██████████, was appointed non-competitively under the FCIP authority to a (b)(6) Management Analyst, GS-0343-09, Step 7, position. Ms. Duncan signed the request for personnel action as the requesting and authorizing official for the appointment. ██████████ name appeared in block #3 of the form as the person to contact if there was a need for additional information. ██████████ name and initials also appear at the bottom of the form in block “A” showing he was the official who authorized the position.

We found an email dated February 5, 2007, sent by the former (retired) Director of the Human Capital Management (HCM) Operations Center of Excellence in Austin, Texas, to Mr. Howard and to Ms. Duncan telling them of a potential conflict of interest involving ██████████, who at the time was working with HR staff in Austin on a large scale OI&T hiring effort. The subject line of the email said, “Potential Abuse in Hiring Process,” and in the body, the former Director said:

We are getting direction from ██████████] to fill 3 career intern (b)(6) positions non-competitive at a higher step than normal. One person is his ██████████ and the other 2 are family members related to OI&T managers. You can hire career intern positions non-competitively but when family

members of OI&T managers are involved (where they can influence), the proper way to do these “family” hires is through an OPM announcement or VEOA to avoid potential conflict of interest. We could lose our appointing authority from OPM. On top of the non-competitive issue, [REDACTED] is wanting to hire these folks at a higher than normal step. (b)(6)

Later that same day, the former Director sent a follow-up email to Mr. Howard and to Ms. Duncan stating:

[REDACTED] – when we talked I thought we hadn’t process[ed] these yet but told us to make verbal job offer last week based on resume only which didn’t have the official for[m] 306 attached which has the “declarations” (i.e. [REDACTED] ...). We did this but the formal job offer has not gone out because [REDACTED] wants a higher step for these people. Once we got the official forms in, we realized we have a sticky situation. Again, employees were informally contacted but have not received a formal job offer because [REDACTED] wanting them to be paid a higher step.

Ms. Duncan replied that [REDACTED] recused himself from the hiring of his family (b)(6) member and that he was not involved in the hiring decision. The former Director then responded:

Our intent is to protect the agency and maintain the integrity of the hiring process. I am glad that [REDACTED] has rescued (sic) himself from the process because as of yesterday morning when I sent the email, he personally was still discussing step increases with our HR staff. Based on your review of the situation and assessment that no conflict of interest/ethics in hiring situation exists and that none of those whose relatives are being hired used their positions to influence the hiring process, I will tell Tom (Chief of HR, Austin) to use your response as the authority to move ahead with the hiring and pay setting for these three applicants.

The Austin Lead HR Specialist, who qualified the applicants, told us that it was not until she noticed the Declaration for Federal Employment (Form 306) submitted by [REDACTED] (b)(6), that listed [REDACTED], did Austin HR personnel become aware that [REDACTED]. The HR Specialist said that she brought that fact to the attention of the former (retired) HR Chief who in turn told the former Director. The former HR Chief told us of his various concerns in employing [REDACTED]. He said that she did not have the background in the occupational field; she was terminated from her previous position; she did not have the education to warrant a higher step rating; and because she did not qualify as an IT Specialist, she had to be hired as a Management Analyst. He further explained that hiring new entrants at an

increased step level is normally associated with new employees having an advanced degree plus experience in the occupational field. He said that he was also concerned that [REDACTED] advocated for [REDACTED] employment, stating that because there was no job announcement for the intern positions (applicants simply sent in resumes), he did not see how [REDACTED] would hear of the opening unless [REDACTED] told her and then referred her resume to Austin HR. He also said that if [REDACTED] applied under “a regular appointment...she probably would never have come up on the list to be referred.” (b)(6)

[REDACTED] told us that he did not recall if [REDACTED] told him that “she was fired from another job,” and he denied any improprieties in her appointment. He said that he told [REDACTED] about the job opening, assisted her with her resume, but he said that he only processed [REDACTED] resume as part of a larger group of applicants. He further said that [REDACTED] initially declined the job, because she did not want to work at the same Agency as [REDACTED]; however, about a week later, she accepted a second “informal” job offer. He said that the first offer was at a Step 1, whereas the second was at a Step 7, which we found to be a yearly increase in salary of \$9,208. [REDACTED] told us that Austin HR personnel were not familiar with the FCIP program and that it was normal for OI&T to hire employees at a higher rate of pay commensurate with their experience. Personnel records contained no documents or any information to justify the appointment at a rate above the minimum.

Conclusion

[REDACTED] misused his public office for the private gain of [REDACTED] when he helped her obtain employment within OI&T by recommending her to the hiring official, Ms. Graves, as an excellent candidate. [REDACTED] was well aware that Ms. Graves was desperate for administrative help, and he exploited her need, perceived or otherwise, to the benefit of [REDACTED]. In addition, [REDACTED], as the [REDACTED], knew that when he recommended [REDACTED] for the position, separate from the competitive review process, he was orchestrating a means for [REDACTED] to bypass the competitive process for the position. We also conclude that [REDACTED] appointment did not comply with merit system principles and was made improperly. [REDACTED] actions led to [REDACTED] appointment to a position for which she was not qualified. (b)(6)

In addition, [REDACTED] failed to testify freely and honestly while under oath concerning his involvement in [REDACTED] appointment. In reviewing his testimony, it is clear that his intent from the beginning was to be untruthful. He categorically denied any involvement in [REDACTED] appointment until he was presented with the email evidence showing his involvement. Only after being confronted with irrefutable documentary evidence did [REDACTED] change his story. He was less than candid, and when asked about his involvement, he continually experienced either selective memory or memory failure in recollecting his involvement. (b)(6)

Ms. Graves engaged in a prohibited personnel practice when she gave [REDACTED] preferential treatment when selecting her for a VA position, because she was [REDACTED] (b)(6). Ms. Graves did not review [REDACTED] resume before selecting her, and she based her decision solely on [REDACTED] recommendation. We considered Ms. Grave's version of events more credible, due to the fact that she responded with ease and openness upon being asked to provide information on [REDACTED] appointment, to include her own improper actions, which was against her own self interest.

In addition, [REDACTED] misused his public office for the private gain of [REDACTED] when he advocated to the Austin HR staff for her appointment and a higher than minimum salary. [REDACTED] improper actions went beyond his defined [REDACTED] responsibilities in that he actively pursued [REDACTED] appointment and at a higher rate of pay. His reported recusal from the matter came only after it became known by the Austin HR staff that [REDACTED] and after his actions on behalf of [REDACTED].

Furthermore, Ms. Duncan improperly appointed [REDACTED] non-competitively under (b)(6) FCIP at a pay rate above the minimum salary. There is little doubt that Ms. Duncan knew that [REDACTED], and she intentionally intervened on his behalf when Austin HR brought to her attention that [REDACTED] was advocating for [REDACTED] appointment. Additionally, we found no documentation to justify the appointment at a rate above the minimum salary; therefore, Ms. Duncan failed to comply with the requirements found in VA policy for justifying a higher than normal step rate. Additionally, Ms. Duncan's statement that [REDACTED] recused himself from the hiring of [REDACTED] is incorrect. Clearly, [REDACTED] was extremely involved in [REDACTED] hiring.

Recommendation 9. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] for misusing his position for the private gain of [REDACTED].

Recommendation 10. We recommend that the Assistant Secretary for Information and (b)(6) Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] improper VA appointment, and take such action.

Recommendation 11. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] for failing to testify freely and honestly in matters related to his employment.

Recommendation 12. We recommend that the Assistant Secretary for Information and (b)(6) Technology take appropriate administrative action against [REDACTED] for misusing his position for the private gain of [REDACTED].

Recommendation 13. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] improper VA appointment, to include her appointment at a rate above the minimum, and take such action. (b)(6)

Recommendation 14. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against Ms. Amanda Graves for giving preferential treatment in hiring.

