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# Inspector General

United States  
Department of Defense



**REPORT OF INVESTIGATION:  
MR. PHILIP A. BURDETTE, ACTING SPECIAL  
ASSISTANT AND SENIOR ADVISOR TO THE  
ASSISTANT SECRETARY OF DEFENSE FOR HEALTH  
AFFAIRS**

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**REPORT OF INVESTIGATION  
MR. PHILIP A. BURDETTE**

**I. INTRODUCTION AND SUMMARY**

We initiated this investigation to address allegations that Mr. Philip A. Burdette, while serving as the Principal Director, Wounded Warrior Care and Transition Policy (WWCTP) Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), engaged in misconduct relating to leadership practices, time and attendance, and other matters.

We conclude Mr. Burdette:

- Engaged in unsound leadership practices or otherwise acted in a manner that was inconsistent with DoD leadership principles in violation of Title 5, United States Code (U.S.C.), Section 3131, "The Senior Executive Service"; DoD 5500.07-R, "Joint Ethics Regulation" (JER); and the United States Office of Personnel Management (OPM) "Guide to Senior Executive Service Qualifications";
- Misused Government resources by improperly detailing contractors in violation of the JER, "Use of Government property," and the Federal Acquisition Regulation (FAR), Volume 1, Part 43, "Contract Modifications";
- Improperly accounted for his time and attendance in violation of DoD 7000.14-R, "Department of Defense Financial Management Regulation (FMR)," Volume 8, "Civilian Pay Policy and Procedures"; and Washington Headquarters Services (WHS) Administrative Instruction Number 8, "Disciplinary and Adverse Actions";
- Created the appearance of a conflict of interest with a subcontractor and attempted to influence the contract for the benefit of the subcontractor in violation of the Federal Acquisition Regulation (FAR), Volume 1, Subpart 3.101-1, "Standards of conduct"; and, JER Section 2635.101, "Basic obligation of public service";
- Did not provide an honest response to his supervisor in violation of Section 5 of the JER, "Primary Ethical Values"; and WHS Administrative Instruction Number 8, "Disciplinary and Adverse Actions";
- Misused official time, misused a rental vehicle, improperly scheduled travel, improperly accounted for his time and attendance, and failed to use his Government Travel Charge Card (GTCC) for all travel-related expenses while in a temporary duty (TDY) status, in violation of the Joint Travel Regulations (JTR), Volume 2 (DoD Civilians), Section C1059, "Scheduling Travel"; Section C2102, "Special Conveyance Use"; Section C1100, "GTCC Use"; the JER, "Use of Public Office for Private Gain"; the FMR, Volume 8, "Civilian Pay Policy and Procedures"; Volume 9, "DoD Government Travel Charge Card"; and WHS Administrative Instruction Number 8, "Disciplinary and Adverse Actions."

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Following our established practice, by letter dated June 11, 2013, we provided Mr. Burdette the opportunity to comment on the preliminary results of our investigation. In his response, dated July 26, 2013, Mr. Burdette contested our preliminary findings and conclusions. He characterized the testimony provided by sworn witnesses as “specious” and unfounded. He asserted witnesses colluded to “forward as many anonymous and unfounded allegations as possible and hope something is substantiated.”

We carefully considered Mr. Burdette’s comments and address his comments in Section IV, Findings and Analysis, below. After carefully considering Mr. Burdette’s response and reevaluating all of the evidence, we provided Mr. Burdette the broadest consideration with respect to the allegation that he improperly accounted for his time and attendance. We revised the Findings and Analysis with respect to that allegation.

We stand by our original conclusions regarding each allegation.<sup>1</sup>

We recommend the Acting Under Secretary of Defense, Personnel and Readiness, consider appropriate corrective action with regard to Mr. Burdette.

This report sets forth our findings and conclusions based on the preponderance of the evidence.

## **II. BACKGROUND**

Mr. Burdette was appointed to the Senior Executive Service (SES) on March 17, 2010, and as the Principal Director for the WWCTP office on March 1, 2011. As Principal Director, Mr. Burdette is responsible for policy and oversight related to wounded, ill, injured, and transitioning Service members. The WWCTP office consists of approximately 20 Government employees and 100 contractor employees. The majority of employees work in the Hoffman II Building in Alexandria, VA. The WWCTP front office is in the Pentagon.

The Office of the Deputy Assistant Secretary of Defense (DASD) for WWCTP ensures recovering wounded, ill, injured, and all transitioning members of the Armed Forces receive equitable, consistent, and high-quality support and services. Mr. Burdette’s supervisor, Mr. John R. Campbell, is the DASD for WWCTP.<sup>2</sup>

On June 5, 2012, the Deputy Secretary of Defense approved a realignment of functions within OUSD(P&R), disestablishing the position of DASD (WWCTP) and creating the position of DASD (Warrior Care Policy). We use the nomenclature DASD (WWCTP) for the sake of consistency in this report.

We received six separate complaints between December 20, 2011, and March 14, 2012, containing allegations against Mr. Burdette.

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<sup>1</sup> We summarized Mr. Burdette’s comments throughout this report where appropriate, and provided a copy of his response to the Acting Under Secretary of Defense for Personnel and Readiness, together with a copy of this report.


<sup>2</sup> Mr. Campbell resigned from Government service effective March 29, 2013.



### III. SCOPE

We interviewed Mr. Burdette and 27 witnesses with knowledge of the matters under investigation. We reviewed contracts, internal budget and personnel documents, travel documents, Government phone records, and more than 4,600 Government emails.

(b)(6), (b)(7)(C)



### IV. FINDINGS AND ANALYSIS

A. Did Mr. Burdette engage in unsound leadership practices or otherwise act in a manner that was inconsistent with DoD leadership principles?

#### Standards

##### **Title 5 U.S.C. 3131, "The Senior Executive Service," dated January 7, 2011**

Title 5 U.S.C. 3131 established the Senior Executive Service "to ensure that the executive management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality."

##### **JER, dated August 30, 1993, including changes 1-6 (March 23, 2006)<sup>3</sup>**

The JER provides a single source of standards of ethical conduct and ethics guidance for DoD employees. Chapter 2 of the JER, "Standards of Ethical Conduct," incorporates Title 5, Code of Federal Regulations (C.F.R.), Part 2635, "Standards of Ethical Conduct for Employees of the Executive Branch," in its entirety.

Section 5 of the JER states "Primary Ethical Values" relate to what is right and wrong and thus take precedence over non-ethical values when making ethical decisions. Some of those identified values are honesty, integrity, fairness, respect, dignity, tolerance, and promise keeping.

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<sup>3</sup> Change 7 of the JER was released November 17, 2011. The allegations involved interrelated events before and after this date; accordingly, we applied Change 6 of the JER release dated March 23, 2006.

Courtesy and kindness, both to those we serve and to those we work with, help to ensure that individuals are not treated solely as a means to an end. Caring for others is the counterbalance against the temptation to pursue the mission at any cost.

**OPM, “Guide to Senior Executive Service Qualifications,” dated June 2010**

The Guide sets forth essential leadership qualifications and underlying competencies for members of the SES within the Federal Government. The introduction to the OPM Guide states that leaders must be able to apply “people skills” to motivate their employees, build partnerships, and communicate with their customers.

Accordingly, OPM has identified five Executive Core Qualifications for SES personnel: Leading Change, Leading People, Results Driven, Business Acumen, and Building Coalitions. The Appendix to the Guide sets forth underlying competencies that demonstrate each qualification. The Leading People section emphasizes SES leadership qualifications, such as,

Manages and resolves conflicts and disagreements in a constructive manner ... fosters an inclusive workplace ... develops the ability of others to perform and contribute ... inspires and fosters team commitment, spirit, pride, and trust. The Building Coalitions qualification requires competence in building consensus through give-and-take and gaining cooperation from others to accomplish goals.

Facts

Complaints alleged Mr. Burdette created a hostile work environment, resulting in an erosion of staff morale, increased fear, and a degradation of mission effectiveness. During the course of the investigation, we frequently received testimony Mr. Burdette would bully, yell, name-call, or otherwise behave in a manner inconsistent with DoD leadership principles to treat others with dignity and respect. The majority of Government witnesses we interviewed were senior GS civilians, many with previous military experience and leadership responsibilities.

We asked 19 witnesses – representing SES, senior GS civilians, and contractor employees – who had frequent workplace interactions with Mr. Burdette, if he resolved problems in a constructive manner: no one replied affirmatively; three indicated they were undecided and 16 stated “no.” Further, we asked the same 19 witnesses if Mr. Burdette’s leadership inspires and fosters trust: no one replied affirmatively; two were undecided and 17 said “no.”

Many witnesses testified Mr. Burdette would frequently engage in name-calling of subordinates and peers. The most common epithets Mr. Burdette used were “liar,” “criminal,” “idiot,” and “stupid.” Among the witnesses we interviewed, 13 stated they had heard Mr. Burdette refer to subordinates not in his presence as a “liar.” Ten witnesses testified Mr. Burdette referred to subordinates not in his presence as a “criminal.” Eight witnesses testified Mr. Burdette referred to subordinates not in his presence as “idiots.” Finally, two witnesses testified Mr. Burdette called them, in their presence, “stupid.”



We offered ten witnesses, who worked closely with Mr. Burdette, the opportunity to provide positive remarks regarding his leadership and conduct with his subordinates. Many stated he had no positive leadership characteristics. (b)(6), (b)(7)(C) testified, "I don't dislike the person. I dislike his behavior." (b)(6), (b)(7)(C) responded, "When he is involved he [has] lots of energy." (b)(6), (b)(7)(C), who did not work for Mr. Burdette, (b)(6), (b)(7)(C) testified Mr. Burdette manages his staff primarily by mocking and punishing subordinates. The witness added, "I have not heard anything positive from his staff about him."

More than half of the witnesses we interviewed, who had interactions with Mr. Burdette, testified they heard Mr. Burdette "yell" at subordinates. Less than half testified he would "raise his voice," while fewer stated he would "scream."

Among eight witnesses who interfaced with both Mr. Burdette and Mr. Campbell, all characterized Mr. Burdette's conduct as "unchecked." Witnesses testified Mr. Campbell took a laissez faire supervisory role toward Mr. Burdette's behavior.

