Summary

In December 2014, the U.S. Department of Treasury Office of Inspector General (TOIG) was made aware by the U.S. House of Representatives Committee on Veterans Affairs of a Review of Allegations written by the U.S. Department of Veterans Affairs Office of Inspector General (VA OIG). The report was entitled the “Review of Allegations Regarding the Technical Acquisition Center’s Award of Sole-Source Contracts to Tridec for the Virtual Office of Acquisition.” The document was signed by Counsel to the IG and dated December 8, 2014. The report found that former Executive Director for the Office of Acquisition Operations, VA, and former Director of the Technology Acquisition Center, VA mismanaged the award of the Tridec Technologies (Tridec) contract, but that no actions were taken regarding either employee because both had resigned or retired from the VA. (Exhibit 1) Subsequently, the U.S. House of Representatives Committee on Veterans Affairs provided TOIG with redacted reports given to the committee by the VA. (Exhibit 2) Likewise, the Treasury Office of General Counsel requested that TOIG investigate the matter due to a concern about the impact on Treasury program integrity for hiring an executive accused of wrongdoing.
A review of the VA OIG report indicated deficiencies regarding the statement of offenses and the evidence in support. Specifically, the report did not provide the standards against which the individual's actions were to be compared. This was important because the nature and severity of the offense would affect any subsequent management personnel decisions. TOIG reviewed the report for evidence of a violation of 18 U.S.C. 1001, "Statements or Entries Generally"; 18 U.S.C. § 220, "Acts affecting a personal financial interest"; 5 USC § 2635.502, "Personal and Business Relationships"; 5 USC § 2635.702, "Use of Public Office for Private Gain"; Federal Acquisition Regulation 13.003 regarding "splitting"; and 38 CFR 0.735-12(b), regarding mandar in official investigations.

TOIG did not focus on offenses regarding bribery, as the report's author conceded by email dated December 18, 2014, that VA OIG investigators "focused on whether she took any gifts or gratuities and did not find anything."

Therefore, to fully understand and evaluate the report's conclusions, and to determine what, if any, actions by Treasury might be required, TOIG requested the underlying evidence. VA OIG declined to provide evidence in support. Subsequently, the Treasury Assistant Secretary for Management made a request on behalf of the Secretary of the Treasury, which was also declined.

Consequently, TOIG began an investigation to discern whether VA's report regarding established violations of law, regulation, or policy, and whether knew she was the subject of an ongoing investigation and committed an offense by either concealing or failing to reveal information during her hiring process at Treasury.

During the TOIG investigation, in addition to providing testimony regarding the allegations, and those interviewed in connection with the TOIG investigation described a hostile environment at the VA where and Deputy Assistant Secretary for the Office of Acquisition and Logistics, VA, controlled a Supply Fund that paid for several positions within the VA OIG. would boast to others that he had friends in the VA OIG and could have anyone investigated. Specifically, witnesses claimed he had a close, personal relationship with and witnesses stated that had a vendetta against after she was promoted from subordinate to his peer. One witness also heard state that he was responsible for the VA OIG releasing the report entitled "Review of Allegations Regarding the Technical Acquisition Center's Award of Sole-Source Contracts to Tridec for the Virtual Office of Acquisition" several months after had transferred to Treasury. was heard saying that he was going to give the report to Treasury so that would lose her position and go to jail. stated that she was interviewed by the VA OIG regarding Tridec, but was not informed by the VA OIG that she was the subject of an investigation and was not aware of a report by the VA OIG until it was released to the public in December 2014, a year after she left VA and took the position at Treasury. The VA OIG also did not notify Treasury or TOIG of an investigation or an impending report.

Investigative Activity

In an interview with TOIG, stated that she was employed with the VA from 2009 to 2014. Her title was Associate Deputy Assistant Secretary for Acquisition, but was later promoted to Executive Director for the Office of Acquisition Operations. She supervised 25 employees. Her supervisor was but when she was later promoted, she was supervised by Principal Executive Director, Office of Acquisition, Logistics, and Construction.