Issue 4: Whether [REDACTED] Misused Her Position for the Private Gain of Family

Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall not use his public office for his own private gain or for the private gain of relatives. 5 CFR § 2635.702(a). (b)(6)

[REDACTED], began his VA career as an OI&T Summer Intern in June 2008. He told us that he learned of the program through an email that either [REDACTED] or one of [REDACTED] sent him, and he said that [REDACTED] submitted his application to the HR office. On July 9, 2008, [REDACTED] sent an email to a Management Analyst in OI&T Field Business Operations, with the subject line stating “Just a reminder.” In the body of the email, [REDACTED] asked, “Have you had an opportunity to check on the stay in school position for [REDACTED]? I appreciate your help.” About an hour later, the Analyst replied, “Not yet, but I will do so before the week is out.” In a July 21, 2008 email, the Analyst told [REDACTED], “Please have [REDACTED] update his résumé with his current work experience and submit to me.” An hour later, [REDACTED] then replied, [REDACTED] a position while he attends Bowie...it would only be 10 hours per week. Can he do 20? I will have him update his resume ASAP.” In her response, the Analyst said, “Yes he can do 20 hours per week so long as it does not interfere with his classes.”

[REDACTED] admitted that she corresponded with the Analyst on behalf of [REDACTED] but that (b)(6) she did not think that it was wrong. She said that [REDACTED] instinct kicked in.” [REDACTED] said that when [REDACTED] summer intern position was ending, he began searching for employment for the forthcoming school year. Personnel records reflected that [REDACTED] received an Excepted Service appointment in OI&T on October 1, 2008, and on October 21, he became an OI&T Student Trainee, GS-1099-04/01.

Conclusion

We concluded that [REDACTED] misused her position for the private gain of [REDACTED] when (b)(6) she contacted a VA official at least twice concerning [REDACTED] employment and advocated for him to obtain a position with an increased number of work hours.

Recommendation 15. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] for misusing her position for the private gain of [REDACTED]. (b)(6)

Issue 5: Whether OI&T Managers Improperly Funded Academic Degrees

The Homeland Security Act of 2002 amended the Government Employee Training Act of 1958 by expanding an agency's authority to pay or reimburse an employee for the costs of academic degree training. 5 USC § 4107 (2003). 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 Handbook 5015, Paragraph 7(a).

VA training policy further stipulates that this authority shall not be exercised for the sole purpose of providing an employee an academic degree or as a means of qualifying for a position that requires an academic degree. *Id.*, Paragraph 7(c). Policy delegates the authority to pay for academic degrees from the Secretary of Veterans Affairs to the Assistant Secretary for Human Resources and Administration and is further delegated to Under Secretaries, Assistant Secretaries, Other Key Officials and Deputy Assistant Secretaries or their designees. They in turn may further delegate this authority to the facility level or organizational equivalent. *Id.*, Paragraph 7(d).

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. *Id.*, Paragraph 7(e). 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 § 335.103(b)(3) and part 300, subpart A of the Code of Federal Regulations; (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. *Id.* Paragraph 7(f). 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. *Id.*, Paragraph 12(c).

The Associate Deputy Assistant Secretary (ADAS), OI&T HR Career Development, told us in an email that OI&T does not have a “corporate OI&T degree program.” She further said that her office drafted regulations to establish OI&T scholarship programs for the computer science and computer or electrical engineering fields. She said that one program would provide scholarships to Ph.D.-level candidates as a recruitment incentive and the other would provide educational debt relief to employees who possess a Ph.D., as a retention incentive. She said that the programs would be administered competitively, ensuring adherence to merit system principles and procedures.

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.

We identified several OI&T employees who improperly obtained, or were in the process of improperly obtaining, academic degrees at VA expense, and this report discusses only those individuals. We found other instances of possible improper academic degree funding; however, those instances will be addressed in separate reports or referred to the Department for their review and appropriate corrective action.

Improper Academic Degree Funding for [REDACTED] (b)(6)

The George Washington University (GW) records reflected that on March 29, 2004, GW admitted [REDACTED] to their Graduate Certificate program in the Department of Engineering Management and Systems Engineering in the School of Engineering and Applied Science. At that time, [REDACTED] was a GS-05 career intern IT Specialist, and there was no requirement for her to complete a certificate program or obtain a graduate degree. Records further showed that during the 2004 summer semester, [REDACTED] began taking graduate level courses at VA expense, receiving a Graduate Certificate in Information Security Management on May 15, 2006. She continued her graduate studies, at VA expense, in GW’s Masters of Science (MS) degree program of Engineering and Technology Management, graduating with an MS in Engineering on May 20, 2007.

GW credit card payment forms and VA purchase card records showed that VA paid a total of \$33,407.88 for [REDACTED] Graduate Certificate and MS Degree. Records reflected that these payments included not only tuition, but registration, library, engineering, student association, graduation, late payment and interest penalty fees. In total, VA paid

for 14 graduate level courses for [REDACTED], with one course being paid for twice, after [REDACTED] failed to obtain a passing grade and had to retake the course. (b)(6)

[REDACTED] told us that VA paid for the graduate degree she obtained through GW. She further said that [REDACTED], Ms. Duncan, was not involved in her VA funded education. To the contrary, we found three separate SFs 182 that Ms. Duncan signed authorizing [REDACTED] to take GW courses at VA expense. We found four additional forms containing the approval signature of [REDACTED], who at the time was Ms. Duncan's [REDACTED]. [REDACTED] told us that although she never held a supervisory position, Ms. Duncan gave her signature authority to approve training. [REDACTED] further said that she signed [REDACTED] training request forms on behalf of Ms. Duncan, who asked her to sign them for [REDACTED] graduate courses. [REDACTED] also said that she could not recall how the OI&T "graduate school" program started but that "anyone who had a bachelor's degree and wanted to go back" could obtain a graduate degree. She said that the program, "was open to all of OI&T IT interns" and she said that there were about 50 OI&T employees that fit into that category.

Improper Academic Degree Funding for [REDACTED] (b)(6)

GW records reflected that [REDACTED] began taking graduate courses through GW's School of Business during the 2007 fall semester. At that time, [REDACTED] was a GS-11 IT Specialist, and there was no requirement for her to obtain a graduate degree for her position. GW financial records, to include statements of account and credit card billing forms signed by a VA purchase card holder, showed that the total amount VA paid for [REDACTED] GW graduate education was \$27,030. This total included not only tuition, but library, student association, and graduation fees. [REDACTED] told us that VA also paid between \$900 and \$1,000 for her books. (Note: The GW Bookstore is operated by an outside entity and GW officials were unable to provide any documentation under subpoena for book store transactions.) [REDACTED] further said that VA paid for her MS degree in Project Management and that she learned of the OI&T academic degree funding program from the Special Assistant to the Assistant Secretary for HR and Administration, who at the time worked in OI&T's HR office.

[REDACTED] told us that she previously obtained a Project Management Certificate and that GW would apply two of the courses toward an MS in Project Management. She explained that she applied to GW for admission and once accepted, she submitted a training request to her supervisor to approve VA degree funding. Training records reflected that Ms. Duncan signed all of the authorization forms as [REDACTED] first or second line supervisor and that the Director of Project Coordination Service signed one as her first line supervisor. (b)(6)

Improper Academic Degree Funding for [REDACTED]

(b)(6)

GW records reflected that [REDACTED] began taking graduate courses in GW's School of Business, majoring in Project Management, during the 2005 fall semester and that GW awarded her an MS Degree in Project Management on May 20, 2007. At the time she began taking classes, she was a GS-09 IT Specialist, and there was no requirement for her to obtain a graduate degree for her position. GW financial records, to include statements of account and credit card billing forms signed by a VA purchase card holder, showed that the total amount VA paid for [REDACTED] GW graduate education was \$25,711, including tuition, student association, student health, ACH (bank Automated Clearing House) payment, and graduation fees.