With regard to Mr. Burdette's behavior, we received the following testimony:<sup>4</sup>

- (b)(6), (b)(7)(C) employee testified Mr. Burdette yelled at (b)(6), (b)(7) over the telephone. The employee told us (b)(6), (b)(7) colleague could confirm the incident because (b)(6), (b)(7) was present at the time. We interviewed the colleague, and (b)(6), (b)(7) corroborated (b)(6), (b)(7)(C) testimony that Mr. Burdette was "screaming" at the employee over the telephone.
- (b)(6), (b)(7)(C) employee testified Mr. Burdette yelled at (b)(6), (b)(7) over the telephone and then ended the conversation by slamming the receiver.
- (b)(6), (b)(7)(C) witness observed Mr. Burdette become upset and yell while speaking to an SES on the telephone. The witness testified Mr. Burdette abruptly ended a call to the SES and told (b)(6), (b)(7)(C) witness, "I hung up on her." We interviewed the SES who corroborated (b)(6), (b)(7)(C) testimony. She explained that Mr. Burdette had a history of abruptly hanging-up on her and stated, "I would be talking and he would just hang up."
- (b)(6), (b)(7)(C) witness described Mr. Burdette as a "bully" who had alienated himself from his entire workforce. (b)(6), (b)(7) added Mr. Burdette told (b)(6), (b)(7) he never visited his employees in the Hoffman II building because "they are a bunch of IG writers."
- After not completing a task to Mr. Burdette's standards, (b)(6), (b)(7)(C) testified Mr. Burdette told (b)(6), (b)(7) "I could make one phone call and you could be gone."
- (b)(6), (b)(7)(C) testified (b)(6), (b)(7) would not intentionally interact with Mr. Burdette. (b)(6), (b)(7) stated Mr. Burdette had "absolutely the worst interpersonal relationship and leadership skills I have ever seen."

<sup>4</sup> Each cited comment comes from a separate witness.

- (b)(6), (b)(7)(C) employee testified Mr. Burdette’s support staff had no respect for him, and he is only able to get tasks accomplished by “badgering [and] bullying.”
- (b)(6), (b)(7)(C) witness testified Mr. Burdette had alienated “just about everybody.” (b)(6) added (b)(6) would never attempt to talk to Mr. Burdette about his leadership conduct for fear (b)(6) would lose (b)(6) job.
- An employee testified that on one occasion (b)(6) heard Mr. Burdette yell at (b)(6), (b)(7)(C) while he was speaking to (b)(6), (b)(7)(C) on the telephone. The witness stated “it made me uncomfortable to hear [Mr. Burdette] yelling at an adult.”

Mr. Campbell testified Mr. Burdette “holds people accountable” and “gets the job done.” Mr. Campbell’s evaluation of Mr. Burdette’s performance, as documented in Mr. Burdette’s “Executive Pay and Performance Appraisal,” for the period ending September 30, 2011, stated (b)(6), (b)(7)(C)

[REDACTED]

(b)(6), (b)(7)(C)  
[REDACTED]

Mr. Campbell described a conversation he had with Mr. Burdette regarding needed improvement in Mr. Burdette’s leadership methods. In that meeting, Mr. Campbell suggested Mr. Burdette needed to work on his patience and flexibility with some of his subordinates. Mr. Burdette testified Mr. Campbell never had such a conversation with him.

We reviewed more than 4,600 emails from Mr. Burdette’s Government email account. We found no evidence Mr. Burdette used profanity or slurs in Government email or other communications with employees. (b)(6), (b)(7)(C) witness testified Mr. Burdette frequently initiated “explicit” sexually-oriented jokes in (b)(6) presence. The witness provided four names of individuals (b)(6) stated would corroborate (b)(6) testimony. We interviewed three of them; they did not confirm (b)(6) testimony.<sup>5</sup>

We found several Government emails regarding Mr. Burdette’s feedback to subordinates, which could be characterized as reinforcing Mr. Campbell’s evaluation regarding Mr. Burdette’s (b)(6), (b)(7)(C):

- To (b)(6), (b)(7)(C) employee: “I got no help and no feedback on this ... that ain’t gonna happen again.”

<sup>5</sup> (b)(6), (b)(7)(C)



- To three subordinates: “Why weren’t my simple instructions followed?”
- To (b)(6), (b)(7)(C) employee attempting to negotiate a new deadline: “I don’t make deadlines for fun. Or arbitrarily.”
- From an SES to Mr. Burdette: “[Mr. Burdette], is there a reason/purpose for being so terse? I, personally, would appreciate a more collegial tone.” Six weeks later, the same SES sent a separate email to Mr. Campbell, notifying him of an “unpleasant situation” regarding “tone, emotion, and reactions” with respect to three emails she had received from Mr. Burdette.

Mr. Burdette testified that prior to his arrival, the WWCTP Office lacked discipline and supervision. He said when he arrived, he received a “charge” from the former USD(P&R) to improve WWCTP performance and solve problems, and he made decisions based on ensuring the vision of the USD(P&R) was carried out. Mr. Burdette stated he added discipline, accountability, and a sense of urgency to deliver results for wounded Service members and their families.

Mr. Burdette testified he absolutely resolved conflicts and disagreements in a constructive manner and his leadership practices with subordinates inspired and fostered trust. He testified that no one, to include subordinates or Mr. Campbell, ever offered him negative feedback regarding his leadership practices.

He stated he did not yell or scream at subordinates, but at times used an “elevated tone of voice.” He also stated his feedback to subordinates is blunt, delivered in a measured tone, and is directed at work products and not individuals. He denied using any name-calling epithets at any time. He added his trust level is “not high with anybody,” and that if he felt an employee was lying to him, “I have no problem with looking at another professional and saying, ‘I think you are lying to me.’” Mr. Burdette acknowledged hanging-up on subordinates if he considered the conversation unproductive and the subordinate was not listening to him.

### Discussion

We conclude Mr. Burdette engaged in unsound leadership practices or otherwise acted in a manner that was inconsistent with DoD leadership principles in violation of 5 U.S.C., the JER, and OPM guidelines.

We found much of the disparaging testimony we received was provided by (b)(6), (b)(7)(C) who had significant civilian and military supervisory and leadership experience and could, therefore, credibly comment on Mr. Burdette’s leadership practices. Among all witnesses we asked, none agreed Mr. Burdette resolved problems in a constructive manner. Further, no witness agreed his leadership methods inspired and fostered trust. Testimony established that morale among Mr. Burdette’s subordinates was poor, and witnesses were critical of Mr. Burdette’s leadership methods, describing him as a “bully” with an apparent objective of intimidating subordinates by means of punitive threats.



We found Mr. Burdette referred to subordinates not in their presence by invoking epithets such as “liar” or “criminal.” Less commonly, Mr. Burdette would address subordinates as “idiots.” Further, most witnesses testified Mr. Burdette had a reputation for yelling at subordinates.

We further found evidence that Mr. Campbell considered Mr. Burdette’s conduct toward subordinates resulted in improved employee accountability toward the WWCTP mission. We also found that witnesses primarily objected to the manner in which Mr. Burdette challenged their work performance. Finally, we found Mr. Burdette did not trust his staff and did not communicate effectively with them.

Mr. Burdette testified that his leadership practice is in response to the lack of discipline he found upon his arrival in March 2011. He stated he was given specific instructions to improve WWCTP performance, and he made decisions regarding subordinate productivity based on the sense of urgency and accountability he thought mirrored the vision of the USD(P&R).

Title 5 U.S.C. 3131 established the Senior Executive Service “... is of the highest quality.” The JER identifies ethical values to include fairness, respect, dignity, and tolerance. The JER states that courtesy and kindness help to ensure that individuals are not treated solely as a means to an end. OPM’s “Guide to Senior Executive Service Qualifications” states that leaders must be able to apply “people skills” to motivate their employees, build partnerships, and communicate with their customers. The Guide emphasizes leadership techniques that resolve conflicts and disagreements in a constructive manner and which inspires and fosters team commitment, spirit, pride, and trust.

We determined Mr. Burdette’s conduct was inconsistent with JER guidelines regarding treating employees with fairness, caring, and respect, and that he failed to meet 5 U.S.C., OPM and JER standards and expectations for senior leaders. We were persuaded by the consistency of sworn testimony among a large cohort of witnesses with direct knowledge of Mr. Burdette’s conduct.

#### Mr. Burdette’s Response

Mr. Burdette asserted that the witnesses who provided sworn testimony regarding this allegation did so based on hearsay and conversations taken out of context but offered no evidence to support his assertion. He reiterated his own sworn testimony that he did not bully, yell, or name-call anyone.

We reviewed the sworn testimony of the 21 witnesses we interviewed regarding this allegation; (b)(6), (b)(7)(C) or SES employees. We found these 21 witnesses provided more than 90 comments that supported the allegation that Mr. Burdette engaged in unsound leadership practices or otherwise acted in a manner inconsistent with DoD leadership principles. We found the preponderance of the sworn testimony to be direct evidence regarding this allegation. Accordingly, having carefully considered all of the evidence, including Mr. Burdette’s response to our preliminary report, we stand by our conclusion.

B. Did Mr. Burdette misuse Government resources?

Standards

**JER, dated August 30, 1993, including changes 1-6 (March 23, 2006)**

Section 2635.704, "Use of Government property," states an employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes. The JER defines "services of contractor personnel" as Government property for the purposes of this section. "Authorized purposes" is defined as a purpose in accordance with law or regulation.

**FAR, Volume 1, dated March 2005, Part 43, "Contract Modifications"**

Subpart 43.102, "Policy," provides that only contracting officers acting within the scope of their authority are empowered to execute contract modifications on behalf of the Government. Other Government personnel are prohibited from directing or encouraging a contractor to perform work that should be the subject of a contract modification.

Facts

We divide this allegation into two parts, based on the facts and evidence regarding each contractor employee.

(b)(6), (b)(7)(C)

A complaint alleged Mr. Burdette misused (b)(6), (b)(7)(C) employee to perform charitable work on his behalf and permitted the (b)(6), (b)(7)(C) employee to charge the Government for (b)(6), charitable work during duty hours. (b)(6), (b)(7)(C) employee was a (b)(6), (b)(7)(C) for Operation Warfighter (OWF). OWF is a Federal internship program for recovering Service members and provides assistance with resume building, exploring employment interests, and developing job skills through internship opportunities.

On June 13, 2011, the "Troops First Foundation" hosted a 9-hole golf charitable event in Chevy Chase, Maryland.<sup>6</sup> The event was billed as an "Improvised Explosive Day of Golf" and included Wounded Warriors and professional and celebrity golfers. Testimony established the WWCTP Office agreed to support the event by providing a golf caddy.

On June 7, 2011, (b)(6), (b)(7)(C) received an email, subject "RE: Golf Event & WWCTP Visit." The email requested Mr. Burdette's presence at the Chevy Chase Club's clubhouse parking lot at 11:15 [a.m. June 13, 2011],

<sup>6</sup> Troops First Foundation is a non-Federal entity.



By email dated 9:57 a.m., June 13, 2011, (b)(6), (b)(7)(C) notified Mr. Burdette that his appointment at the Chevy Chase Club was forwarded to (b)(6), (b)(7)(C) employee. Seven minutes later, Mr. Burdette replied, "What does this mean?" (b)(6), (b)(7)(C) responded, "I forwarded the golf invite to (b)(6), (b)(7)(C) employee] so (b)(6), (b)(7)(C) can attend...." Mr. Burdette replied, "Is (b)(6), (b)(7)(C) [going to] be there at 11:30 [a.m.]?"