stated that the VA needed a better electronic system that kept track of VA's contracts. Manager of Business Systems, Technology Acquisition Center, VA wrote the statement of work (SOW) to hire a company that could develop the Virtual Office of Acquisition (VOA). He did this in 2009 prior to working at the VA. The contract would later be
written as an Indefinite Delivery Indefinite Quantity (IDIQ) contract so that task orders could be added as needed. [Redacted] formerly was employed with the U.S. Maritime Administration (Maritime), U.S. Department of Transportation, and had contact with [Redacted] and [Redacted] who created a similar system for the organization that worked well. When they created the system for Maritime, their company was MSIG. Their new company was Tridec. She recommended them based on her past experience with their work. [Redacted] added that she met [Redacted] and [Redacted] several years ago when all were in the U.S. Air Force. She has remained friends with [Redacted] and speaks with him regularly. [Redacted] stated that a sole-source IDIQ contract was awarded to Tridec because of their past experience and because they are a Service Disabled Veteran Owned Small Business (SDVOSB). There was nothing improper in sole-sourcing the contract and the VA was strongly promoting companies who were categorized as SDVOSB. She did not award the contract. A contracting officer (CO) (name not recalled) awarded the contract. [Redacted] recused herself from any work on the contract verbally to [Redacted] stated that the VA OIG report mentions that she exchanged e-mails with [Redacted]. She stated that if she had, she would have forwarded them to [Redacted] and had no technical discussions with [Redacted]. She believed the original contract was $5 million or slightly less. She did sign the justification and authorizations (J&As) to increase the contract ceiling when additional task orders increased the costs. She received legal counsel from the VA before signing these J&As. She could not recall the name of the VA counsel.

[Redacted] stated that she was interviewed by VA OIG auditors in 2012, regarding the VA contract process and duplication of work. [Redacted] was the lead auditor. After the exit brief, she was allowed to rebut some of the report findings, but the report was not changed. In a telephone conversation with [Redacted] after the audit, [Redacted] notified her that the report could not be changed and that a "senior official" in the Office of Acquisition and Logistics was listening on the call. He did not provide the name, but [Redacted] then heard the name was [Redacted]. The final audit report "Review of Alleged Systems Duplication in the Virtual Office of Acquisition Software Development Project" (Exhibit 3) came out publicly soon thereafter. [Redacted] stated that the audit occurred shortly after a realignment at the VA where [Redacted] was promoted and placed under [Redacted] and was made a colleague of [Redacted] stated that after her promotion, there was a "fairly contentious meeting over the ownership of VOA" between her and [Redacted] and that is when the harassment by [Redacted] began.

On June 13, 2013, she was interviewed by VA OIG agents regarding the award of Tridec and her relationship with the company members. She was never advised that she was the subject of an investigation, the interview was not recorded and she was not asked for a written statement. They asked her questions regarding her relationship with Tridec, but never made allegations regarding the steering of the Tridec contract. She did state during the interview that she recused herself from matters involving Tridec. She knew [Redacted] confirmed this in her interview with the VA OIG. She heard nothing further regarding the matter. She applied for a position at Treasury in the Fall of 2013. She advised no one at Treasury during the interview process that she was under investigation by the VA because she was unaware of that fact.
In an interview with TOIG, stated that she was a Procurement Analyst and Customer Advocate at the VA from August 2010 to December 2014. In December 2014, she began at the GSA. was aware that the VA hired Tridec to develop a VOA for the VA, but she was not certain of or role in the award of the contract. She was aware that Tridec was a SDVOSB so a contract could be awarded to them as a sole-source contract. met from Tridec at a National Contract Management Association meeting and knew he had worked with in some capacity before. never met from Tridec, but saw his name in the VA OIG report entitled "Review of Allegations Regarding the Technical Acquisition Center's Award of Sole-Source Contracts to Tridec for the Virtual Office of Acquisition" that was released in December 2014.

stated she had been interviewed by VA OIG previously on other matters, but not regarding the award of the Tridec contract. read the report and believes the allegations against are false. did not write or award the contract. She also did not break the contract into smaller contracts to avoid a cost ceiling. The contract was an IDIQ so the smaller contracts were just task orders on the large contract, and were required because more work was required by the VA for Tridec. The ceiling for the contract was increased by the CO. had no work with the contract and recused herself from working on the contract because of her past work relationship with Tridec. recalled telling her and others that she recused herself. Finally, she believed the investigation and the report entitled "Review of Allegations Regarding the Technical Acquisition Center's Award of Sole-Source Contracts to Tridec for the Virtual Office of Acquisition" was incomplete and only took the most damning information to discredit.

believes the investigation against was initiated by because he was "extremely threatened by her" and had a "personal vendetta against her." heard him say in public meetings that he disliked also confided in that she and had a contentious relationship, and that he would yell at her. These actions began when was promoted to his level. had a domineering personality with others also and was known to push VA COs to create and sign contract documents that the COs did not believe were proper. was even investigated for harassment by the VA AIB.