[REDACTED] told us that she first obtained a Project Management Certificate and that GW allowed her to apply three of those courses to her MS in Project Management degree. She further said that she obtained the degree at VA expense and that the Deputy Director of VHA Business Operations, was her then OI&T supervisor and training approving official. She further said that she did not apply for a specific VA program in order to have VA pay for her MS degree, only that she was responsible for finding a program that applied to her career field.

Improper Academic Degree Funding for [REDACTED]

(b)(6)

Records of Norwich University (NU) in Northfield, Vermont, showed that [REDACTED] began taking online graduate courses through NU's Masters of Business Administration (MBA) degree program during the 2008 spring semester. At the time he began taking classes, [REDACTED] was a GS-09 Management Analyst, and there was no requirement for him to obtain a graduate degree. Records, including a statement of account and credit card billing forms signed by VA purchase card holders, further showed that the total amount VA paid, to date, for [REDACTED] graduate education was \$27,561, to include not only tuition, but technology and resource fees. According to [REDACTED] NU transcript, he is currently taking courses towards an MBA.

[REDACTED] said that while assigned to the OI&T Executive Staff, he was allowed to take seven project management courses to obtain a project management certificate through GW; however, he said that it was not a requirement for his position. He told us that there was no official announcement offering the courses and that he was not selected from a competitive process to attend a graduate program at VA expense. He told us that his co-workers told him that VA would pay for his education, so he decided to pursue an MBA online through NU. [REDACTED] told us that he initially spoke to Ms. Duncan about taking courses, but he transferred to another organization within OI&T before he started the courses. He said that the former ITOC Executive Director and the current ITOC Director of Operations authorized him to take the graduate level courses for his MBA at VA expense. (b)(6)

Improper Academic Degree Funding for [REDACTED]

(b)(6)

GW records reflected that [REDACTED] began taking graduate courses through The Trachtenberg School of Public Policy and Public Administration at GW, majoring in Public Administration, during the 2008 fall semester. At the time he began taking classes, [REDACTED] was a GS-09 IT Specialist, and there was no requirement for him to obtain a graduate degree. GW financial records, including a statement of account and credit card billing forms signed by a VA purchase card holder, showed that VA paid, to date, a total of \$14,104 for [REDACTED] GW graduate education, including tuition and student association fees. [REDACTED] told us that VA also paid an additional \$1,049 for him to take a Graduate Record Examination (GRE) preparatory course to prepare him to pass the GRE test required for admission to the GW and American University degree programs. [REDACTED] GW transcript reflected that he is currently taking graduate courses but has not yet earned a degree.

[REDACTED] told us that VA was paying for his MS Degree in Public Administration. (b)(6) He said that his co-workers told him that VA placed a “big emphasis” on going to graduate school and that supervisors “always pushed” going to class. [REDACTED] told us that Ms. Duncan approved his courses and signed the training authorization forms. He said that he did not respond to an open announcement advertising an opportunity to take courses at GW but heard “by word of mouth” that VA would pay for his courses as long as they were related to his job.

Improper Academic Degree funding for [REDACTED]

Strayer University (SU) records reflected that [REDACTED] currently attends SU, and she is studying Information Systems and Business Administration at the undergraduate level at VA expense. At the time [REDACTED] began taking classes, she was a GS-07 IT Specialist, and there was no requirement for her to obtain an undergraduate degree. [REDACTED] told us that having an undergraduate degree was not a requirement for her IT Specialist position, but she said that, in the past year, VA paid for six courses that she either completed or was currently taking at SU. SU records reflected that [REDACTED] enrolled at SU in August 2008 and that she is pursuing an Associate in Arts in Business Administration (AABA). SU’s Academic Programs catalog described the AABA program as one “designed to provide the latest information and technology in the field of management to prepare students for a career in business and government.” The program consisted of 90 credit hours and could be used to meet half of the requirements for a Bachelor of Science degree.

[REDACTED] academic transcript, dated May 6, 2009, identified 9 courses she transferred from (b)(6) Prince George’s Community College, three courses completed at SU, and two courses that she was currently taking. The VA training authorization forms associated with her SU courses reflected that she initially enrolled in “Business Ethics” in January 2009; however, SU records indicated that she dropped that course and in its place, she added a

course titled “Principles of Marketing.” The approving officials on [REDACTED] training (b)(6) authorization forms were Ms. Duncan, the Director of Project Coordination Service, and an IT Specialist. SU records and VA Purchase Card receipts reflected that VA paid a total of \$9,568 for [REDACTED] six SU courses, to include one with no academic credit, as well as books and fees incurred for dropping one course.

Continuing Service Agreements for VA-Funded Academic Training

VA policy states that each administration and staff office head will develop policies that protect the interests of the Department of Veterans Affairs. One of the policy requirements is that each employee must sign a Continuation Service Agreement (CSA) before training begins. The minimum Departmental standard for requiring a CSA is courses that are 40 hours in length and cost at least \$500, and the period of service will equal at least three times the length of the training. VA Handbook 5015, Paragraph 2(e). Training authorization forms signed by the identified OI&T employees contained a CSA that stated: “I AGREE that, upon completion of the Government sponsored training described in this authorization, if I receive salary covering the training period, I will serve in the agency three (3) times the length of the training period. If I received no salary during the training period, I agree to serve the agency for a period equal to the length of training, but in no case less than one month.” (The length of part-time training is the number of hours spent in class or with the instructor. The length of full-time training is eight hours for each day of training, up to a maximum of 40 hours a week.) For example, a one semester, 3-credit college course equals about 35 hours of class time or a total of a 1 week commitment by the employee, once they complete the course; however, the policy requires at minimum a 1 month commitment.

In the above cited cases, OI&T employees signed CSAs; however the length of future service requirements from the employee did not sufficiently protect VA’s investment. For example, in the cases of the employees taking graduate courses and obtaining degrees, the CSAs only required a future service commitment from the employee equal to 1-hour for every classroom hour. Most of the CSA requirements were fulfilled within a week or two after the employee completed each course, with a minimum required commitment of only 1 month. After 1 month, there was no requirement for the employee to remain at VA, and after completing their training, it left them free to move on to other employment, taking with them a very costly VA-funded degree.

Conclusion

We concluded that identified OI&T managers, as well as approving officials, improperly authorized the expenditure of VA funds to pay for academic degrees for the above identified OI&T employees. There was no evidence that the academic degrees being funded by VA contributed significantly to meeting an identified agency, administration, or staff office training need consistent with VA’s Strategic Plan; to solving an identified

agency staffing problem; to accomplishing goals in VA's Strategic Human Capital Management Plan; or was part of a planned, systemic, and coordinated program of professional development. There was no documentation whatsoever to connect the academic training to the individuals' VA position and justify the training. Additionally, OI&T managers did not require employees to compete for the opportunity to obtain a VA-funded academic degree consistent with merit system principles. ██████████ told us (b)(6) that the VA-funded academic degree program was open to all OI&T IT interns, approximately 50 employees.

Federal regulations allow an agency to pay for training expenses to develop knowledge, skills, and abilities directly related to improved individual performance, and if in the accomplishment of such training, an employee receives an academic degree, the degree is considered an incidental by-product of the training. However, the scope and magnitude of the education offered to these employees far exceeded any normal training offered to the general employee population to improve individual job performance and was not a part of any agency sponsored educational program. Further, there was never a demonstrated need to pay for entire academic degrees for these employees for the purposes of meeting an identified VA training need, of resolving an identified VA staffing problem, and accomplishing a goal of VA's strategic plan. Essentially, the academic degree training was provided for the sole purpose of affording the employee with an academic degree, which is further demonstrated by managers authorizing payment for books, fees, student health, a GRE prep training course, and retaking a failed class. 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 GW, one of the nation's most expensive private universities. There is no evidence or documentation that would justify a GW program or degree over those at other universities in Washington, DC.

