

TVA RESTRICTED INFORMATION



Memorandum from the Office of the Inspector General

August 31, 2020

Susan E. Collins
David Fountain

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██████████
SAFETY & AVIATION SERVICES
EMPLOYEE MISCONDUCT – ETHICS
OIG FILE NO. 19-0297

This investigation was initiated after the Office of the Inspector General (OIG) received an allegation that former Tennessee Valley Authority (TVA) employee, ██████████, violated federal ethics laws by obtaining outside employment with ██████████ ██████████, while employed with TVA. More specifically, ██████████ employment with ██████████ while on paid administrative leave as a TVA employee, raised questions of whether his actions complied with Title 18, United States Code, § 207 (18 USC 207), which restricts the post-employment activities of federal employees, and 18 USC 208, which prohibits federal employees from using their position to affect their personal financial interests.

In June 2019, ██████████ was advised by TVA management and TVA Human Resources that his position had been eliminated. He was given the opportunity to accept a no-fault separation agreement. Per this agreement, ██████████ would receive 90 days' paid severance. He would still be considered a TVA employee throughout this 90-day period.

After agreeing to the terms of the separation agreement, ██████████ was placed in a non-work, pay status with TVA from the time he signed the separation agreement, in July 2019, until his termination on October 1, 2019. ██████████ was not permitted to apply for any other TVA jobs. However, he was informed he could pursue employment with any outside company during his 90-day severance period.

In August 2019, ██████████ obtained employment with ██████████, as its ██████████ ██████████. Shortly after starting his employment with ██████████, ██████████ received a call from TVA's Project Controls group, suggesting he visit TVA's Kingston Fossil Plant (KIF) and TVA's

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Cumberland Fossil Plant (CUF), in his new role as [REDACTED], because [REDACTED] was bidding on projects at these sites. [REDACTED] acquiesced and visited KIF on August 26, 2019. He visited CUF the following day, August 27, 2019.

[REDACTED] representational activities on behalf of [REDACTED] in August 2019 raised questions under both 18 USC 207 and 18 USC 208. Further concerns surrounded the facts that [REDACTED] did not file a statement notifying TVA's Designated Agency Ethics Official (DAEO) of his negotiation with [REDACTED] as required by the Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) § 17. In addition, [REDACTED] did not file a recusal statement, obtain a written waiver as discussed in 5 Code of Federal Regulations (CFR) § 2635.402(d), obtain an authorization as discussed in 5 CFR 2635.502(d), or qualify for a regulatory exemption pursuant to 18 USC 208(b)(2).

During his separation from employment with TVA, all of [REDACTED] interactions were with TVA Human Resources. [REDACTED] did not speak with anyone from the TVA DAEO's group during his termination process. Accordingly, [REDACTED] was not advised that due to his TVA salary being in excess of \$166,340.00 for CY 2019, he was considered a "senior" TVA employee as it relates to 18 USC 207, which restricts him from representing another person or entity by communicating to or appearing before the former agency (TVA) to seek official action on any matter for one year after leaving the "senior" position. Additionally, because the TVA DAEO's group was not consulted regarding [REDACTED] termination, the facts do not establish whether [REDACTED] had knowledge, or was advised of the requirements to provide specific notice of post-government employment.


Although [REDACTED] knew [REDACTED] was bidding on contracts at KIF and CUF, the facts do not establish that [REDACTED] visited these sites with an intent to influence the bidding process. Rather, the facts show [REDACTED] appeared only at the request of TVA management to visit the sites to meet various other TVA employees. Nor do the facts suggest that [REDACTED] appeared on [REDACTED] behalf to seek any official action related to the bidding process, or that [REDACTED] knowingly attempted to influence the bidding process in any fashion.

Because of the complexity of the post-employment restrictions addressed in the federal ethics laws, we recommend TVA Human Resources consult with TVA's DAEO to ensure that TVA employees receive detailed guidance regarding how these intricate rules affect them. The violation of the federal ethics laws could result in the former TVA employee being subject to federal criminal prosecution.


We would appreciate being informed within 30 days of your determination, and of any action taken, as a result of this memorandum. In addition, if you decide to take documented action, we would appreciate your sending a copy of the relevant information to this office for our file.

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Page 3
August 31, 2020

This memorandum has been designated "TVA Restricted" in accordance with TVA-SPP-12.002, TVA Information Management Policy. Accordingly, it should not be disclosed further without the prior approval of the Inspector General or her designee. In addition, no redacted version of this memorandum should be distributed without notification to the Inspector General of the redactions that have been made.



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OIG File No. 19-0297