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that his management would not allow the report to be revised and that a "senior official" was also listening on the telephone, but this person remained unnamed and did not speak during the conversation. She believes the "senior official" was known to harass employees and for having contentious relationships with VA employees. Specifically, it appeared that he wanted to discredit and after was promoted to his level. VA informed that she said and were going to jail over the Tridec contract. stated that he would boast about his relationship with the VA OIG, and his ability to have matters investigated. added that manages the VA Supply Fund that pays for 25 positions within the VA OIG. added that there was a significant increase in IG investigations and audits of TAC personnel after was promoted in 2012.

In June 2013, the VA OIG interviewed her regarding contract mismanagement, and specifically, the Tridec contract. They informed her that she was not the subject of the investigation and to "not lose sleep over it." heard nothing else about the investigation, but was denied a bonus while the audit and investigation were ongoing. She received her bonus before she retired in 2013. She read the VA OIG report "Review of Allegations Regarding the Technical Acquisition Center's Award of Sole-Source Contracts to Tridec for the Virtual Office of Acquisition" when it was made public in December 2014. described the report as "riddled with mistakes." The report reflected that "lacked candor" during her interview. She stated that she was completely truthful, but nervous and did not have the benefit of notes, documents or e-mails to assist her memory during the interview. The report also made it appear that and had more significant roles in the award of Tridec than they actually had. did not understand the timing of the release of the report, but believes the investigation and release of the report was influenced by (Exhibit 7).

In an interview with TOIG, stated that she was employed with the VA from 2008 – 2014. Her last title was Senior Technical Advisor with a grade of senior level. She was formerly employed with the U.S. Department of Labor. stated that she met several years prior when both were at Edwards Air Force Base. They then had no work contact, but saw each other occasionally at Federal contract conferences. Shortly after began at the VA, also began at the VA. They had regular contact as colleagues in the contract work at the VA.

stated that VA's former contract system was poor because it did not assist COs in creating documents, did not track changes, and was not easily searchable. A VA CO wrote a SOW when VA determined that a new system was required. Neither nor wrote the SOW, but was not certain who wrote the SOW. did recommend Tridec because she had worked with them before when they created a similar system at Maritime. added that a recommendation from someone in contracting is not unusual or improper. Federal contract employees often recommend companies that they are familiar with who could perform well in a new requested contract. A recommendation such as this is simply part of
after received several complaints regarding the poor contract process at the VA, caused her to retire. stated also left the VA at about the same time to perform more policy work at Treasury. stated that is an ethical person whose bonuses were delayed and reputation was hurt by. She added that the VA OIG was used "to ruin a good person's career with innuendo and false statements." (Exhibit 8)

In an interview with TOIG, stated that she has been employed with the VA since 2010. She was formerly employed with the U.S. Department of Defense (DOD) for 34 years. Her supervisor, who replaced , who replaced , will be retiring in May 2015, stated VA had awarded a contract to Tridec in approximately 2009, to create a VOA to assist in the tracking of VA contracts. VA had a contract system, the Electronic Contract Management System (ECMS), but the VOA was capable of more efficient tracking of contracts, and projecting VA’s needs for future contracts. was uncertain of her role in the contract because it was awarded prior to starting at the VA, but stated that would have had only a small role because of her level at the VA. would not have written a SOW, performed market research or awarded the contract. These activities would have been done by a CO. was aware that was employed with or of Tridec, or both, several years ago when was in the U.S. Air Force. shared this information with and recused herself from any role in the Tridec contract. could not recall the context of the recusal, but stated that it was verbal. stated that verbal recusals are very normal in contract work where a federal employee has a friend or family member employed with the contractor. Federal employment ethics are such that an employee should not discuss contract information with the person requesting the recusal. found this recusal to be nothing out of the ordinary and believes to be an ethical employee.

stated that she was never interviewed by VA OIG, but read two of their reports. One report “Review of Alleged System Duplication in the Virtual Office of Acquisition Software Development Project” was released in 2013, by their Office of Audit, regarding the duplication of contracts between the ECMS and Tridec. Wrote the formal response why the systems were not a duplication of each other. signed the response. stated that her office was given a draft of the 2013 audit report. When they received the draft report, she, and had a teleconference with the VA OIG auditor (name not recalled). and made arguments about changing the report and their reasons. The auditor seemed to agree with their opinions. However, after the teleconference, the auditor called and stated that the report could not be changed and that a "senior official" of the Office of Acquisition and Logistics had been listening on the earlier teleconference. The auditor did not state who the high level employee was, but believed it was