(b)(6), (b)(7)(C) testified (b)(6), (b)(7)(C) "vaguely" recalled it was Mr. Burdette who was scheduled to caddy at the charitable golf event, but at the last minute he could not participate. (b)(6), (b)(7)(C) stated Mr. Burdette instructed (b)(6), (b)(7)(C) to "find someone" to replace him, and (b)(6), (b)(7)(C) quickly did so.

(b)(6), (b)(7)(C) testified that Mr. Burdette directed the (b)(6), (b)(7)(C) employee to caddy at the charitable golf event in his place.

Mr. Burdette's (b)(6), (b)(7)(C) testified Mr. Burdette directed (b)(6), (b)(7)(C) to find someone to replace him at the charitable golf event. (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) asked the (b)(6), (b)(7)(C) employee to caddy in lieu of Mr. Burdette.

(b)(6), (b)(7)(C) employee testified that while working in (b)(6), (b)(7)(C) contracting status, (b)(6), (b)(7)(C) received a "frantic" phone call on the morning of the event from (b)(6), (b)(7)(C) telling (b)(6), (b)(7)(C) "hey, someone's gotta do this and Mr. Burdette wants you to be there." (b)(6), (b)(7)(C) employee added (b)(6), (b)(7)(C) was "certain" Mr. Burdette personally selected (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) remembered it was only after many Government employees rejected the "invitation" to caddy that (b)(6), (b)(7)(C) was told to do so. (b)(6), (b)(7)(C) added (b)(6), (b)(7)(C) too, was not eager to participate but as a contractor, "since it was coming from Mr. Burdette, that is what I was doing for the day." (b)(6), (b)(7)(C) stated (b)(6), (b)(7)(C) was not told (b)(6), (b)(7)(C) should take leave as (b)(6), (b)(7)(C) was "directed" to participate in what (b)(6), (b)(7)(C) termed "a lost day" of work.

Mr. Campbell testified his office had a role in providing a caddy for the charitable golf event, and during our interview he told us it was improper to have (b)(6), (b)(7)(C) employee work as a caddy and charge the Government for (b)(6), (b)(7)(C) time. Further, we found no evidence the (b)(6), (b)(7)(C) employee's authorized contractual purpose included performance as a golf caddy.

Mr. Burdette testified he did not direct the (b)(6), (b)(7)(C) employee to caddy at the charitable golf event. He said Mr. Campbell accepted the invitation to participate, but Mr. Burdette learned on the morning of the event that he could not attend. Mr. Burdette stated he had other obligations in the Pentagon and could not attend the event as a replacement for Mr. Campbell. Further, Mr. Burdette testified his (b)(6), (b)(7)(C) identified the (b)(6), (b)(7)(C) employee on (b)(6), (b)(7)(C) own, and when (b)(6), (b)(7)(C) informed Mr. Burdette the golf caddy was (b)(6), (b)(7)(C) employee, Mr. Burdette told us he "blew right through that" because his primary concern was fulfilling the requirement to have his office provide a caddy. He stated he was not concerned if the (b)(6), (b)(7)(C) employee was in a leave status.



(b) (6), (b) (7)(C)

A complaint alleged Mr. Burdette reassigned a (b) (6), (b) (7)(C) employee in August 2011 to perform duties in violation of the terms of (b) (6), (b) (7)(C) contract with the U.S. Government. Witness testimony disclosed the employee was (b) (6), (b) (7)(C)

We reviewed the contract, associated delivery order, and a Statement of Work (SOW), "Operations and Administrative Support Services," which identified eight activities supporting the WWCTP office, to include "Administrative and Operational Support." "Administrative support" was defined as "general secretarial and office management services such as supply management, distribution services, logistical support, answering phones, attending meetings and reporting minutes." Paragraph 23.2 of the SOW provides that a Contracting Officer Technical Representative (COTR) may be appointed to assist the contracting officer in administration of the contract. It adds, "In no event is the COTR authorized to direct any action which constitutes a change to the SOW or any other term or condition of the contract." The SOW period of performance commenced June 1, 2010, and the employee was (b) (6), (b) (7)(C).

Testimony disclosed that in early August 2011, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) coordinated with Mr. Burdette to provide an individual assigned to his staff to work an 8 week detail in the Executive Secretariat office. (b) (6), (b) (7)(C) testified (b) (6), (b) (7)(C) office rotated people from different OUSD(P&R) organizations for the detail. (b) (6), (b) (7)(C) stated Mr. Burdette decided the (b) (6), (b) (7)(C) employee would perform the detail. (b) (6), (b) (7)(C) told us (b) (6), (b) (7)(C) was familiar with the (b) (6), (b) (7)(C) employee's administrative duties and responsibilities in the WWCTP front office and remarked they were largely unrelated to (b) (6), (b) (7)(C) duties while detailed to the Executive Secretariat.

Documentary evidence disclosed a WWCTP COTR had responsibility to monitor (b) (6), (b) (7)(C) technical effort under the terms of the contract. Further, the COTR was obligated to ensure no demands were placed on the contract not provided for in the contract.

(b) (6), (b) (7)(C) testified the (b) (6), (b) (7)(C) employee was hired to work in (b) (6), (b) (7)(C) and should not have been detailed to another job "out of scope" of the original (b) (6), (b) (7)(C) contract. (b) (6), (b) (7)(C) added (b) (6), (b) (7)(C) was unaware Mr. Burdette detailed the (b) (6), (b) (7)(C) employee until after (b) (6), (b) (7)(C) detail was over.

Mr. Burdette testified there was a "handshake" agreement among previous leadership that contractors assigned under the Wounded Warrior contract would perform duties, at times, in support of the Executive Secretariat. He added that (b) (6), (b) (7)(C) explained that it was (b) (6), (b) (7)(C) turn to offer an employee, which was a customary and known practice within OUSD(P&R). He stated he discussed the requirement with other principal deputies and with Mr. Campbell, and no one objected to (b) (6), (b) (7)(C) request. Under those circumstances, Mr. Burdette stated the detail was "absolutely" within the scope of the WWCTP office. He also testified he did not consult the FAR regarding his decision to effect the detail.

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## Discussion

We conclude that Mr. Burdette misused Government resources in violation of the JER and the FAR. We divide the Discussion into two parts, based on the facts and evidence presented.

(b) (6), (b) (7)(C)

We found Mr. Burdette directed his staff to find an employee to serve as a caddy to support a charitable golf event. We found that the golf event was hosted by a non-federal entity on June 13, 2011. Further, we found once Mr. Burdette was aware the (b) (6), (b) (7)(C) employee would caddy at the event, Mr. Burdette did not question nor halt the (b) (6), (b) (7)(C) employee's participation in the golf event.

We found that the (b) (6), (b) (7)(C) employee was not in a leave status because (b) (6) considered (b) (6) place of duty to be at the golf course in accordance with Mr. Burdette's direction. Further, we found no evidence that the (b) (6), (b) (7)(C) employee's duties included participation as a golf caddy to support a non-federal entity.

The JER provides that Government employees have a duty to protect and conserve Government property and shall not allow its use for other than authorized purposes. For the purpose of this provision, the services of Government contractor employees are considered Government property. We found that the (b) (6), (b) (7)(C) employee was a Government contractor employee.

We determined Mr. Burdette misused the (b) (6), (b) (7)(C) employee to support a charitable golf event hosted by a non-federal entity. His direction to his staff to provide a person to serve as a caddy resulted in the unauthorized use of the services of the (b) (6), (b) (7)(C) employee. Mr. Burdette's directions resulted in an improper use of Government property for non-official purposes in violation of the JER. Finally, Mr. Burdette had knowledge of, encouraged, and permitted this unauthorized use in violation of the JER.

(b) (6), (b) (7)(C)

We found the WWCTP office hired a (b) (6), (b) (7)(C) employee (b) (6), (b) (7)(C) to perform (b) (6), (b) (7)(C). Later, Mr. Burdette detailed the (b) (6), (b) (7)(C) employee to a different office, performing duties unrelated to the scope of the contract's SOW. Mr. Burdette did not coordinate the detail with the COTR.

The FAR states that Government personnel, such as Mr. Burdette, are prohibited from directing or encouraging a contractor to perform work that should be the subject of a contract modification. The JER requires Government employees to use Government property only for authorized purposes.

We determined that by detailing the (b) (6), (b) (7)(C) employee to perform duties outside the scope of the contract's SOW, Mr. Burdette directed the contractor to perform unauthorized work

which required a contract modification. He did not have authority to unilaterally detail the (b) (6), (b) (7)(C) employee without properly coordinating modifications to the SOW.

#### Mr. Burdette's Response

Mr. Burdette stated he did not select the (b) (6), (b) (7)(C) contractor to attend the golf event, and that it was Mr. Campbell, not he, who detailed the (b) (6), (b) (7)(C) employee to perform duties outside of (b) (6) statement of work. He also stated that the Executive Secretariat office "was directly supported administratively by the same contracts that WWCTP was using."

Some evidence indicated Mr. Burdette may not have personally selected the (b) (6), (b) (7)(C) contractor to attend the golf event. However, a preponderance of the evidence disclosed the (b) (6), (b) (7)(C) contractor reported to the golf event under the authority of Mr. Burdette's direction to his staff to provide a person to serve as a caddy. Mr. Burdette had knowledge of, encouraged, and permitted the (b) (6), (b) (7)(C) contractor's unauthorized participation in the golf event in violation of the JER.

We contacted the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6) stated that (b) (6), (b) (7)(C) had no contracts supporting the Executive Secretariat office during the timeframe that Mr. Burdette detailed the (b) (6), (b) (7)(C) employee to that office.

We reviewed the requirements and responsibilities the JER and FAR imposed upon Mr. Burdette as they relate to the circumstances and facts of this allegation. Having carefully considered all of the evidence, including Mr. Burdette's response to our preliminary report, we stand by our findings and conclusions.

#### C. Did Mr. Burdette improperly account for his time and attendance?

##### Standards

##### **Title 5 C.F.R.**

Section 610.408, "Use of Credit Hours," states that SES employees may not accumulate credit hours under an alternative work schedule.

##### **FMR, Volume 8, "Civilian Pay Policy and Procedures," dated September 2010**

Volume 8, Chapter 2, "Time and Attendance," provides that timekeepers shall ensure that employees attest to the accuracy of the current pay period's time and attendance. Such attestation requires the employee's written or electronic signature or initials affirming the correctness of time and attendance data.

Paragraph 020206, "Work Schedules," subparagraph A, "Basic Work Requirement," states the basic work requirement is defined as the number of hours, excluding overtime hours, an employee is required to work or to account for by charging leave. Generally, a full-time employee's basic work requirement is 80 hours in a pay period.