In addition, we find it problematic that OI&T funded or is funding graduate and undergraduate degrees for employees with very little residual commitment required by the employee. Most CSA requirements were fulfilled within a few weeks after the completion of each course, and VA's interests and investments in the employees were not protected. We note that CSAs were routinely used when VA paid a recruitment or relocation incentive and generally required a 1-year service commitment. We believe that VA's interests would be better served if the commitment requirements associated with any training were significantly increased from their present levels.

Recommendation 16. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against ██████████ for authorizing improper academic degree funding. (b)(6)

Recommendation 17. We recommend that the Assistant Secretary for Information and Technology ensure that OI&T Recommending and Approving Officials, as well as Training Officers, receive training on Federal laws and VA policy related to the funding of academic degrees.

Recommendation 18. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of \$33,407.88 to recover funds improperly expended to pay for her academic degree. (b)(6)

Recommendation 19. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of \$27,930 to recover funds improperly expended to pay for her academic degree.

Recommendation 20. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of \$25,711 to recover funds improperly expended to pay for her academic degree.

Recommendation 21. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of \$27,561 to recover funds improperly expended to pay for his academic degree.

Recommendation 22. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of \$15,153 to recover funds improperly expended to pay for his academic degree.

Recommendation 23. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of \$9,568 to recover funds improperly expended to pay for her academic degree.

Recommendation 24. We recommend that the Assistant Secretary for Information and Technology ensure that OI&T conducts a review of its use of the academic degree funding authority, ensure that all requirements are met, and take appropriate corrective action in cases where funds were improperly expended.

Recommendation 25. We recommend that the Assistant Secretary for Information and Technology ensure that a review is conducted of the Department's application of Continued Service Agreements associated with the funding of training, to include properly funded academic degrees, to determine whether VA's interests and investments in their employees are being adequately protected and take appropriate corrective action.

Issue 6: Whether OI&T Managers Misused Hiring Authorities

Improper Use of Federal Career Intern Program

Executive Order 13162, dated July 6, 2000, authorized the establishment of the Federal Career Intern Program (FCIP) to assist agencies in recruiting and attracting exceptional individuals with a variety of experiences, academic disciplines, and competencies necessary for the effective analysis and execution of public programs. Federal regulations provide that appointments made under FCIP expire after 2 years; however, they stated that 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. 5 CFR § 213.3202. The U.S. Office of Personnel Management (OPM) website 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. VA Handbook 5005, Part II, Appendix N, Paragraph 2. Policy further states that HR 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. *Id.* Policy also requires HR management officers at local facilities to ensure any Career Intern Program implemented complies with policy. VA Handbook 5005, Part II, Chapter 2, Paragraph 7 (c) (3).

We discovered three OI&T employees who were improperly appointed to Federal service using the non-competitive hiring authority under FCIP:

- [REDACTED], appointed April 1, 2007, as a Management Analyst, GS-0343-09 (b)(6)
- [REDACTED] appointed March 18, 2007, as a Management Analyst, GS-0343-07
- [REDACTED] appointed Sept. 16, 2007, as a Management Analyst, GS-0343-05

Unlike the intern program established in 2003 for IT Specialists (job series 2210), we found no evidence that there existed a career intern program for the Management Analyst career field (job series 0343) within OI&T. ██████████ told us that upon being appointed to their respective positions, neither participated in a structured 2-year career intern training component. ██████████ former supervisor told us that he was not aware of a Management Analyst formal intern training program and that he did not initiate any such program with ██████████. The three employees were appointed to positions within OI&T's ITOC organization, and although the current ITOC Director of Operations told us that she knew that ██████████ was hired as a career intern, she did not know whether there was a career intern program for his position. Therefore, she was not aware of the requirement for an intern to participate in a formal intern training component over the initial 2-year term of employment. A former Deputy Director of ITOC also told us that he was unaware of the existence of any career intern training program. (b)(6)

██████████ told us that in 2003 or 2004, OI&T developed an intern program for the IT Specialist and Management Analyst positions. He said that it was up to the employee's supervisor or manager to ensure that the employee received proper training. He further said that after the employee completed their 2-year career intern term, their supervisor provided him with the employee's position description and a signed request for a personnel action form (SF-52), requesting that the employee be converted to a career conditional appointment. ██████████ told us that his only responsibility, as the ██████████, was to hand carry the paperwork to the VACO HR office for processing. He said that it was not his responsibility to ensure that the employee successfully completed the 2-year training program, stating that "If the employee has been here for two years and the managers say, 'Okay. I want to convert them,' I'm passing that paperwork on down to HR." (b)(6)

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. 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. 5 USC § 3304. OPM's website 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 5 USC § 3309-3318, 5 CFR part 211, or 5 CFR

part 337, subpart A. It further states that a DHA expedites hiring by eliminating 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 at GS-15 (or equivalent) or below, if OPM determines that there is either a severe shortage of candidates or a critical hiring need for such positions. 5 USC § 1104(a) (2); 5 USC § 3304(a) (3). The OPM website states that Government-wide DHA for IT Management (Information Security) direct hires at the GS-2210-09 level and above requires a documented second authority and that there is no DHA for GS-2210s below the GS-09 level. Federal regulations state that requests for DHA must be submitted to OPM by the Agency's Chief Human Capital Officer (or equivalent) at the agency headquarters level and that OPM then determines the length of the DHA based on the justification. 5 CFR § 337.201. VA's authority to use DHA terminated June 14, 2004. *Id.* § 337.207.

Ms. Duncan initiated a DHA recruitment action under Vacancy Announcement #IT-07-205, IT Specialist GS-2210-05/12, with an open period of December 7-21, 2006. The VACO HR Specialist who processed the recruitment action told us that there were 22 minimally qualified applicants for this recruitment; therefore, HR convened a rating panel consisting of two rating officials. She said that after completing the rating and ranking process, they determined that seven applicants were "Best Qualified" and placed on the GS-2210-05 Certificate, dated December 22, 2006. The HR Specialist further said that she gave the Certificate to Ms. Duncan, who was the selecting official, along with guidance on how to determine the "Best Qualified" of those seven candidates. From this Certificate, [REDACTED]

(b)(6)

[REDACTED]. All four were selected to GS-05 positions.

Personnel records reflected that the HR Specialist processed the request for personnel action (SF-52) forms for the four selected applicants using a Direct Hire Authority (DHA). The HR Specialist told us that the Authority applied to hiring IT Specialists under Alternative B of the OPM Qualification Standards and that VA received an OPM memorandum stating that VA could use this Authority to hire IT Specialists critical to ensuring the security of Federal information systems. The HR Specialist did not have a copy of the OPM memorandum, and she instead referenced a June 20, 2003, OPM news release which she understood to be a description of OPM's granting DHA to agencies. However, the HR Specialist was not aware that the DHA pertained to IT Specialists only at the GS-09 pay grade and above or that OPM's interim guidance on DHA, which was used as the basis for hiring GS-2210s at the GS-05 and GS-07 level, expired on June 14, 2004. Thus, at the time these four individuals were selected to GS-05 positions, VA had no DHA to do so.

Personnel records reflected that [REDACTED] was appointed as an IT Specialist, GS-2210-05, on May 11, 2008, also using the DHA; therefore, his appointment to this position was not only illegal due to nepotism, as reported above, but it was also improper, due to the use of

(b)(6)

a direct hire authority that did not exist as it had expired. In this instance, the OI&T HR office in Austin, Texas, handled the recruitment action, rather than VACO HR, and the Chief of HR Management Service in Austin signed the personnel action.

On April 23, 2009, we notified VACO Office of Human Resources of VA's improper use of the DHA to hire the several employees we identified. The Director of Central Office HR Service told us that she conferred with the Director of Recruitment and Placement Policy Service, Office of HR 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-09.