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The second report “Review of Allegations Regarding the Technical Acquisition Center’s Award of Sole-Source Contracts to Tridec for the Virtual Office of Acquisition” was released in December 2014, signed by wrote a press release in response to this report. The press release was very inexplicit and simply stated that the VA is a good organization that works diligently at providing a service to its veterans. also signed this release. did not know what happened with this draft statement. (A review of the VA web site did not find a press release on this subject.)

stated that her office was never provided a draft of the aforementioned second report. She was at a conference in Atlanta, GA in early December 2014, when approached her and said in a gloating manner that a VA OIG report was being released regarding and that he was going to get the report, and send it to Treasury and ruin career. He added that the VA OIG contemplated not releasing the report because and had both left the VA, but and had told members of the VA OIG that the report still needed to be issued. Approximately one week later, he sent an e-mail with a two paragraph excerpt from the report. He then saw her in the VA hallway and said "now do you believe me?" replied that she did not believe it. became agitated and said "I'm going to see her lose her job and go to jail." then spoke to several lower level employees (GS 11s and GS 12s) in her office and made comments that they needed to work behind locked doors because of all the illegal things they were doing.

stated that she worked for for approximately three years in the mid 1990’s when she was with the DOD and he was a Colonel in the U.S. Army. She enjoyed working for him then. However, it upset her how has changed. It has been common knowledge at the VA that has a "personal relationship" with in the VA OIG, and that he manages a fund that pays for several positions within the VA OIG. boasts that he can have anyone or anyone investigated by the VA OIG, and VA personnel know not to cross for this reason. made allegations of harassment against to and filed an EEO case against. convened a VA AIB to review her allegations against and was not asked to testify, but testified. heard later that the board found no wrongdoing by and stated that has a reputation at the VA for stirring up problems and taking pleasure in having VA employees Investigated by the VA OIG. She did not know why had such a vendetta against described as a highly ethical, honest person. (Exhibit 9)

The VA OIG informed TOIG management that they were putting together the documentation that supports the VA OIG report regarding the investigation and that it should be ready for discussion the following week. However, during that meeting, the VA OIG cited the Privacy Act as the reason information could not be provided from the VA OIG to TOIG. Assistant Inspector General for Investigations (AIGI), VA OIG, informed John L. Phillips, AIGI, TOIG that the VA OIG case agent from NJ was available via telephone if needed. He
could not discuss the investigation due to the investigation containing grand jury (6-e) material. (Exhibit 10)

TOIG contacted Special Agent, VA OIG. stated that he was advised not to provide any information to anyone regarding this investigation, and that all questions had to be handled through "VA Headquarters." TOIG asked whether the VA’s case of mismanagement by and on the Tridec contract had been presented to a U.S. Attorney’s Office (USAO). He stated that he could not confirm or deny USAO involvement, but could probably comment on that after discussing the matter with VA Headquarters. never returned additional calls from TOIG regarding the matter. (Exhibit 11)

TOIG contacted the USAO, District of NJ, and found that the case regarding was presented by the VA OIG to Assistant United States Attorney in the USAO, District of NJ. TOIG was informed that the USAO issued subpoenas, but information obtained from the subpoenas reflected no improper relationship between and Tridec so the case was closed.

TOIG reviewed the documents pertinent to the Treasury’s hiring of and interviewed , chaired the Executive Resource Board and reviewed eight applications for the position for which applied. and one other applicant were selected as finalists and interviewed. emphasized her high regard for technical skills, professionalism, and integrity during the interview process and since being hired at Treasury. advised that a VA OIG investigative report was about to be released that would accuse her of misconduct. denied any wrongdoing and stated that a former supervisor had made these false allegations.

TOIG reviewed the Federal Procurement Data System (FPDS) and archives. This review indicated that Tridec was issued the following contracts by VA:

- Two definitive contracts for the Chapter 33 requirement, dated September 27, 2009, and May 5, 2010, in the total amount of $100,964.00;
- An Indefinite Delivery Contract (IDC), dated October 20, 2009, originally for $3 million, with three modifications resulting in a ceiling of $7,999,000, against which 25 task orders were allocated;
- An IDC, dated April 10, 2012, with a ceiling of $4,974,195.50, against which 18 awards were allocated;
- An IDC dated November 5, 2013, with a ceiling of $2,560,070.82, against which 10 task orders were allocated;

A Blanket Purchase Agreement dated December 5, 2014, in the amount of $9,177,770.83.