Paragraph 020210, "Temporary Duty (TDY)," requires that an employee document the hours worked and hours of leave on the time and attendance document for the pay period during which the employee is TDY.

Paragraph 020302, "Certification of Absences," provides that employees shall initial or sign for absences from duty or submit an approved application for leave.

Paragraph 020303, "Verification of Leave Charges," requires employees to confirm officially each leave charge, except for administrative leave, absence without leave charges, suspension, or holiday absences.

**WHS Administrative Instruction Number 8, "Disciplinary and Adverse Actions," dated May 7, 2008**

This standard provides a table of offenses and penalties intended for use as a guide to selecting an appropriate penalty for actionable employee misconduct.

Relative to this allegation, Enclosure 3, Tables T1.1, "Attendance Related Misconduct," and T1.9, "False Statements," provide disciplinary guidance regarding attendance-related misconduct such as absence without leave and falsifying information on a time card.

Facts

Complaints alleged that Mr. Burdette improperly accounted for his time and attendance and routinely did not work 8 hour days while reporting he did. During the course of our investigation, we were continually apprised of the perception by witnesses with knowledge of Mr. Burdette's attendance that he was not properly accounting for 8 hours of duty each day.

Mr. Burdette testified his normal arrival for work is 7:30 a.m. every duty day, sometimes earlier. He stated he departs "when appropriate" or at the end of the work day. He stated his duty location is the Pentagon, but he also spent a lot of time at the U.S. Department of Veterans Affairs (VA).

(b)(6), (b)(7)(C) told us Mr. Burdette did not have an established approved tour of duty, alternative work schedule, or telework agreement.

The DoD uses a secure, web-based application, known as the Automated Time Attendance and Production System (ATAAPS), which provides the entry, update, concurrence, and certification of time and attendance data for civilian employees of various DoD agencies. ATAAPS serves primarily as a data entry and repository system, which feeds payroll data to the Defense Finance and Accounting Service (DFAS) for payroll processing. Employees must use their Common Access Card (CAC) for identity assurance when accessing ATAAPS.

Mr. Burdette testified he always entered his own time and attendance records in ATAAPS and never shared his CAC with anyone. We reviewed Mr. Burdette's archived time and attendance records for the period February 28, 2011 – May 18, 2012. These records

established Mr. Burdette entered 8 hours regular duty for every duty day, except on days he took leave.

We reviewed Mr. Burdette's Pentagon swipe card access records for the period March 3, 2011 – April 26, 2012. We eliminated from our review any days the records did not clearly establish Mr. Burdette's entry and exit. The records show that his recorded access in the Pentagon occurred exclusively Monday through Friday. Further, we reconciled his Pentagon access records with Mr. Burdette's archived leave records. After making these adjustments, the records establish that during this 13-month period, Mr. Burdette spent 87 days in the Pentagon less than 8 hours. He recorded 84 days as 8-hour regular duty days; the remaining 3 days he charged a portion as leave.

On July 26, 2012, we offered Mr. Burdette an opportunity to review and offer comment regarding the compilation of records illustrating his physical presence in the Pentagon for those 87 days. Mr. Burdette responded on August 30, 2012. He provided evidence of his official duties for 37 of the 87 days. He did not provide evidence for the remaining 50 duty days. The records for those 50 duty days show Mr. Burdette was absent from his place of duty, not otherwise reconciled by leave or excused absence, an average 2 hours 40 minutes for each of the 50 duty days.

In his August 30, 2012, reply, Mr. Burdette stated any conclusions drawn from his Pentagon swipe card records would be erroneous for the following reasons:

- (b)(7)(F)
- He conducts "substantial" work at nights and weekends using his Government-provided Blackberry.
- All of his time and attendance is certified by his supervisor.
- He does not have an office in the Pentagon, and a "large" portion of his work is conducted outside of the Pentagon.
- It is a "widely accepted practice" that Government employees who work over 10 hours on one day will receive credit on another day.

Mr. Burdette testified his office and primary worksite throughout 2011 was at the Hoffman II building. He offered no witnesses who would corroborate his presence at the Hoffman II building. Further, Mr. Burdette testified the nature of his responsibilities require an aggressive engagement calendar outside of the Pentagon.

We interviewed (b)(6), (b)(7)(C) WWCTP personnel who worked at the Hoffman II building in 2011 and had knowledge regarding Mr. Burdette's on-site presence. They consistently testified Mr. Burdette was present in his Hoffman II office only upon his arrival in March 2011 and for a few weeks thereafter. They stated he re-established his worksite presence at the Pentagon and was rarely seen in the Hoffman II building after March 2011.



We interviewed (b)(6), (b)(7) witnesses who had daily first-hand knowledge of Mr. Burdette's on-site presence in his Pentagon office. They consistently testified he worked less than 8 hours a day. Testimony established Mr. Burdette informed only Mr. Campbell of his daily activities yet did not provide weekly activity reports to Mr. Campbell. Mr. Campbell testified, "I don't know exactly what he's doing," but "my sense is that he does put in a full 8 hours."

(b)(6), (b)(7)(C) testified Mr. Burdette usually was unavailable after 2 p.m. every day. (b)(6) stated Mr. Burdette told (b)(6), (b)(7) "To protect both you and [me], I do not think it would be good if you knew where I was." Testimony and email established Mr. Burdette denied shared access to his Outlook calendar after December 8, 2011, for all personnel except Mr. Campbell, yet Mr. Burdette testified he (Mr. Burdette) never used the Outlook calendar function.

(b)(6), (b)(7)(C) testified Mr. Burdette would disappear typically after 2 p.m. every day. (b)(6), (b)(7)(C) and "never, ever" saw Mr. Burdette upon (b)(6) departure.

We reviewed Mr. Burdette's email to VA officials and also contacted a VA official responsible for VA-DoD collaboration. We were able to account for Mr. Burdette's presence at eight of the nine meetings Mr. Burdette stated he attended with VA personnel during the period March 3, 2011 – April 26, 2012.

Mr. Burdette stated he attended six meetings at the White House during the period March 3, 2011 – April 26, 2012. Our review of visitor access logs and statements from White House personnel indicate he did attend those six meetings.

An email from an official assigned to the OUSD(P&R) Human Capital and Resource Management Office (Human Capital) dated August 5, 2011, to Mr. Burdette and other OUSD(P&R) employees stated the importance of accurate timekeeping. The Human Capital official reminded each employee that failure to accurately record duty time could be considered a false statement. Evidence shows that Mr. Campbell and Mr. Burdette read the email.

Mr. Burdette's Government email records establish during the period May 2, 2011 – April 30, 2012, Mr. Burdette sent approximately 3700 emails using his Government account. Of those, 606 were sent after 5 p.m. or on weekends, equivalent to 16 percent of all emails sent for this period.

Mr. Burdette's Government-provided Blackberry records establish for a 183-day period he placed or received 233 phone calls; an approximate 1000 minutes of use.<sup>7</sup> We found that during this 183-day period, 35 of the 233 calls were after 5 p.m.; an approximate 170 minutes of use.

<sup>7</sup> The 183-day sample period were the months of August, September, December 2011, and February, March, April 2012.

An email from Mr. Campbell dated January 30, 2012, to Mr. Burdette and four other WWCTP employees stated no one in the WWCTP office worked extended hours.

### Discussion

We conclude Mr. Burdette improperly accounted for his time and attendance, in violation of the FMR and WHS standards.

We found Mr. Burdette did not have an established tour of duty, alternative work schedule, or telework agreement, and accordingly his basic work requirement was 8-hours duty each day. Mr. Campbell stated that no one in the WWCTP work extended hours. Finally, as an SES, Mr. Burdette was not eligible to amass credit hours.

We reviewed Mr. Burdette's ATAAPS records from February 28, 2011 – May 18, 2012, and his Pentagon swipe card access records from March 3, 2011 – April 16, 2012. We further reviewed his Government email activity for the period May 2, 2011 – April 30, 2012, and a sample 183-day period of Mr. Burdette's Government-provided Blackberry voice activity from August 2011 – April 2012. Finally, we interviewed multiple witnesses who had first-hand knowledge regarding Mr. Burdette's duty presence either at the Pentagon, the Hoffmann II building, or the VA.

We found Mr. Burdette did not routinely work 8 hours per duty day, yet he recorded 8 hours duty for pay purposes. We compared Mr. Burdette's ATAAPS records with his Pentagon swipe card access records, Government email, and Government-provided Blackberry voice records. We found 50 duty days which indicated an absence without leave an average 2 hours 40 minutes each day. Witnesses who were familiar with Mr. Burdette's work could not account for his time for an 8-hour period during a typical duty day. Further, Mr. Campbell was unable to explain Mr. Burdette's extensive Pentagon absences. We recognize Mr. Burdette may have worked after departing the Pentagon, however, we found no evidence to explain an average absence of 2 hour 40 minutes during those 50 days.

We considered Mr. Burdette's testimony that he conducted substantial work at nights and on weekends. However, we determined his Government email and Government-provided Blackberry evidence did not establish Mr. Burdette performed substantial official duties after normal duty hours, notionally identified as after 5 p.m. We also found no evidence to support Mr. Burdette's assertion that his primary place of duty throughout 2011 was the Hoffman II building. We were persuaded by testimony from multiple witnesses that Mr. Burdette has not worked in the Hoffman II building since March 2011.

The FMR states employees are required to accurately account and attest to the correctness of their time and attendance. WHS provides disciplinary guidance regarding attendance-related misconduct such as absence without leave and falsifying information on a time card.

We determined Mr. Burdette departed from work prior to the completion of his 8-hour duty day and did not complete his work requirement away from his worksite or after normal duty



hours on 50 days. We also determined Mr. Burdette was absent without leave an average of 2 hours 40 minutes for each of those 50 days. Notwithstanding his failure to complete 8 hours of work for each duty day, Mr. Burdette recorded 8 hours of duty for pay purposes for those 50 days. Accordingly, we determined Mr. Burdette improperly accounted for his time and attendance in violation of the FMR and WHS standards.

#### Mr. Burdette's Response

Mr. Burdette asserted the conclusions we reached ignored facts and data and are unfair. He also stated our report should include information related to a 2011 internal OUSD(P&R) review of his time and attendance conducted by the then Chief of Staff, OUSD(P&R), which "found no wrongdoing." Finally, Mr. Burdette stated our preliminary report erroneously considered his place of duty in March and April 2011 to be exclusively at the Pentagon, when it was actually at the Hoffman II building.

We considered the 2011 internal OUSD(P&R) review of Mr. Burdette's time and attendance in response to a complaint that Mr. Burdette "consistently sought to defraud the government by not appropriately charging his leave to ATAAPS."