Conclusion

We concluded that [REDACTED] were improperly hired under (b)(6) FCIP. Ms. Duncan and [REDACTED] used this non-competitive hiring authority as a way to circumvent fair and open competition in hiring. This allowed Ms. Duncan, and to a degree, [REDACTED], the ability to non-competitively pre-select who would be hired without having the constraints of competitive recruitment actions. In addition, there was not a career intern program for Management Analysts in place within OI&T, and those selected under this hiring authority were not provided a formal training program, as required, before being converted to career conditional status, non-competitively, after 2 years. While we have identified in this report three specific individuals who received improper FCIP appointments and did not participate in an intern training program, our review indicated that other employees within OI&T were hired and converted under similar circumstances.

We concluded that [REDACTED] were improperly appointed to their positions using an expired DHA. In addition, we believe that other employees within OI&T, and perhaps VA-wide, were hired under similar circumstances. On April 24, 2009, we referred the improper use of DHA to the then Acting Assistant Secretary for HR and Administration for his review and immediate action.

Recommendation 26. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning the improper FCIP appointments, failure to provide 2-year formal training programs, and subsequent conversions to career-conditional status of [REDACTED], and take such action. (b)(6)

Recommendation 27. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine whether OI&T managers made additional improper FCIP appointments, failed to provide a 2-year formal training program, and subsequently converted employees to career-conditional status, and take appropriate corrective action.

Recommendation 28. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to ensure that: (1) FCIP hiring is used only in cases when an approved program is established for specific career fields; (2) managers and supervisors are knowledgeable of and adhere to FCIP requirements; (3) interns appointed under FCIP fully participate in the program and are certified to have successfully completed the program prior to conversion to career or career-conditional status; and (4) HR provides the required oversight and guidance as required by VA policy.

Recommendation 29. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning the improper DHA appointments of [REDACTED] and take such action. (b)(6)

Recommendation 30. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to identify any additional improper VA appointments made using DHA, and take appropriate corrective action.

Recommendation 31. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to ensure that HR personnel and managers with hiring authority are advised of the use and limitations of DHA.

Issue 7: Whether OI&T Managers Improperly Administered Award Policy

Federal regulations require Federal employees to act impartially and not give preferential treatment to any private organization or individual. 5 CFR § 2635.101(b)(8). 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. Policy also states the amount of combined basic pay, allowance, differential, bonus award, or other cash payment that an employee can receive during the calendar year is limited to the salary of Executive Level 1. VA Handbook 5017.

The September 4, 2007, OI&T Delegation of Authority Memorandum delegated award approval authority to the Principal Deputy Assistant Secretary and various Deputy Assistant Secretaries, Executive Directors, VACO Service Line Directors and Regional Directors, as well as second and first 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 Ms. Duncan, the Director of the Executive Staff. A subsequent January 10, 2008, memorandum rescinded the earlier one, and it issued new award guidance, including Ms. Duncan's 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 as necessary. The 2008 memorandum expires January 10, 2010.

Background

In two separate OI&T conferences, one in July 2007 and the other in July 2008, Mr. Howard spoke to attendees about the criticism OI&T received over their management of fiscal resources. He said that funding for 2007 was “tight” and that 2008 was not expected to be much better. At the 2008 conference, he said that the Under Secretary for Health agreed to transfer \$278 million to the OI&T appropriations that year. The former OI&T Deputy Assistant Secretary (DAS) of Resource Management told us that when OI&T reorganized there was a deficit of “pretty large proportions.” The DAS for Information Protection & Risk Management (IPRM) told us that she was aware of an OI&T budget deficit, and that there was a deficit since the beginning of the 2006 reorganization effort. She further said that there was currently a reprogramming letter awaiting approval by Congress for \$30 million to address the current OI&T budget shortfall. The former DAS of Resource Management and the current DAS for IPRM both told us they were stunned at the frequency and amount of monetary awards given in OI&T, and the former DAS of Resource Management said that the group that most often exploited awards was the group of employees associated with Ms. Duncan. We found that OI&T spent over \$24 million on awards and retention bonuses in calendar years 2007 and 2008.

Ms. Duncan told us that Mr. Howard supported giving cash awards to employees for outstanding efforts and performances; that she endorsed this principle; and that she signed many award authorization forms to include some that “probably” predated the above 2008 memorandum. We found numerous instances where the award policies enunciated by the 2007 and 2008 memoranda were violated. Some violations involved Ms. Duncan’s authorization of awards when she had no delegation of authority to do so. Other instances involved Ms. Duncan’s assumption of both the recommending and approving levels for awards despite both memoranda limiting this authority to the Principal Deputy Assistant Secretary and Deputy Assistant Secretaries. However, the most egregious violations centered on the dollar amounts awarded to OI&T employees mentioned previously in this report.

2007 and 2008 OI&T Total Award Expenditures

In 2007, OI&T spent a total of \$11,653,439 in appropriated funds for awards and retention bonuses for about 4,700 employees, with the lowest annual award being \$43 and the highest \$29,276. The annual average award per employee was about \$2,500.

In 2008, OI&T spent a total of \$12,358,045 in appropriated funds for awards and retention bonuses for about 5,000 employees, with the lowest annual award being \$30 and the highest being \$47,856. The average annual award per employee was again about \$2,500. For 2007/2008 combined, OI&T spent \$24,011,484 for awards and retention bonuses.

We limited our analysis to the employees previously identified within this report, with one exception, citing examples of questionable awards; however, based on our analysis and discovering the total awards given to some employees, the frequency and large amounts of cash awards given within OI&T are not limited to these few.

OI&T GS-15 Awards/Retention Bonuses

In 2007, the average annual award/bonus given to an OI&T GS-15 was \$6,757, with a median of \$6,000, and \$5,000 being the most frequently given. Ms. Duncan received \$29,276. This was the highest amount given to any GS-15 within OI&T that year. These figures incorporated both awards and a retention bonus; however, Mr. Howard told us that he subsequently discontinued Ms. Duncan's retention bonus in 2008, due to a lack of justification. However, records reflected that Ms. Duncan received a retention bonus of \$2,834 that year.

In 2008, the average combined award/retention bonus given to an OI&T GS-15 was \$8,015, with a median of \$6,300, and \$3,500 being the most frequently given. Ms. Duncan's awards and retention bonus totaled \$31,294, the fourth highest amount given to a GS-15 within OI&T that year. Although Mr. Howard said that he discontinued Ms. Duncan's retention bonus in 2008, it appears that he compensated by giving her more monetary awards.

The highest award/bonus amounts given to OI&T GS-15s in 2008 were \$47,856, \$39,994, and \$39,845, with over \$30,000 given to each employee in retention bonuses. We found that for the 2-year period of 2007 and 2008, Ms. Duncan received over \$60,000 and three other GS-15 OI&T employees received approximately \$73,000, \$58,000, and \$59,000, respectively. We noted that not all personnel files for these employees contained adequate justification for retention bonuses for each calendar year, and in some cases, the justification was questionable. Mr. Howard told us that he believed that the Department should audit its retention bonuses for adequate justification. A May 27, 2009, OPM Memorandum, CPM 2009-10, requested that Agencies review their Retention (as well as Recruitment and Relocation) incentives to ensure that ongoing and new authorizations for payments to employees were used only when necessary and to support the mission and program needs and were consistent with the criteria in law and OPM regulations.

[REDACTED] (b)(6)

In 2007, the average annual award given to an OI&T GS-14 was \$4,324, with a median of \$3,500 and \$2,000 being the most frequently given. [REDACTED] received \$18,325, the highest OI&T GS-14 award recipient that year.

In 2008, the average annual award given to a GS-14 in OI&T was \$4,041, with a median of \$2,700 and \$2,000 being the most frequently given. [REDACTED] received \$11,000 in awards, the fifth highest OI&T GS-14 award recipient that year.