FPDS records the "action obligation" amounts, including modifications, of the VOA contracts as:

- FY 10: $2,075,287.00
- FY 11: $3,369,087.49
- FY 12: $3,573,517.54
- FY 13: $3,511,708.80
- FY 14: $3,011,385.35

The total value of the related VOA actions was $16,176,966.18, (including contract application costs not directly constituting a VOA task). Some of the orders or modifications requested additional work within the scope of the contract.

A review of the archived FY10 data for VA indicated that 33 contracts appear to have been awarded in excess of $5 million, 22 of those to SDVOBs, 31 of which were by negotiated procurement procedures, and three by sole-source methods. Some (20) of these provided for competition among task orders. The data indicates that VA accomplished more than ten thousand contract actions in FY 10, more than 600 of which were awarded to veteran-qualified entities.

FPDS revealed one Maritime contract with IMSG in 2003 for an Automated Data Processing (ADP) system, NAICS 541513, in the amount of $99,999.00.

TOIG reviewed the documents provided by the VA OIG to the House Committee on Veterans Affairs, consisting of 65 heavily redacted pages. TOIG was unable to obtain the Tridec contract file to ascertain the substance of the contract deliverables, modifications, modules, and severability. A letter from the VA OIG to the House Committee on Veterans Affairs indicated that the VA OIG did not review the entire contract file.

Referrals
NA

Judicial Action
NA
TOIG's investigation determined that the allegations made in the VA OIG report were not supported by evidence sufficient to constitute any criminal or administrative offenses.

18 USC 1001, "Statements or Entries Generally," provides that whoever, in any matter within the jurisdiction of the executive . . . branch of the Government of the United States, knowingly and willfully makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, has committed a punishable offense.

TOIG could not substantiate that knowingly or willfully engaged in falsehood regarding her application for employment to Treasury. TOIG interviewed the Treasury official responsible for her hiring and reviewed the relevant application paperwork. TOIG determined that there was no requirement to disclose whether or not an applicant is under investigation; the hiring official did not ask, and no application paperwork required such disclosures. Even had suspected she was the subject of an investigation, she did not transfer to the Treasury until nearly a year before the report was generated, and more than six months since her interview with VA OIG. This timeline does not suggest an intent to transfer agencies under false colors. Moreover, a Treasury witness confirmed that upon receipt of the published report, promptly brought it to the attention of her supervisor, the Office of General Counsel, and the TOIG. For these reasons, TOIG determined that the preponderance of the evidence did not substantiate a violation of 18 USC 1001.

18 USC 208 (a) states in pertinent part: "...whoever, being an officer or employee of the executive branch of the United States Government . . . participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a . . . contract . . . or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest has committed an offense punishable by law.

TOIG examined whether as an officer of the executive branch, participated personally and substantially in the contract by her recommendation; and whether she had a financial interest in the matter. admitted to knowing members of Tridec, and recommended their company based on past performance for their work at Maritime. She stated, and confirmed that the Army also had a similar capability with which was favorably impressed. Neither could recall who the contracting officer was in the matter. Both witnesses stated that it was not unusual for a small business to correspond with VA to let them know of the capabilities and, indeed, existence of the business. and had previously worked for IMSG, which completed the Maritime requirement. did not award the contract and stated that she recommended them based on their prior work. However, three witnesses stated that the contracting officers were free to do market research and award as they felt appropriate. stated, and witnesses corroborated, that was several levels removed and did not get involved in award decisions. stated that she knew both and from their prior work and duty assignments, and that she maintained a friendship with by phone and mail, occasionally meeting for social occasions. also stated, with witness corroboration, that she made it publicly clear that she would not take any actions or be involved in any way in the Tridec contract due to her friendship with. TOIG found no indication in the VA OIG report that the CO felt undue influence from

One e-mail from to and reflects: "Request that you please review and evaluate the proposal provided by Tridectech. Please let me know when you think you can complete your analysis. I would like to get this done ASAP." TOIG finds this email to indicate that Tridec provided a proposal for the work necessary to get a VOA containing similar capabilities to the screenshots had provided. TOIG does not find the last sentence to be evidence of a desire to award the contract to Tridec ASAP, but to acquire a VOA capability ASAP. The email, by its own terms, asks two acquisition experts to review and evaluate the proposal. It does not mandate selection of Tridec even if the proposal were in some way lacking.

stated she did not, and does not, have a financial interest in Tridec. Further, there is no indication was engaged in employment negotiations with Tridec: Indeed, she started work at the Treasury several months before the VA OIG generated its report. stated that VA OIG requested her banking information, which she provided, and that she had not received remuneration or other consideration for recommending Tridec. This statement is corroborated by that of the VA OIG.