That review compared Mr. Burdette's time and attendance records with entries on his Outlook calendar for 20 dates during the period March 31 – November 1, 2011. The review concluded the complaint was without merit because in "almost all" instances the entries identified on Mr. Burdette's Outlook calendar corresponded to his ATAAPS leave entries for the 20 dates reviewed.

We examined the OUSD(P&R) internal review and observed it relied on a comparison of Mr. Burdette's Outlook calendar, a tool he testified he did not use, and reconciled DFAS leave records for 20 calendar dates. The internal review did not include any statements or interviews from witnesses, was limited in scope to only to a review of his archived leave records for 20 dates, did not include a review of his Pentagon turnstile entry and exit records, and did not evaluate Mr. Burdette's Government email and Government-provided Blackberry telephonic activity. We determined the 2011 OUSD(P&R) internal review was cursory and not reliable as evidence in our investigation.

Regarding Mr. Burdette's assertion that our preliminary report inaccurately considered his place of duty in March and April 2011, we reviewed evidence from (b)(6), (b)(7)(C) Hoffman II employees who testified that Mr. Burdette worked at the Hoffman II building only in March 2011 and that he moved to the Pentagon beginning in April 2011.

We agree with Mr. Burdette that his place of duty in March 2011 was the Hoffmann II building. Accordingly, we have excluded March 2011 from our analysis of Mr. Burdette's Pentagon turnstile entry and exit records. After this adjustment, we revised our calculations of Mr. Burdette's time and attendance based on evidence from Mr. Burdette's archived ATAAPS records, Government email, Government-provided Blackberry, sworn interviews of (b)(6) witnesses, and finally, Mr. Burdette's Pentagon turnstile entries and exits records from April 4, 2011 – April 26, 2012.

Revised calculations establish Mr. Burdette departed from work prior to the completion of his 8-hour duty day and did not complete his work requirement away from his worksite or after normal duty hours on 43 days; a total absence of 119 hours 30 minutes. Notwithstanding his failure to complete 8 hours of work for each of those 43 duty days, Mr. Burdette recorded 8 hours of duty for pay purposes for each of those.

Mr. Burdette further stated that our investigation failed to account for time he worked in excess of 8 hours a day. He added, "When employees work over 8 hours a day, it is a common and widely accepted practice that they will receive credit on another day." Mr. Burdette's response implies that he should be credited for days he worked more than 8 hours to offset days he worked less than 8 hours. We note that on the days he worked less than 8 hours, Mr. Burdette did not apply for or take leave. We also note that as an SES, Mr. Burdette is not eligible to earn or use credit hours.

We carefully considered all of the evidence and provided Mr. Burdette the broadest consideration in his response. However, we were unable to reconcile the inconsistencies in the evidence he presented with the broader body of evidence we analyzed. Accordingly, we stand by our conclusion.

D. Did Mr. Burdette create the appearance of a conflict of interest with a subcontractor and attempt to influence the contract for the benefit of the subcontractor?

#### Standards

##### **FAR, Volume 1, dated March 2005, "Standards of conduct"**

Subpart 3.101, "Standards of conduct," states Government business shall be conducted in a manner above reproach and with complete impartiality and with preferential treatment for none. The general rule is to strictly avoid even the appearance of a conflict of interest in Government-contractor relationships.

##### **JER, dated August 30, 1993, including changes 1-6 (March 23, 2006)**

Section 2635.101, "Basic obligation of public service," states employees shall act impartially and not give preferential treatment to any private organization or individual. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

#### Facts

A complaint alleged Mr. Burdette directed the award of a non-competed, firm-fixed price contract to a contractor <sup>(b)(6), (b)(7)(C)</sup> [REDACTED]. After a review of the facts, we found the allegation concerned a subcontractor, not a Government contractor.



A Performance Work Statement, dated October 31, 2011, established the National Resource Directory (NRD) as a collaborative partnership among Departments of Defense, Labor, and Veterans Affairs. The NRD is a web-based resource for Wounded Warrior Service members, veterans, and their families.

Testimony and internal WWCTP documents establish the firm, fixed-price contract award was sole sourced to MANCON. MANCON, as the prime contractor, delivered the NRD performance by subcontract through (b)(4) [REDACTED]. A Contract Order, issued by the Defense Human Resources Activity (DHRA), dated October 31, 2011, established a 3-month \$437,019.54 Period of Performance (PoP) award for the NRD performance for the period November 1, 2011 – January 31, 2012. The contract order included an option to extend the NRD 3-month PoP two times for an approximate total award of \$1.3 million ending July 31, 2012. Testimony and internal contract documents established the 3-month NRD PoP option was extended only once, through April 30, 2012.

Subcontractor performance documents establish Mr. Burdette was identified as the “Government Project Lead,” and (b)(6), (b)(7)(C) [REDACTED] subcontractor to MANCON (subcontractor) was identified as the (b)(6), (b)(7)(C) [REDACTED]. Email evidence disclosed Mr. Burdette responded directly and favorably to the subcontractor’s frequent requests for Government action or approval.

#### *Source of the Complaint*

By memorandum dated January 10, 2012, Mr. Burdette informed Mr. Campbell that he recused himself from the NRD subcontract. He added, “Given recent reporting, and the abundance of inaccurate and mean spirited internal and external accusations, it is a wise course of action to absolutely prevent any baseless accusations from having any impact on [the NRD].” Mr. Campbell testified that he did not ask Mr. Burdette to recuse himself from the NRD contract, and that Mr. Burdette complied with his recusal subsequent to January 10, 2012. Sometime in April 2012, (b)(6), (b)(7)(C) [REDACTED] attended a budget meeting with Mr. Campbell, Mr. Burdette, and others. (b)(6), (b)(7)(C) [REDACTED] testified that Mr. Campbell told (b)(6), (b)(7)(C) [REDACTED] that Mr. Campbell was the “resource allocation official” regarding the NRD contract and not Mr. Burdette. (b)(6), (b)(7)(C) [REDACTED] added (b)(6) [REDACTED] was told by a (b)(6), (b)(7)(C) [REDACTED] that Mr. Campbell made this decision based on Mr. Burdette’s alleged conflict of interest with the NRD subcontractor.

By email dated April 10, 2012, an OUSD(P&R) Contracting Officer Representative (COR) contacted Mr. Burdette informing him the current NRD PoP would expire on April 30, 2012. The COR asked if WWCTP officials wanted to exercise the option to continue the final 3-month PoP through July 31, 2012. Mr. Burdette notified (b)(6), (b)(7)(C) [REDACTED] by email dated April 10, 2012, to “complete action on this in accordance with the DASD approved actions we outlined....” By memorandum dated April 16, 2012, the OUSD(P&R) COR notified a DHRA Contracting Specialist to extend the final NRD PoP option for 3 more months through July 31, 2012.

Sometime prior to March 30, 2012, (b)(6), (b)(7)(C) [REDACTED] of the NRD subcontract told the MANCON Wounded Warrior (b)(6), (b)(7)(C) [REDACTED]



(b)(6), (b)(7)(C) that the "IG" was investigating Mr. Burdette's "activities" with the subcontractor.<sup>8</sup>  
 (b)(6), (b)(7)(C) requested the Government to deliver these remarks to (b)(6), (b)(7)(C) in writing, and in response, (b)(6), (b)(7)(C) emailed the (b)(6), (b)(7)(C) on March 30, 2012, stating a "potential conflict of interest DoD IG investigation has been initiated" regarding Mr. Burdette's (b)(6), (b)(7)(C).<sup>9</sup> Testimony disclosed the (b)(6), (b)(7)(C) notified the (b)(6), (b)(7)(C) (b)(6), (b)(7)(C). Testimony showed the (b)(6), (b)(7)(C) then notified the (b)(6), (b)(7)(C) of a conflict of interest "issue" and advised the (b)(6), (b)(7)(C) would issue a stop work order to the subcontractor. (b)(6), (b)(7)(C) told us the information (b)(6), (b)(7)(C) heard regarding a "potential conflict of interest" between Mr. Burdette and the subcontractor was sufficient grounds for (b)(6), (b)(7)(C) to issue the stop work order.

(b)(6), (b)(7)(C) testified (b)(6), (b)(7)(C) did not make a determination regarding whether the conflict of interest allegation had merit. By memorandum dated April 24, 2012, the OUSD(P&R) COR revised her April 16, 2012, notification to the DHRA Contracting Specialist to state the final NRD PoP option "will not be exercised."

By email dated April 24, 2012, (b)(6), (b)(7)(C) notified the subcontractor that the DHRA final PoP option did not include the NRD. (b)(6), (b)(7)(C) told the subcontractor to "stop work" effective April 30, 2012. (b)(6), (b)(7)(C) testified that on April 26, 2012, Mr. Burdette told (b)(6), (b)(7)(C) "to fix the stop work problem ... you got to make sure [the subcontractor] remains on contract." Testimony established that prior to April 26, 2012, (b)(6), (b)(7)(C) was aware Mr. Burdette submitted a recusal regarding the NRD subcontract. (b)(6), (b)(7)(C) told us (b)(6), (b)(7)(C) asked Mr. Burdette why he (Mr. Burdette) was involved in the NRD subcontract while he was in a recusal status. (b)(6), (b)(7)(C) told us Mr. Burdette assured (b)(6), (b)(7)(C) he (b)(6), (b)(7)(C).

Email and testimony disclose that on April 26, 2012, (b)(6), (b)(7)(C) notified (b)(6), (b)(7)(C) regarding the conflict of interest allegation. (b)(6), (b)(7)(C) discussed the matter with (b)(6), (b)(7)(C) the IG was investigating the matter. (b)(6), (b)(7)(C) then emailed (b)(6), (b)(7)(C) the same day, stating (b)(6), (b)(7)(C) "confirmed there is an IG investigation" regarding the conflict of interest allegation, and (b)(6), (b)(7)(C) instructed (b)(6), (b)(7)(C) to not award the NRD final PoP option. (b)(6), (b)(7)(C) testified (b)(6), (b)(7)(C) was obliged to comply with (b)(6), (b)(7)(C) direction because (b)(6), (b)(7)(C) had sole discretion not to exercise the NRD final PoP option. By email later that day, (b)(6), (b)(7)(C) informed Mr. Campbell and Mr. Burdette that the NRD final PoP option would not be awarded.

(b)(6), (b)(7)(C) told us that on April 27, 2012, (b)(6), (b)(7)(C) received a request from Mr. Burdette, through Mr. Burdette's (b)(6), (b)(7)(C) to explore if there were any options to continue the NRD final PoP option. (b)(6), (b)(7)(C) testified that after (b)(6), (b)(7)(C) responded that the final PoP option could not be exercised, Mr. Burdette attempted "every single possible way he could to influence the award of that [final PoP] option."

<sup>8</sup> This allegation was not included in our notification to DoD officials on February 24, 2012. Further, we did not present or discuss this allegation with this witness until May 3, 2012.