Pay and personnel records reflected one example of improper use of the awards policy. During one 9-month time period, from October 2007 to July 2008, three different managers recommended [REDACTED] for four cash awards for his efforts in staffing, which was one of his primary job responsibilities. [REDACTED] supervisor also recommended him for a performance award, rating him "Excellent" for that rating period, citing his efforts in staffing. However, [REDACTED] supervisor told us that [REDACTED] was not happy with what he thought was a low rating and award amount, \$2,325, and [REDACTED] complained to Ms. Duncan. Ms. Duncan then assigned him to her staff for a short time and recommended him for an additional cash award in the amount of \$4,000. During that 9-month timeframe, [REDACTED] received almost \$15,000 in cash awards for the same body of work in OI&T staffing, despite his supervisor rating him as "Excellent" and not "Outstanding" for that appraisal period.

[REDACTED]

From 2006 to January 13, 2009, [REDACTED] to Ms. Duncan, (b)(6) received a total of \$27,100 in awards. Six of the awards were made prior to the 2008 memorandum giving Ms. Duncan the authority to approve awards. Despite the lack of authority, we found Ms. Duncan's signature as the approving official on three of the award recommendations, and on one, Ms. Duncan was both the recommending and approving official. Therefore, prior to having the authority to do so, Ms. Duncan improperly gave [REDACTED] a total of \$13,000 in cash awards on four separate occasions.

[REDACTED]

Records reflected that 2 ½ months after [REDACTED] began working for OI&T as a GS-11, (b)(6) she received an "Outstanding" performance evaluation, and Ms. Duncan recommended and authorized a \$3,000 cash performance award for her. [REDACTED] had no prior Federal experience, and prior to her VA appointment was a mortgage loan officer in the private sector. At the time, Ms. Duncan did not have the authority to approve any award nor was she authorized to both recommend and approve one. Between October 2005 and November 5, 2008, [REDACTED] received eight cash awards totaling \$22,000. Personnel

files only contained four of the eight award forms; however, those four showed Ms. Duncan as the recommending or approving official or both. Those four comprised \$10,500 of the above amount.

[REDACTED] (b)(6)

Records showed that Ms. Duncan appointed [REDACTED] to a Budget Analyst, GS-0506-13, Step 6, position within OI&T on August 6, 2006. [REDACTED] told us that they were friends. [REDACTED] was previously a GS-13 Budget Analyst at the Export Import Bank, and she was hired as a lateral transfer. About 90 days after she began working within OI&T, Ms. Duncan issued [REDACTED] a “special rating of record” performance appraisal rating of “Outstanding” and awarded her a \$4,500 Superior Performance Award.

When shown the forms associated with [REDACTED] appointment, the “special” performance appraisal rating of “Outstanding,” and the VA form approving her cash award, which all contained her signature, Ms. Duncan denied knowing [REDACTED]. She said that she did not recall hiring [REDACTED] or giving her the “special” performance rating, or the \$4,500 cash award. Ms. Duncan claimed that she did not write the justification memorandum attached to the cash award approval form; however, after reading it, she told us that in her opinion, [REDACTED] earned the award if she performed the duties outlined in the justification memorandum, even though [REDACTED] had worked at VA for only 90 days. As previously noted, employees at the GS-14 level in OI&T, on average, received smaller bonuses for working a full year than [REDACTED], as GS-13, received for 90 days of work.

[REDACTED] (b)(6)

Our analysis showed that in 2007, the average annual award given to an OI&T GS-05 was \$670 with a median of \$700 and \$500 being the most frequently given. Paid records reflected that [REDACTED] of Ms. Duncan’s [REDACTED], individually received the highest amounts given to any OI&T GS-05, and together accounted for \$10,800 or 17 percent of the total award money given to OI&T GS-05s that year.

At the beginning of 2008, [REDACTED] were promoted to GS-07. In 2008, the average award given to an OI&T GS-07 was \$1,038, with a median of \$750, and \$500 being the most frequently given. However, [REDACTED] received \$4,800 and \$4,689, respectively, the third and fifth highest GS-07 cash awards for that year. Although both [REDACTED] were hired as IT Specialists (GS-2210), they told us that they spent their first year doing OI&T administrative tasks. [REDACTED] is currently working in Executive Services, still as a GS-2210, but doing administrative tasks;

however, ██████ told us that after her first year, she began completing IT Specialist-type training.

Records showed that ██████ began working in OI&T as a GS-05 in February 2007; however, 2 months later, Ms. Duncan approved a \$2,500 cash award for her. Ms. Duncan stated in her recommendation that the award was for work ██████ performed between January and April 2007. Additionally, Ms. Duncan did not have the authority to approve awards at that time. ██████ had no prior Federal service, and she was a newly hired IT Specialist, yet within her first 8 months of working in OI&T, which she described as mostly administrative duties, she received a total of \$5,200 in cash awards. (b)(6)

Records also showed that ██████ began working in OI&T as a GS-05 in February 2007; however, in March, she received a \$500 award for providing program support to ITOC from October 2006 to March 2007. Further, we found that in May 2007, Ms. Duncan approved ██████ for a \$2,500 cash award for assembling training materials from January to April 2007, which again predated her employment by 1 month. Additionally, Ms. Duncan did not yet have the authority to approve awards. We also found a January 14, 2009, award recommendation form in which Ms. Duncan improperly signed as both the recommending and approving official, giving ██████ \$750.

████████████████████

(b)(6)

About 2 ½ months after ██████, Ms. Duncan's long time friend, began working in OI&T as an IT Specialist, she received a \$2,000 cash award and 8 months later, she received a Quality Step Increase (QSI). Personnel records did not contain the corresponding award form reflecting the justification or the recommending and approving officials.

Conclusion

We concluded that OI&T managers were not fiscally responsible in administering awards. Mr. Howard and 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. Ms. Duncan, in particular, 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, Ms. Duncan was not authorized to approve awards; however, she improperly approved numerous awards

worth tens of thousands of dollars. Additionally, she violated awards policy when she signed as both the recommending and approving official. Although our investigation focused on 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-05s who received 17 percent of the total amount of cash awards given to GS-05s 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 a manager who said that she did not even remember her.

In addition to the improperly administered awards, we found the frequent and large dollar amount awards given to employees were unusual and often absurd. A current and a 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. Several awards, some in significant amounts, were given within 2 to 3 months after the employee began working in OI&T. Worse, some employees were given cash awards for services that were supposedly provided before the employees started working at VA.

Recommendation 32. We recommend that the Assistant Secretary for Information and Technology ensure that OI&T Recommending and Approving Officials receive training on Federal regulations and VA and OI&T policy related to monetary awards, as well as be reminded of their fiscal responsibility.

Recommendation 33. We recommend that the Assistant Secretary for Information and Technology ensure that a review of OI&T retention incentives is conducted to ensure that they are necessary and support the mission and program needs and that they fully comply with law, OPM regulations, and VA policy.

Issue 8: Whether [REDACTED] Failed to Properly Discharge Duties of His Position (b)(6)

Standards of Ethical Conduct for Employees of the Executive Branch require that employees act impartially, disclose abuse to appropriate authorities, not use one’s public office for private gain nor use one’s Government position to coerce or induce another person to provide any benefit to himself, friends or relatives. They also require that employees put forth an honest effort in the performance of their duties and to endeavor to

avoid any actions creating the appearance that they are violating the law or ethical standards. 5 CFR § 2635.101 and 702.