Therefore, TOIG finds that the preponderance of the evidence establishes that did not act personally and substantially in the Tridec matter and did not have a financial interest in Tridec. TOIG concludes that the allegation regarding a violation of 18 USC 208 is not substantiated.

5 C.F.R. Section 2635.502 states: "an employee should not participate in a particular matter involving specific parties which he knows is likely to affect the financial interests of a member of his household, or in which he knows a person with whom he has a covered relationship. A covered relationship is defined in 5 C.F.R. Section 2635.502 in part as family members, household members, and those involved in business relationships other than consumer transactions.

TOIG finds that the preponderance of the evidence establishes that past work relationship with Tridec members could not be defined as a "covered relationship." Neither she nor anyone in her household had a qualified business relationship with Tridec; nor had any
benefited from the contract award. Therefore, the allegation that [redacted] violated 5 CFR Section 2835.501 is not substantiated.

5 CFR 2835.702 states that "an employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity . . . and persons with whom the employee has or seeks employment or business relations . . . on behalf of another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity."

Absent any specific definition of "affiliate" specifically applicable to this part, TOIG examined the FAR, section 2.101, "Definitions." According to the FAR, an "affiliate" means associated business concerns or individuals if, either directly or indirectly: either one controls or can control the other; or a third party controls or can control both. TOIG found no evidence that [redacted] coerced or induced a person to provide a benefit to Tridec, or that she intended to do so. [redacted] and [redacted] stated that the ECMS was significantly deficient, and there was no efficient way to track important contract actions and write contracts effectively. Similarly, both [redacted] and [redacted] testified that they had familiarity with working systems—specifically, those at Maritime and Army—and that Tridec's personnel had shown themselves capable of performing a similar task. They, and other witnesses, stated that the VA system and VOA were not duplicative, and that information accessible through VOA could be transferred to the ECMS system where required. Although TOIG was unable to contact the CO in question, the report did not state that the CO was actually induced or threatened to award to Tridec, nor did it establish a connection between the CO and [redacted]

TOIG found no indication in the VA OIG report that the CO felt undue influence from [redacted] in fact, in materials provided to the House Committee on Veterans Affairs, a heavily redacted memorandum of activity recording an interview with an individual who said she felt "steered" continued: [redacted] did not indicate to [witness] that she had conversations with [redacted] about hiring TRIDEC. TOIG cannot consider this evidence that [redacted] used her influence regarding the contract, since the CO appears to have not known at all of [redacted] involvement in the VOA matter. Although the VA OIG report states that the CO identified VOA as the only contract in which she felt "steered" to make a selection, it did not include evidence that the CO actually selected Tridec as a result of the impression she received, nor is there any indication of involvement by [redacted] her name, or her official position. Regarding both the Chapter 33 acquisition with its time constraints, and the VOA acquisitions, TOIG found no discussion of whether the CO believed the transactions to be improper, and if so, why she participated in them.

[redacted] stated that there was no coercion regarding award to contract, either from her or from the VA TAC to the CO. It appears, in fact, that the CO was unknown to [redacted] and geographically separated. TOIG also found no evidence that [redacted] was affiliated with Tridec in any professional capacity, or that she had any interest, let alone a controlling one, in the company, or that any third party could direct the actions of [redacted] and Tridec.

In addition, FAR Part 15 contains authorization for negotiated proposals and acceptance of unsolicited proposals which appear to be applicable to this acquisition. TOIG found no evidence in the VA report that negotiation of this matter was not in accordance with this and other relevant parts, and the testimony of witnesses supported the award as a proper exercise of contracting authority. For these reasons, TOIG found that the preponderance of the available evidence did not establish a violation of 5 USC 2835.702, and TOIG concludes that the allegation is unsubstantiated.

FAR 13.003(a) provides that a CO shall not use simplified acquisition procedures to acquire supplies and services if the anticipated award will exceed the simplified acquisition threshold. The term "splitting requirements" refers to the practice of breaking down known requirements into two or more purchases to reduce the dollar value of each below restrictive thresholds. Under 38 USC 8127(a)(2), sole-source contracts may be awarded to SDVOSBs if the anticipated contract value is over the simplified acquisition threshold and the anticipated award contract price for the contract will not exceed $5 million.