<sup>9</sup> We had no contact with this (b)(6), (b)(7)(C) until May 17, 2012.



*Mr. Burdette's Conduct with the Subcontractor*

Testimony and documents establish that on November 11, 2011, Mr. Burdette attended a White House "rose garden ceremony" with the subcontractor and had his picture taken with (b)(6), (b)(7)(C) witnesses told us the subcontractor posted the photo to a social networking site. On December 14, 2011, Mr. Burdette invited the subcontractor as his guest to attend a holiday reception hosted by the Commandant of the U.S. Marine Corps. Testimony disclosed (b)(6) attended the holiday reception with Mr. Burdette. (b)(6), (b)(7)(C) witnesses understood the subcontractor and Mr. Burdette (b)(6), (b)(7)(C) at this reception. The official guest list shows 352 people attended the Commandant's holiday reception.

Within 50 days after Mr. Burdette's January 10, 2012, recusal memorandum, Mr. Burdette sent 14 emails exclusively to the subcontractor on matters relating to the subcontractor's NRD performance.

(b)(6), (b)(7)(C) testified the subcontractor was a direct recipient of Government funds Mr. Burdette managed, and "the entire staff, especially [other] contractors" perceived a conflict of interest between Mr. Burdette and the subcontractor.

(b)(6), (b)(7)(C) testified (b)(6) heard (b)(6), (b)(7)(C) Mr. Burdette and the subcontractor. We asked (b)(6), (b)(7)(C) to explain (b)(6) comment. (b)(6) clarified, "It is a perception. There is a perception that [the subcontractor] is benefiting (b)(6), (b)(7)(C) and that perception comes from him." (b)(6) added (b)(6) told the subcontractor that (b)(6) was not awarded the final PoP option because "there was a perception (b)(6), (b)(7)(C)

Mr. Campbell testified he also attended the holiday reception. He stated it was improper for Mr. Burdette to invite the subcontractor as his guest to the holiday reception because Mr. Burdette was directly responsible for the performance of all WWCTP contracts at the time. We asked Mr. Campbell if Mr. Burdette's choice to take the subcontractor to the holiday reception was in compliance with the FAR's general rule to strictly avoid the appearance of a conflict of interest in government contractor relationships. Mr. Campbell replied, "I don't think so."

Mr. Burdette testified he wrote his recusal memorandum because there are "employees who don't like being a colleague of mine" who expressed their "displeasure with working with me [through] rampant allegations about me with (b)(6), (b)(7)(C) across the portfolio." He acknowledged he asked (b)(6), (b)(7)(C) many questions regarding the NRD final PoP option in April 2012, but added his communications to (b)(6), (b)(7)(C) were not partial to any contractor, rather an attempt to ensure the NRD online resource for Wounded Warriors continued uninterrupted.

Mr. Burdette testified he had his picture taken with the subcontractor at the White House on November 11, 2011, as he did with "about eight" other people at the same event. He provided us two names. Mr. Burdette could not recall the last name of one individual, and the



other individual told us he did have his picture taken with Mr. Burdette at the White House, but stated (b)(6), (b)(7)(C).

Mr. Burdette said he viewed his invitation to the subcontractor as his guest to the holiday reception "entirely appropriate" because the event was widely attended, and he considered it a professional networking vice social event. Mr. Burdette testified he took to heart the appearance issue, which he stated was the genesis of his January 2012 recusal memorandum to Mr. Campbell. Mr. Burdette added, "I think my recusal is directly fueled by this perception problem, which I realize is somewhat of a hindrance. I understand. We have a perception problem."

### Discussion

We conclude Mr. Burdette created the appearance of a conflict of interest with a subcontractor and attempted to influence the contract for the benefit of the subcontractor, in violation of the FAR and JER.

We found Mr. Burdette was aware of an appearance of an improper relationship with a subcontractor as early as January 10, 2012, when he decided to recuse himself from official matters involving the subcontractor. We found that all WWCTP witnesses we interviewed perceived the same appearance problem regarding Mr. Burdette's conduct with the subcontractor that Mr. Burdette himself recognized.

We found Mr. Burdette had frequent interactions with the subcontractor after he recused himself. Further, we found Mr. Burdette did not abide by his own recusal and frequently inserted himself in the NRD subcontract in an attempt to benefit the subcontractor. MANCON officials were uncomfortable with Mr. Burdette's interactions with the subcontractor and issued a stop work order on the subcontract, thus severing (b)(6), professional relationship with Mr. Burdette. We found that subsequent to Mr. Burdette's recusal in NRD subcontract matters, he attempted to influence (b)(6), (b)(7)(C) and (b)(6), (b)(7)(C) to "fix" the NRD stop work order to ensure the subcontractor remained on contract.

The FAR requires that Government business be conducted in a manner with preferential treatment for none, and to strictly avoid even the appearance of a conflict of interest in Government-contractor relationships. The JER states that Government employees shall not give preferential treatment to any private organization or individual. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

We determined Mr. Burdette was aware that members of his staff perceived his frequent interactions with the subcontractor created an appearance of impropriety. We determined Mr. Burdette's recusal memorandum and his own testimony that "we have a perception problem" to be compelling evidence that Mr. Burdette recognized his conduct with the subcontractor created an appearance of a conflict of interest. We also determined that even after his recusal, Mr. Burdette continued to inject himself in NRD subcontract matters that would directly benefit the subcontractor. Accordingly, we determined that Mr. Burdette's conduct with the



subcontractor created the appearance of a conflict of interest, and he attempted to influence the contract for the benefit of the subcontractor, in violation of the FAR and JER.

Mr. Burdette's Response

Mr. Burdette asserted that our report ignored or omitted several critical facts that would show he did not attempt to influence the NRD subcontract. He added that "he never had contact with the contractor" and that his only role was to ensure that Mr. Campbell's instructions regarding NRD activities were carried out. Further, he asserted this allegation originated from a single source: (b)(6), (b)(7)(C)

Mr. Burdette asserted the employee's testimony was not trustworthy.

We note that the allegation involves Mr. Burdette's interactions with the NRD subcontractor, not the contractor. Further, as noted in our investigation, we based our conclusion on documentary evidence as well as the sworn testimony of many witnesses.

After careful consideration of all the evidence and Mr. Burdette's response to our preliminary report, we stand by our conclusion.

E. Did Mr. Burdette provide an honest response to his supervisor?

Standards

**JER, dated August 30, 1993, including changes 1-6 (March 23, 2006)**

Chapter 12, "Primary Ethical Values," defines honesty as "being truthful, straightforward and candid." It adds that "candor is the forthright offering of unrequested information."

**WHS Administrative Instruction Number 8, "Disciplinary and Adverse Actions," dated May 7, 2008**

This standard provides a table of offenses and penalties intended for use as a guide to selecting an appropriate penalty for actionable employee misconduct. Relative to this allegation, Enclosure 3, Table T1.9, "False Statements," provides disciplinary guidance regarding conduct characterized as "lying to a supervisor."

Facts

A complaint alleged Mr. Burdette, when confronted by his supervisor, misrepresented the truth.

An invitation from the Commandant of the Marine Corps to Mr. Burdette requested his presence at a holiday reception in honor of "military supporters," on December 14, 2011, at the Commandant's residence.

(b) (6), (b) (7)(C) who attended the reception testified (b) (6) saw Mr. Burdette with a subcontractor (b)(6), (b)(7)(C). In a "memorandum for file" signed by Mr. Campbell and dated December 27, 2011, Mr. Campbell states that on December 20, 2011, (b)(6), (b)(7)(C) told him that Mr. Burdette attended the holiday reception with the subcontractor.<sup>10</sup> The memorandum adds that Mr. Campbell told (b)(6), (b)(7)(C) he would speak to Mr. Burdette about his concern. The memorandum further states that later that day, Mr. Campbell privately asked Mr. Burdette about the reception and the subcontractor, and Mr. Burdette replied the subcontractor was not with him at the reception, but had "arrived with someone else."

Mr. Campbell testified he did not think Mr. Burdette intended to disclose to him that he attended the reception with a subcontractor and added when he asked Mr. Burdette if he attended the reception with the subcontractor, Mr. Burdette said "no."

The memorandum stated that on December 21, 2011, Mr. Campbell apprised the (b)(6), (b)(7)(C) that Mr. Campbell talked to Mr. Burdette who assured him that he had not taken the subcontractor to the reception. Later that day, Mr. Campbell contacted the Commandant's Protocol Office and received documents which indicated the subcontractor was a guest of Mr. Burdette at the reception. We also contacted the Commandant's Protocol Office and reviewed a copy of the guest list, which reflects Mr. Burdette would bring the subcontractor to the reception. Mr. Campbell testified those documents indicated Mr. Burdette had not been honest in his response to his question to him.

Mr. Burdette testified to us that the subcontractor was his guest at the reception. He stated that during his December 20, 2011, meeting with Mr. Campbell, Mr. Campbell did not ask any questions, to include if he attended the reception with the subcontractor or if the subcontractor was his guest. Mr. Burdette stated he told Mr. Campbell (b)(6), (b)(7)(C) with the subcontractor at the reception.

### Discussion

We conclude Mr. Burdette did not provide an honest response to his supervisor in violation of the JER, and WHS Administrative Instruction Number 8, "Disciplinary and Adverse Actions."

We found Mr. Burdette invited the subcontractor to be his guest at a reception. Later in private, Mr. Campbell approached Mr. Burdette regarding the subcontractor and Mr. Burdette in context of the reception. We found Mr. Campbell's near-contemporaneous written account of the private meeting, and his testimony, differed from Mr. Burdette's testimony regarding the conversation and purpose of the meeting. Mr. Campbell's account showed he asked Mr. Burdette if he attended the reception with the subcontractor. Mr. Burdette's account of the meeting was Mr. Campbell did not ask any questions, yet he assured Mr. Campbell (b)(6), (b)(7)(C) with the subcontractor at the reception. Mr. Burdette failed to explain how, if not in response to Mr. Campbell, the subject of (b)(6), (b)(7)(C) would have arisen.

<sup>10</sup> This is the same subcontractor and same holiday reception as noted in Allegation D (page 22).



The JER defines honesty as “being truthful, straightforward and candid.” It adds that “candor is the forthright offering of unrequested information.” WHS Administrative Instruction Number 8 provides disciplinary guidance regarding an employee who provides a false statement to his supervisor.

We determined Mr. Campbell’s written account of the private meeting, 7 days after the meeting occurred, and his testimony to be more credible than Mr. Burdette’s version of the meeting. We determined Mr. Campbell held the meeting for one specific purpose: to inquire of Mr. Burdette if he attended the reception with the subcontractor as his guest. Further, we determined Mr. Burdette would not insist to Mr. Campbell that (b)(6), (b)(7)(C) had Mr. Campbell not asked him if he attended with (b)(6), (b)(7). Accordingly, we determined Mr. Burdette did not provide an honest response to Mr. Campbell in violation of the JER.