Background

██████████ was a Supervisory Management Analyst, GS-0343-14, who worked as the primary ██████████ within OI&T. His position description, VA position ██████████, defined his responsibilities as providing expert advice and assistance to OI&T managers, supervisors, and employees on a broad range of ██████████ management issues, as well as directing the programs and activities of the OI&T ██████████. It further defined the scope and effect of the position as one that entails activities encompassing the full range of the ██████████ discipline, such as position management, organizational development, recruitment, awards, leave and hours of duty. Finally, it stated that ██████████ worked for and was accountable to the Program Management Officer, who was Ms. Jennifer S. Duncan until January 2009. (b)(6)

██████████ Performance Appraisals, signed October 7, 2005, October 10, 2006, and November 15, 2007, contained performance standards issued at the beginning of each rating period. For 2005 and 2006, the standards were identical. Highlighted among other elements was the need to oversee the ██████████ process and all associated activities for OI&T, as well as providing advice to management officials on ██████████ functions. For both years, Ms. Duncan prepared the Performance Plan, and at the end of the rating period, she evaluated ██████████ as an “Outstanding” employee. ██████████ performance award justification associated with his 2005 outstanding rating highlighted his meeting the challenges inherent in “creating an HR staff that is well respected and proactive in nature.” Likewise, the performance narrative for the 2006 rating period commented on his diligent efforts “to meet the recruiting and hiring demands of an organization assigned new and larger Departmental responsibilities.” ██████████ 2007 Performance Appraisal was written by Mr. Barritt, OI&T Director of HR and Career Development. The standards changed somewhat in that Mr. Barritt emphasized elements of leadership and consensus building. Nevertheless, ██████████ 2007 appraisal mentioned his timely guidance and expertise in ██████████ and credits his ██████████ mastery as a welcome addition. Mr. Barritt specifically mentions ██████████ detail “to the OI&T front office to provide ██████████ expertise...to hire Information Security Officers.” (b)(6)

Mr. Barritt rated ██████████ as “Excellent” for the rating period. A November 24, 2008, memorandum from OI&T’s Associate Deputy Assistant Secretary for HR and Career Development to the Deputy Assistant Secretary for OI&T Resource Management reflected that ██████████ rating was again “Outstanding.” (The signed appraisal was not contained in personnel files for this rating period.) The memorandum stated that ██████████ efforts predominately centered on recruitment. (b)(6)

Failure to Properly Discharge the Duties of his Position

(b)(6)

told us that although he filled a “leadership role” as the , he repeatedly described his OI&T duties as being no more than a “big liaison, big paper pusher” between what he described as “little ” (his OI&T office) and “big ” (the VA’s Office of). He completely disavowed any management responsibilities, saying that his only responsibility was to put the paperwork together and “push” it to “big .” He told us that it was not his responsibility to ensure functions were done correctly. He said that he merely sent forward OI&T management requests to “big ,” and it was their responsibility to inform him of any improprieties. further said that 80 to 90 percent of all the GS-15 positions filled within OI&T, under Mr. Howard, were preselected. He gave one example of Ms. Duncan instructing him to assist one individual to ensure that her resume qualified her for a GS-15 position, because Mr. Howard wanted to hire her. further said that he was involved in 99 percent of OI&T’s recruitment actions; that Ms. Duncan could not be swayed in her desires; and that he always followed her orders.

Contrary to assertions that he was responsible only for administrative activities and was not responsible for complying with policies and regulations, we found, in an email, a resume recently submitted when applying for another VA position in which he claimed total responsibility for compliance with roles. In it, he described his position responsibilities as:

- Served as an authoritative advisor to OI&T Senior Management on all areas regarding various policies and programs
- Served as the primary OI&T Liaison and exercised primary supervision over the OI&T Program
- Maintained knowledge of industry trends and employment legislation in order to facilitate legal compliance and continuous improvement of operations and practices
- Provided guidance to operational regions on policies, programs, and initiatives
- Developed plans and policies for OI&T’s programs
- Provided the direction of the OI&T program related to position and position management by providing guidance in the areas of for OI&T
- Conducted analysis of employee training needs
- Administered the OI&T Intern program

- Provided direction and leadership that is necessary to perform the mission and support activities required of the OI&T [REDACTED] program (b)(6)

[REDACTED], in his position as the Director of [REDACTED] Operations for OI&T, had direct oversight responsibility for, and personal involvement in, the following improper actions:

- In Issue 1, we concluded that Ms. Duncan [REDACTED] was improperly selected as an OI&T intern, improperly transferred from one OI&T organization to another, and improperly selected as an IT Specialist. [REDACTED] statement that he told Ms. Duncan that hiring her [REDACTED] as an IT Specialist was improper was contradicted by documents showing [REDACTED] direct involvement in, rather than his objections to, this hiring.
- In Issue 2, we identified that Ms. Duncan improperly hired friends at above the minimum salary.
- In Issue 3, we concluded that [REDACTED] role in his [REDACTED] and his [REDACTED] (at an (b)(6) above the minimum salary) VA appointments was improper.
- In Issue 4, we concluded that [REDACTED] misused her position in her [REDACTED] VA appointment.
- In Issue 5, we addressed management's misuse of academic degree funding authority. We found [REDACTED] signature on one of the training authorization forms as the [REDACTED] Liaison/Training Officer. On other forms, his subordinate staff signed them as the [REDACTED] representative.
- In Issue 6, we concluded that OI&T misused FCIP and Direct Hire Authority to access new hires, resulting in improper appointments.
- In Issue 7, we concluded that Ms. Duncan abused VA Awards Policy, and we noted the high aggregate dollar amounts she awarded [REDACTED], based on his "outstanding" contributions by carrying out his [REDACTED] responsibilities.

Conclusion

[REDACTED] position description and performance plans outlined his responsibilities as the Director of [REDACTED] Operations for OI&T. His performance appraisals and awards commended him for "outstanding" work. During his tenure, we found a multitude of [REDACTED] failures pertaining to nepotism, recruitment, misuse of hiring authorities, awards, payments for academic degrees, and staff advancement, all of which fell under [REDACTED] responsibilities. Despite [REDACTED] testimonial protestations to the contrary, his responsibility entailed more than carrying documentation and information back and forth between [REDACTED] [REDACTED]" and [REDACTED] [REDACTED]." His position description, his (b)(6)

performance standards, and indeed his annual performance evaluations described the totality of his substantive [REDACTED] responsibilities. (b)(6)

As [REDACTED] was responsible for providing expert advice to OI&T management, including Ms. Duncan, on the advisability and legality of OI&T's various proposed [REDACTED] actions. The fact that Ms. Duncan acted, at times, as the organization's "de facto Chief of Staff" did not relieve [REDACTED] of his responsibility to communicate to her the appropriateness or inappropriateness of various [REDACTED] options. Moreover, competent advice on his part may have precluded the magnitude of problematic [REDACTED]-related occurrences that existed in OI&T.

We concluded that [REDACTED] did not properly and competently exercise his staff responsibilities by advising Ms. Duncan as to the improprieties involved in [REDACTED] appointments, hiring of friends, misuse of training dollars for academic degrees, improper use of FCIP and Direct Hire Authority to bypass OPM, and violations of the VA Award Policy. Rather than provide proper guidance and advice to her, he frequently colluded with her. In doing so, he failed to disclose her abuse to appropriate authorities and failed to put forth an honest effort in the performance of his duty. (b)(6)

Recommendation 34. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] for failing to properly discharge the duties of his position.

Comments

The Assistant Secretary for Information and Technology concurred with our recommendations. He said that he would confer with the Office Human Resources and Administration and the General Counsel to ensure that appropriate administrative and corrective actions are taken. The Assistant Secretary was responsive to our recommendations, and his comments can be found in Appendix A. We will follow up to ensure that the recommendations are fully implemented.

(original signed by:)

JAMES J. O'NEILL
Assistant Inspector General for
Investigations

Assistant Secretary's Comments

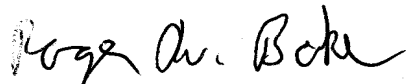
**Department of
Veterans Affairs**

Memorandum

Date: August 3, 2009
From: Assistant Secretary for Information and Technology
Subject: Draft Inspector General Report
To: Mr. James J. O'Neill, Assistant Inspector General for
Investigations, Office of the Inspector General

I have reviewed the Draft Inspector General Report entitled "Administrative Investigation – Nepotism, Abuse of Authority, Misuse of Position, Improper Hiring, and Improperly Administered Awards, Office of Information Technology, Washington, DC." My organizations' response to the IG's findings follow.