The original OIG was awarded for a period of three years with a ceiling of $4 million on October 20, 2008. It was amended as early as April 10, 2010, but certainly by December 17, 2010, to increase the ceiling to $7.9 million and extend the contract to October 19, 2012. A second sole-source OIG contract awarded to Tridec April 10, 2012 at $4,874,185.50 for 24 months; and a third sole-source OIG contract awarded for $2,660,070.82. Nevertheless, by the end of FY 10, VA had obligated $2,913,267.00. The next task order occurred on October 20, 2010, and throughout FY 11, totaled $3,366,087.49.

This VA OIG report alleged that [redacted] split the contract because all three contracts were for work with the VOA system, and that emails between between [redacted] and [redacted] support the allegation. The report asserts that the email exchange substantiates existence of VOA as a single "framework and architecture"—but it did not support the claim that the awards were broken into pieces solely to ensure Tridec could be awarded them on sole-source basis, as
opposed to experiencing larger-than-expected taskings and additional module requests as stated by the witnesses. TOIG found no evidence that $3 million was not appropriate for framework and architecture of a system that burgeoned as additional capabilities for that system or architecture were added.

TOIG found no connection between and the task orders against any of the VOA contracts, and TOIG notes that $1,696,677.65 in orders against existing indefinite delivery vehicles (IDVs), as well as the blanket purchase agreement (BPA) exceeding $6 million, were awarded subsequent to her departure from VA.

TOIG was unable to obtain the emails referenced in the VA OIG report: although some emails were provided to the House Committee on Veterans Affairs, much of the material was redacted and none was itself evidence of wrongdoing. Witnesses stated that the reason the contract expended so quickly is that once the pending VOA capability was known, more task orders came in for more "modules" of the system: for instance, a help desk, a consumer portal, and the like. TOIG found no evidence concerning the existence of these particular requirements at the time of contract award.

FPDS indicates task orders in various amounts occurring sporadically over the five years (all IDIQs), the total amounts per fiscal year never exceeding the SDVOSB threshold. It appears that the contract to be "split," it would have been as easy to award five annual contracts in the maximum amount, thus ensuring even more money to Tridec; or entering into a BPA, for which no limit would necessarily apply. In fact, in fiscal year 10 alone, it appears not unusual for an SDVOSB to receive an award in some manner that well exceeded the $6 million threshold.

The statements of the witnesses are corroborated by the FPDS entries indicating task orders arriving at different times, in differing amounts. Witnesses stated that different capabilities were required as the system evolved, and therefore the contract was expanded to take into account the new requirements. TOIG understands that the VA OIG did not review the contract file to ascertain what contract line item numbers may have been added, or understandings reached; and the information in FPDS, while extensive, does not contain that level of granularity. Nevertheless, the preponderance of the evidence available to TOIG does not support an allegation that the Tridec contract was recognized at the outset as one that would require a greater funding commitment; and it does not establish that the contract was "split" for the benefit of Tridec. For these reasons, TOIG could not substantiate a violation of FAR 13.003(c).

38 CFR 0.735-12, the Lack of Candor (VA) provision, penalizes an employee who refuses to testify, conceals, or gives willfully inaccurate testimony about material facts in connection with an investigation or hearing.

The VA OIG report indicated that statements conflicted with facts multiple times, suggesting willful inaccuracy. Specifically, stated that when her employment with VA first began in early 2009, she received an urgent request Friday for a website to complete by Tuesday on the Chapter 33 project. VA OIG stated that the urgent requirement did not occur until September 2009. However, the emails VA cited to establish this does not specifically discuss Chapter 33—it is Tridec advising of the progress of business. In her transcribed testimony to TOIG regarding the timing of the Chapter 33 requirement, stated:

"I will tell you it was probably in the fall of 2009 on a Friday night I had the Chief Technology Officer and the Chief Information Officer come to my office about 6:00 and at night saying, "We have this requirement, and it needs to be functional by Tuesday morning; and if not, it would be an embarrassment for the VA because we will be unable to cut veterans' benefits checks like the Secretary had promised." So I had about four lines of requirement and at that point, I was the one who reached out to Mr. (phonetic) under Public Law 109-461 where we could make an award to an SDVOSB, and I knew his capability because I really didn't have an existing contract that could accommodate it and I didn't have in-house capability which the OIG made clear we did not have. So I reached out and said, "Are you capable of delivering this? This is very high risk because I have an ill-defined requirement, and it has to be delivered by Tuesday morning." He said, "Yes; I think I can." I called because I don't hold the contracting officer (warrant), and said, "Here's the requirement; here's what's going on. Can you guys fulfill the requirement and then enter into a contract?" They enter into a letter contract, tried to deliver capability on Tuesday morning. This was as urgent and compelling as it can probably get."