#### Mr. Burdette’s Response

Mr. Burdette reiterated his sworn testimony that Mr. Campbell did not ask him any questions during this private meeting. Mr. Burdette added that he volunteered facts to Mr. Campbell, and that our report speculates that his candor with Mr. Campbell was the result of Mr. Campbell asking questions.

We carefully considered Mr. Burdette’s comments. We also considered the fact that no one else was present in this private meeting between Mr. Campbell and Mr. Burdette. We determined Mr. Campbell’s near-contemporaneous written account of the private meeting, and his sworn testimony that Mr. Burdette was not honest with him, to be compelling evidence. Accordingly, we stand by our conclusion.

F. Did Mr. Burdette misuse official time, misuse a rental vehicle, improperly schedule travel, improperly account for his time and attendance, and fail to use his GTCC for all travel-related expenses while in a TDY status?

#### Standards

##### **JER, dated August 30, 1993, including changes 1-6 (March 23, 2006)**

Section 2635.705(a) “Use of Public Office for Private Gain,” states that a Government employee shall not use his public office for his own private gain. The standard states that its specific prohibitions are not intended to be exclusive or to limit its application.

##### **JTR, Volume 2 (DoD Civilians), dated July 1, 1965 (as amended)**

Section C1059, “Scheduling Travel,” states that travel should be by the scheduled transportation that most nearly coincides with the departure and arrival times needed to carry out the mission. Further, the standard states the traveler should schedule arrival the day before the TDY actually begins.

Section C1100, "GTCC Use," provides the general policy of DoD is to use the GTCC for all costs incidental to official business travel, including travel advances, lodging, transportation, rental cars, meals and other incidental expenses, unless otherwise specified.

Section C2102, "Special Conveyance Use," provides that rental cars paid for by the Government shall be used for official purposes only.

**FMR, Volume 9, "DoD GTCC," dated August 2011**

Section 030501 states that unless otherwise exempt, all DoD personnel are required to use the GTCC for all authorized expenses relating to official Government travel.

Section 030502 states that failure to use the GTCC may subject the traveler to appropriate administrative or disciplinary action.

FMR, Volume 8, and WHS standards applied in Allegation C also apply to this allegation.

Facts

A complaint alleged Mr. Burdette "did 2 days of work" during an 8-day TDY to Colorado in January 2012.

Testimony established that in December 2011, Mr. Guy A. Stratton, Special Assistant to the DASD, WWCTP, was the lead official responsible to arrange three teams of OUSD(P&R) senior officials to visit U.S. military sites in order to improve DoD processes related to wounded, ill, injured, and transitioning Service members. Mr. Stratton asked Mr. Burdette to visit the Fort Carson, Colorado site. Mr. Burdette traveled alone, and testimony established except for a visit to the Ft. Carson hospital, Mr. Burdette scheduled his own activities, to include his trip departure and return date.

Email evidence shows that on January 12, 2012, Mr. Stratton informed staff that Mr. Burdette would visit Fort Carson January 23 – 27, 2012. By email dated January 20, 2012, Mr. Burdette advised Mr. Campbell he would attend four events in Colorado: coordination with the U.S. Olympic Committee (USOC) on Warrior Games, an Integrated Disability Evaluation System (IDES) site visit, an Operation Warfighter program overview, and a 2-day United Services Organization (USO) "Hiring Heroes" Career workshop. Mr. Burdette's travel authorization and voucher states his destination was "Denver, Colorado," and the TDY purpose was "other travel" for the period January 22 – 29, 2012.

Email and testimony establish Mr. Burdette's (b)(6), (b)(7)(C) planned activities and coordinated them with Fort Carson officials for Mr. Burdette's official business on January 24 – 25, 2012. Mr. Burdette explained the reason he did not involve his (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) to plan and schedule the remaining travel days was because Mr. Burdette did not trust "anybody" on his staff. He added that he managed his own schedule and did not use the Outlook calendar tool as a matter of practice. (b)(6), (b)(7)(C) testified Mr. Burdette



indicated he would take at least 1 day of leave while in Colorado; however, Mr. Burdette's ATAAPS records show he was not charged any leave during January 22 – 29, 2012.

Testimony and email show that Mr. Burdette did not take a Government laptop computer with him. Email records show he replied to official emails by means of his Government-provided Blackberry.

Mr. Burdette did not schedule any activities related to his presence in Colorado Springs on January 23, 2012. He testified he needed to be on the ground on Monday, January 23, 2012, so he could be available to coordinate DoD involvement in an event held at the U.S. Department of Labor on January 30, 2012. Accordingly, he scheduled his arrival for Sunday, January 22, 2012. Email records establish that between 7:44 a.m. and 2:08 p.m. on January 23, 2012, Mr. Burdette sent 13 emails and one more at 9:31 p.m. He also received 61 emails, most of them related to the January 30, 2012, event. Finally, his Government-provided Blackberry records show 25 minutes of voice activity to Washington, D.C., area telephone numbers.

A "Final Itinerary" produced by the Director, Fort Carson Executive Services, shows 2 days of scheduled activities for Mr. Burdette, January 24 – 25, 2012. The itinerary states the purpose of his visit was to tour the hospital, visit a Warrior Transition Unit site, receive a disability evaluation process update, and visit the USOC Training Center. An executive summary, produced by the hospital Public Affairs Officer, dated January 24, 2012, and witness testimony confirms Mr. Burdette visited the hospital and participated in the IDES site visit, the Operation Warfighter program overview, and other official activities on January 24, 2012.

Testimony, email and the "Final Itinerary" show Mr. Burdette conducted official business with USOC Paralympic Military Program personnel and attended a "Hiring Heroes" Career workshop on January 25, 2012.

Mr. Burdette testified that he had an appointment with the "Director of the National Guard for the state of Colorado" on January 26, 2012, which he said was cancelled. Mr. Burdette testified that since the appointment was cancelled, he worked on items related to his duties in the Pentagon, attended a VA conference, and participated in conference calls with personnel in the Washington, DC area. Email records establish he sent 17 emails from 9:23 a.m. to 3:13 p.m., and one more at 10:29 p.m. His Government-provided Blackberry records establish 15 minutes of voice activity.

We could not identify a Colorado National Guard flag officer with the title of "Director." We contacted Colorado National Guard personnel who manage appointments for The Adjutant General (TAG) and the Assistant TAG, the two most senior National Guard officers in Colorado. They stated they had no records or memory indicating an intended or cancelled appointment with Mr. Burdette and the TAG or Assistant TAG for January 26, 2012. We also confirmed that the Directors of the Air National Guard and the Army National Guard, and the Chief, National Guard Bureau, were not in Colorado Springs on January 26, 2012, and had not scheduled any meetings with Mr. Burdette.

Mr. Burdette testified that on January 27, 2012, he was available for phone calls, attended a VA conference, reviewed email, and “probably wrapped up a bit early.” Mr. Burdette’s Government email account established he sent 22 emails, from 9:27 a.m. to 12:56 p.m. His Government-provided Blackberry records show 29 minutes of voice activity between 8 – 9 a.m. We contacted the organizer for a VA conference held January 26 – 27, 2012, at the Colorado Springs Olympic Training Center. The organizer stated Mr. Burdette did not register for or participate in the conference.

His ATAAPS records show he recorded 8 hours per day regular duty for pay purposes, for the period January 23 – 27, 2012. Mr. Burdette testified he went skiing on Saturday, January 28.

Mr. Burdette’s scheduled and actual TDY activities during the period January 22 – 29, 2012, are summarized in the table below. The information listed in the “Activities” column summarizes the evidence we gathered relevant to the identified date.

<b>Scheduled Events</b>	<b>Activities<sup>11</sup></b>
<p><b>Sunday, January 22, 2012</b></p> <p>Scheduled departure, Reagan National Airport (DCA) 6:15 p.m., arrive Denver (DIA), 8:12 p.m.</p>	<p>Travel via Frontier Airlines, economy class.</p> <p>Fox Rent A Car receipts establish that Mr. Burdette rented a vehicle at DIA at 8:37 p.m. local time.</p> <p>Lodged in Denver; no further information.</p>
<p><b>Monday, January 23, 2012</b></p> <p>Separate business/Executive time/RON [Remain overnight]<sup>12</sup></p> <p>Lodging reservation at Ft. Carson, “Aspen Lodge” – Distinguished Visitor Quarters.</p>	<p>In contact with personnel in Washington, DC regarding an event scheduled at the Department of Labor on January 30, 2012.</p> <p>Worked on items related to his duties in the Pentagon.</p> <p>Received 61 and sent 13 emails from 7:44 a.m. to 2:08 p.m., and one at 9:31 p.m. Government-provided Blackberry records show 25 minutes of voice activity.</p> <p>Lodged at DoubleTree, Colorado Springs.</p>
<p><b>Tuesday, January 24, 2012</b></p> <p>Official activities scheduled at Ft. Carson, from 8:30 a.m. to 5 p.m.</p> <p>Lodging at Ft. Carson, “Aspen Lodge.”</p>	<p>Attended official activities at Ft. Carson, from 8:30 a.m. to 7 p.m.</p> <p>Lodged at DoubleTree, Colorado Springs.</p>

<sup>11</sup> Information in this column reflects evidence from testimony and documents collected during the course of the investigation.

<sup>12</sup> These were terms used on Mr. Burdette’s official itinerary.