Thank you for the opportunity to review this draft report and comment. I have already established new procedures and stronger accountability in the areas of Recruitment, Relocation and Retention Incentives, Permanent Change of Station (PCS) including the Guaranteed Home Buyout Offer, and Performance and Incentive Awards. Should you need further information, you may reach me at 202-461-6911.



Roger W. Baker

Assistant Secretary's Comments to Office of Inspector General's Report

The following Assistant Secretary's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

OIG Recommendation(s)

Recommendation 1. We recommend that the Assistant Secretary for Information and Technology ensure that the total amount of funds unlawfully expended to pay for [REDACTED] salary since his initial OI&T appointment on September 16, 2007, is determined and ensure that a bill of collection is issued to [REDACTED] in that amount. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 2. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] VA appointments and take such action. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 3. We recommend that the Assistant Secretary for Information and Technology ensure that the total amount of funds unlawfully expended to pay for [REDACTED] salary since April 27, 2004, the first instance of Ms. Duncan authorizing the expenditure of VA funds to pay for [REDACTED] education and to advance [REDACTED] career, is determined, and ensure that a bill of collection is issued to [REDACTED] in that amount. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with the recommendations to take appropriate administrative action for these various violations. I intend to discuss these matters with Office of Human Resources and Administration and the General Counsel to ensure that appropriate actions taken are.

Recommendation 4. We recommend that the Assistant Secretary for Information and Technology ensure that OI&T leadership and employees receive guidance concerning nepotism, preferential treatment, misuse of position, and other relevant ethics standards.

Concur **Target Completion Date:** 10/15/09

I concur with the recommendations to ensure OI&T Leadership and employees receive proper human resources and ethical guidance and take appropriate administrative action for these various violations. I intend to discuss these matters with Office of Human Resources and Administration and the General Counsel to ensure that proper guidance and information is provided to OI&T staff.

Recommendation 5. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] for not (b)(6)
testifying freely and honestly in a matter regarding her employment.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 6. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] appointment, to include her appointment at a rate above the minimum, and take such action.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 7. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] appointment, to include her appointment at a rate above the minimum, and take such action. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 8. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] locality pay rate, based on her physically living and working in [REDACTED], and take such action. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 9. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] for misusing his position for the private gain of his [REDACTED].

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 10. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] [REDACTED] [REDACTED] improper VA appointment, and take such action. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 11. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] for failing to testify freely and honestly in matters related to his employment. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 12. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] for misusing his position for the private gain of his [REDACTED]. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 13. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning [REDACTED] [REDACTED] [REDACTED] improper VA appointment, to include her appointment at a rate above the minimum, and take such action. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 14. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against Ms. Amanda Graves for giving preferential treatment in hiring.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 15. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] (b)(6) for misusing her position for the private gain of [REDACTED].

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 16. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] (b)(6) for authorizing improper academic degree funding.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 17. We recommend that the Assistant Secretary for Information and Technology ensure that OI&T Recommending and Approving Officials, as well as Training Officers, receive training on Federal laws and VA policy related to the funding of academic degrees.

Concur **Target Completion Date:** 10/15/09

I concur with the recommendations to ensure OI&T Recommending, Approving and Training Officers receive proper training on Federal laws and VA policy related to funding academic degrees. I intend to discuss these matters with Office of Human Resources and Administration and the General Counsel to ensure that proper guidance and information is provided to OI&T staff.

Recommendation 18. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of \$33,407.88 to recover funds improperly expended to pay for her academic degree. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 19. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of \$27,930 to recover funds improperly expended to pay for her academic degree. (b)(6)

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 20. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of (b)(6) \$25,711 to recover funds improperly expended to pay for her academic degree.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 21. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of (b)(6) \$27,561 to recover funds improperly expended to pay for his academic degree.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 22. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of (b)(6) \$15,153 to recover funds improperly expended to pay for his academic degree.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 23. We recommend that the Assistant Secretary for Information and Technology ensure that a bill of collection is issued to [REDACTED] in the amount of (b)(6) \$9,568 to recover funds improperly expended to pay for her academic degree.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 24. We recommend that the Assistant Secretary for Information and Technology ensure that OI&T conducts a review of its use of the academic degree funding authority, ensure that all requirements are met, and take appropriate corrective action in cases where funds were improperly expended.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will ensure that a review is conducted on OI&T's use of academic degree funding. I intend to discuss the matter with the Office of Human Resources and Administration and the General Counsel to determine that proper guidance is given and will take appropriate, corrective actions where necessary.

Recommendation 25. We recommend that the Assistant Secretary for Information and Technology ensure that a review is conducted of the Department's application of Continued Service Agreements associated with the funding of training, to include properly funded academic degrees, to determine whether VA's interests and investments in their employees are being adequately protected and take appropriate corrective action.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will ensure a review is conducted of the Department's application of Continued Service Agreements to ensure employees are adequately protected. I intend to discuss the matter with the Office of Human Resources and Administration and the General Counsel to determine that proper guidance is given and will take appropriate, corrective actions where necessary.

Recommendation 26. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning the improper FCIP appointments, failure to provide 2-year formal training programs, and subsequent conversions to career-conditional status of [REDACTED]

(b)(6)

and take such action.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 27. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine whether OI&T managers made additional improper FCIP appointments, failed to provide a 2-year formal training program, and subsequently converted employees to career-conditional status, and take appropriate corrective action.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 28. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to ensure that: (1) FCIP hiring is used only in cases when an approved program is established for specific career fields; (2) managers and supervisors are knowledgeable of and adhere to FCIP requirements; (3) interns appointed under FCIP fully participate in the program and are certified to have successfully completed the program prior to conversion to career or career-conditional status; and (4) HR provides the required oversight and guidance as required by VA policy.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration and the General Counsel to ensure that FCIP hiring conforms to VA guidance and has oversight from the Office of HR.

Recommendation 29. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to determine the appropriate corrective action concerning the improper DHA appointments of [REDACTED] (b)(6) [REDACTED] and take such action.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

Recommendation 30. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to identify any additional improper VA appointments made using DHA, and take appropriate corrective action.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will review DHA appointments. I intend to discuss the matter with the Office of Human Resources and Administration and the General Counsel to determine appropriate, corrective actions that should be taken.

Recommendation 31. We recommend that the Assistant Secretary for Information and Technology confer with the Office of HR to ensure that HR personnel and managers with hiring authority are advised of the use and limitations of DHA.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will ensure proper use of DHA. I intend to discuss the matter with the Office of Human Resources and Administration and the General Counsel to determine the proper use of DHA.

Recommendation 32. We recommend that the Assistant Secretary for Information and Technology ensure that OI&T Recommending and Approving Officials receive training on Federal regulations and VA and OI&T policy related to monetary awards, as well as be reminded of their fiscal responsibility.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will ensure appropriate staff receive training on regulations that apply to monetary awards and review their fiscal responsibility. I intend to discuss the matter with the Office of Human Resources and Administration and the General Counsel to ensure proper guidance is covered.

Recommendation 33. We recommend that the Assistant Secretary for Information and Technology ensure that a review of OI&T retention incentives is conducted to ensure that they are necessary and support the mission and program needs and that they fully comply with law, OPM regulations, and VA policy.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will ensure a review is conducted on retention incentives. I intend to discuss the matter with the Office of Human Resources and Administration and the General Counsel to determine the proper procedures for retention incentives.

Recommendation 34. We recommend that the Assistant Secretary for Information and Technology take appropriate administrative action against [REDACTED] for (b)(6) failing to properly discharge the duties of his position.

Concur **Target Completion Date:** 10/15/09

I concur with this recommendation and will discuss the matter with the Office of Human Resources and Administration to determine what corrective action is warranted and then ensure that appropriate action is taken.

OIG Contact and Staff Acknowledgments

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Acknowledgments	Alexander Carlisle Guy Durand Charles Millard Carrie O’Neill
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