Scheduled Events	Activities <sup>11</sup>
Scheduled Events	Activities
<p><b>Wednesday, January 25, 2012</b></p> <p>Official activities scheduled in the Colorado Springs area.</p> <p>Lodging at Ft. Carson, "Aspen Lodge."</p>	<p>Attended official activities in the Colorado Springs area, from 8 a.m. to 5 p.m.</p> <p>Lodged at DoubleTree, Colorado Springs.</p>
<p><b>Thursday, January 26, 2012</b></p> <p>No scheduled activities</p> <p>Reservation on-base, "Aspen Lodge."</p>	<p>Mr. Burdette stated he had an appointment with the "Director of the Colorado National Guard" which was "cancelled."</p> <p>Worked on items related to his duties in the Pentagon.</p> <p>Participated in conference calls with personnel in the Washington, DC area. Government-provided Blackberry records establish 15 minutes of voice activity.</p> <p>Sent 17 emails, from 9:23 a.m. to 3:13 p.m., and one more at 10:29 p.m.</p> <p>Lodged at "The Broadmoor," Colorado Springs.<sup>13</sup></p>
<p><b>Friday, January 27, 2012</b></p> <p>No scheduled activities</p> <p>No reserved lodging</p>	<p>Available for phone calls.</p> <p>Sent 22 emails, from 9:27 a.m. to 12:56 p.m. Government-provided Blackberry records show 29 minutes of voice activity between 8 – 9 a.m.</p> <p>No lodging information.</p>
<p><b>Saturday, January 28, 2012</b></p> <p>No scheduled activities</p> <p>No reserved lodging</p>	<p>Participated in leisure activity (skiing).</p> <p>No lodging information.</p>
<p><b>Sunday, January 29, 2012</b></p> <p>Scheduled departure from DIA 2:48 p.m., arrive DCA 8:05 p.m.</p>	<p>Fox Rent A Car receipts show the rental vehicle was "due in" at DIA at 2:00 p.m., January 29, 2012.</p> <p>Travel via United Airlines, economy class.</p>

Mr. Burdette's travel voucher shows he did not claim or receive per diem for this TDY. He testified that upon return to the Pentagon, he decided to "err on the side of being really

<sup>13</sup> Mr. Burdette used his GTCC to pay the \$196.48 lodging expense but did not claim it on his travel voucher.

cautious” and told his (b)(6), (b)(7)(C) he did not want per diem “if there is any level of scrutiny” regarding his travel activities. His voucher also shows he claimed no lodging reimbursement for the entire TDY. Mr. Burdette claimed and received reimbursement for 7-days rental car use, but he testified that he subtracted \$22 per day on the “days” he drove the rental car to go skiing. However, his voucher does not reflect any deduction in the amount claimed for the rental car expense. TDY settlement documents show Mr. Burdette claimed and received \$153.90 in reimbursement for the entire cost of the 7-day rental car use. A gas receipt shows he spent \$46.77 to refuel the rental car prior to returning it; however, he only claimed and was paid \$25 for the cost of gas.

Mr. Burdette’s GTCC records established he did not use the card to pay for lodging on January 22, and 27 – 28, 2012, nor for any meals during the TDY travel period. GTCC records establish Mr. Burdette had a valid GTCC in January 2012, and records from the Defense Travel Management Office establish Mr. Burdette was not exempt from using it while TDY. Mr. Burdette testified he has no friends or family in the Colorado Springs area.

Mr. Burdette traveled alone to Colorado Springs, Colorado. Accordingly, there were no witnesses who had first-hand knowledge of all his official activities, lodging arrangements, and GTCC use. (b)(6), (b)(7)(C) testified (b)(6) had no knowledge of Mr. Burdette’s activities for January 26 – 27, 2012. Mr. Stratton stated he had no knowledge of Mr. Burdette’s activities for January 23, and 26 – 27, 2012. Mr. Burdette testified Mr. Campbell certainly knew of his activities while in Colorado, however, Mr. Campbell testified he was unaware of Mr. Burdette’s activities on January 26 – 27, 2012.

Mr. Stratton stated he asked Mr. Burdette to provide him an After Action Report regarding his TDY activities in Colorado, but none was provided.

### Discussion

We conclude Mr. Burdette misused official time, misused a rental vehicle, improperly scheduled travel, misrepresented his time and attendance, and failed to use his GTCC for all travel-related expenses while in a TDY status, in violation of the JTR, the JER, FMR, and WHS Administrative Instruction Number 8.

We found Mr. Burdette conducted official business not related to his presence in Colorado on Monday, January 23, 2012. His testimony and his email and phone records show that he worked on items related to his duties in the Pentagon. We found he did not bring a laptop with him to his TDY location.

We found his activities on Tuesday and Wednesday, January 24 – 25, 2012, were related to official business at Fort Carson and in the Colorado Springs area. Testimony and documents establish he attended several official activities at the Fort Carson hospital and in the Colorado Springs area.

We found he had no official business which required his presence in Fort Carson or the Colorado Springs area on Thursday and Friday, January 26 – 27, 2012. We found no witnesses



who could account for his activities on these 2 days. We also found we could not confirm his assertion that he attended a VA conference on these 2 days or had scheduled a meeting with a National Guard official on January 26, 2012, that was later cancelled. We also found the official business he conducted on January 26 – 27, 2012, was less than the 8 hours he claimed for pay purposes.

Based on his testimony, we found he ended his duties early on Friday, January 27, 2012. On Saturday, January 28, 2012, he testified he used his Government-provided rental vehicle to go skiing.

Further, we found he did not use his GTCC for all travel-related expenses.

Finally, we found that Mr. Burdette decided to “err on the side of being really cautious” and not claim routine TDY entitlements, such as lodging, in the event there was any scrutiny of his travel activities during this TDY.

The JTR states that travel should be by the scheduled transportation that most nearly coincides with the departure and arrival times needed to carry out the mission. The JTR states that rental cars paid for by the Government shall be used for official purposes only. The FMR states employees are required to accurately account and attest to the correctness of their time and attendance. WHS provides disciplinary guidance regarding attendance-related misconduct, such as falsifying information on a time card. The JER states that a Government employee shall not use his public office for his own private gain. Finally, the JTR and FMR require the GTCC to be used for all costs incidental to official business travel.

We determined Mr. Burdette did not use his GTCC for all travel-related expenses in violation of the JTR and FMR.

We determined Mr. Burdette had official business to conduct with his Pentagon office on January 23, 2012, which required him to be available for communications. Accordingly, his decision to travel on Sunday so that he could be available to conduct business via email and telephone on Monday was not inappropriate. Accordingly, we determined Mr. Burdette’s presence in Colorado on Monday, January 23, 2012, was in compliance with the JTR and FMR.

We determined Mr. Burdette conducted official business on January 24 – 25, 2012, in Colorado Springs, Colorado. Testimony and documents established Mr. Burdette conducted official business on these 2 days accounting for at least 8 hours of work on January 24 and 25, 2012.

Based on the evidence, we determined Mr. Burdette’s conduct on January 26 – 27, 2012, violated the FMR and JTR. Evidence established that Mr. Burdette’s official duties permitted his return to Washington, DC, on January 26, 2012, but he chose to remain in Colorado in a duty status, in violation of the JTR. Further, his ability to conduct work related to his Pentagon duties would have been limited because he did not take a laptop with him to Colorado. We also determined that he did not attend the VA conference and conducted limited official duties by email or phone. Accordingly, we determined Mr. Burdette did not conduct 8 hours of official

business on January 26 and 27, 2012. We determined that his entry of 8 hours of duty for January 26 and 27, 2012, in ATAAPS is a violation of the FMR and WHS standards. We also determined Mr. Burdette improperly extended his official travel for personal reasons, and his extended travel occurred because he used his authority to arrange and approve his own travel schedule, in violation of the JER.

Mr. Burdette did not request nor receive per diem or lodging entitlements for Saturday, January 28, 2012, a day he spent skiing. Accordingly, we determined January 28, 2012, was not a duty day. However, we determined Mr. Burdette used his Government-provided rental car to go to ski slopes on January 28, 2012. We also determined he later requested and received reimbursement for the use of the rental car that day, in violation of the JTR. The JTR authorized Mr. Burdette to have the Government pay for the rental car for official purposes only, which did not include travel to and from ski slopes.

We determined that Mr. Burdette extended his TDY to Colorado for primarily personal reasons – to go skiing.

#### Mr. Burdette's Response

Mr. Burdette stated he did attend a VA conference held at the Colorado Springs Olympic Training Center on January 26 – 27, 2012, and that he retained a business card of someone he met at the conference. Mr. Burdette did not provide the business card, or names of any individuals he may have met at the VA conference. We asked Mr. Burdette to provide the contact information on the business card, but he only offered a name and duty title. We found and interviewed this individual, (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) stated (b)(6) conducted the January 26 – 27, 2012, VA conference and recalled meeting Mr. Burdette in that timeframe, but did not recall if Mr. Burdette attended the VA conference. (b)(6) added it was “very odd” (b)(6) did not have a better memory of Mr. Burdette's attendance since Mr. Burdette would have been the senior Government official present at the VA conference. (b)(6), (b)(7)(C) referred us to (b)(6), (b)(7)(C). (b)(6), (b)(7)(C) told us (b)(6) had a 1-hour meeting with Mr. Burdette at the U.S. Olympic Training Center in January 2012, but could not recall the date of the meeting. Further, (b)(6) stated (b)(6) did not know if Mr. Burdette attended the VA conference on January 26 – 27, 2012. (b)(6) added that (b)(6) introduced Mr. Burdette to (b)(6), (b)(7)(C) during this 1-hour meeting. Government email records disclosed (b)(6), (b)(7)(C) held the 1-hour meeting with Mr. Burdette on January 25, 2012, the day prior to the VA conference.

Mr. Burdette further stated that he had an appointment with an official from the Colorado National Guard for January 26, 2012. He added that on the evening prior to the appointment he learned the Colorado National Guard official had cancelled it. We do not dispute that Mr. Burdette may have had an appointment on January 26, 2012, with an official from the Colorado National Guard that was later cancelled. We considered this fact in our preliminary report in our determination that Mr. Burdette's official duties permitted his return to Washington, DC, on January 26, 2012, but he chose to remain in Colorado in a duty status.



Finally, Mr. Burdette stated he did not misuse a rental vehicle, but he admitted he used the rental car for “elective local travel” on January 28, 2012. He added, that he told his (b)(6), (b)(7)(C) “numerous times” to claim reimbursement for only a portion of his rental car use when (b)(6), (b)(7)(C) prepared his travel voucher. He added, “I did not put the numbers into [DTS], the (b)(6), (b)(7)(C) did.”

The FMR Volume 9, Section 0803, “Voucher Preparation,” dated August 2011, states that the traveler is responsible for preparing his or her claim reimbursement for official travel. It adds, “Even when someone else prepares the voucher, the traveler is responsible for the truth and accuracy of the information.”

Accordingly, having carefully considered all of the evidence, including additional facts gathered incident to Mr. Burdette’s response to our preliminary report, we stand by our conclusion.

## V. CONCLUSIONS

We conclude Mr. Burdette:

- A. Engaged in unsound leadership practices or otherwise acted in a manner that was inconsistent with DoD leadership principles in violation of Title 5 U.S.C., the JER and OPM guidelines;
- B. Misused Government resources in violation of the JER and the FAR;
- C. Improperly accounted for his time and attendance in violation of the FMR and WHS standards;
- D. Created the appearance of a conflict of interest with a subcontractor and attempted to influence the contract for the benefit of the subcontractor in violation of the FAR and JER;
- E. Did not provide an honest response to his supervisor in violation of the JER and WHS standards; and
- F. Misused official time, misused a rental vehicle, improperly scheduled travel, improperly accounted for his time and attendance, and failed to use his GTCC for all travel-related expenses while in a TDY status in violation of the JTR, JER, FMR, and WHS standards.

## VI. RECOMMENDATION

We recommend the Acting Under Secretary of Defense, Personnel and Readiness, consider appropriate corrective action with regard to Mr. Burdette.



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**Inspector General**  
**Department of Defense**



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