TOIG asked if her statements to the VA OIG in 2013, were recorded and/or transcribed. She stated they were not, that she was unaware that she was the subject of such serious allegations, and when she asked the VA OIG investigators, they replied, "no." She was also not asked for a written statement.

According to the VA OIG report, did not recall having any conversation about VOA prior to Tridec's work on the Chapter 33 project, but emails established that she engaged in discussion with and about VOA as early as May 1, 2009, and continuing through at least June. The report asserts that did not recall when or how Tridec knew VA was looking to create VOA, although the VA OIG was in possession of emails indicating that on May 4, 2009, contacted Maritime for screenshots of their VOA-like program, and then sent that information to Tridec, which they used to prepare technical and pricing proposals. A heavily redacted memorandum of interview provided by the VA to the House Committee on Veterans Affairs states, was aware that VA did not have a VOA system. Therefore, as a marketing procedure, TRIDEC contacted about implementing VOA at VA."
TOIG concurs that such negotiations might be questionable in a competed contract, but note that neither the SDVOSB sole-source program nor the FAR prohibits negotiated procurements in appropriate circumstances. While the VA OIG report made much of the fact that the contract could have been competed, part of the point of special programs is to ensure that veteran-owned businesses receive an opportunity that otherwise might be denied them due to greater fiscal power of larger companies. FPDS clearly noted that the matter was negotiated, not competed, prior to award. That being the case, and in the absence of any evidence that the negotiated procurement fell afoul of the FAR as a result of a procurement action or inaction, TOIG cannot identify this behavior as an offense.

The VA OIG told the VA OIG that she did not recall, and TOIG finds it credible that she had no reason, given the acceptability of sole-source/negotiated proposals, to obscure any remembered contacts. TOIG also notes that in the intervening fiscal years between the Tridec contract and mid-2013 (the approximate time of her interview), VA engaged in a significant number of contract actions, and TOIG does not find it overly suspicious in this instance that she should fail to recall events several years prior to what four witnesses assert to have been a successful VOA endeavor.

Finally, the VA OIG report notes that informed the VA OIG that VA developed the VOA idea and modeled it after an Army system, although VA OIG had emails indicating that was discussing the Maritime system. The report noted that contacted Maritime about the system, but made no mention of the Army system in correspondence indicating that was familiar with the Army system. However, considering that was soliciting information from an agency with which she was familiar, and negotiating with individuals who put in place the Maritime system rather than the Army one, TOIG could find no material inconsistency. testified that she was familiar with the Army system; and considering that preceded at the VA, it may well be that the VA itself wanted a system similar to that of the Army, which believed attainable by instituting the similar Maritime system.

testified the Army reference came from who came from the Army where she had a similar capability. Without more, TOIG is unable to establish the intent necessary to substantiate an offense of lack of candor. TOIG found that a reasonable person might believe any misstatements to be due to the passage of time or human error: the VA OIG statements were not necessarily in direct opposition to statements, and the report found her statements “difficult to believe.” TOIG understands, however, that the offense of lack of candor requires more than mere skepticism: it requires that an individual knowingly withhold or conceal material information. For instance, not mentioning the Army system to Tridec does not contradict her statements that VOA is modeled after an Army system. The witness’ statement that the requirements were set by and prior to her arrival based on the Army system, despite affinity for the similar Maritime system, appears to be a valid reason for the apparent difference. Further, if her assertion that she was not told she was the subject of the investigation is valid, she had no motive to be less than candid. Other than the fact that statements differed in some respects from what the VA OIG believed to be fact, the report did not contain evidence of willfulness, nor was able to establish such by speaking to witnesses, all of whom appeared to find the contract action unremarkable. Therefore, TOIG found the offense lacked an element of proof and was not substantiated.

In this report of investigation, TOIG investigated the hiring of at Treasury, whether she disclosed to Treasury hiring officials that she had been under investigation by the VA OIG, and whether the allegations within the VA OIG report were substantiated, based on the information made available to TOIG. At the conclusion of this this investigation, TOIG found no wrongdoing by regarding the matters above. Conversely, witness testimony consistently indicated that the VA OIG was directed by a senior official at the VA to conduct the VA OIG investigation, and have it released months after left the VA, in an effort to ruin career and reputation. Based on the information available, TOIG determined that the hiring of was completed according to standard policies and procedures. If additional information becomes available regarding this matter, TOIG will assess that information and conduct the appropriate investigative review.

Distribution

Rochelle Granat, Assistant General Counsel (General Law, Ethics and Regulation), DO

Signatures

Case Agent: 

Date: 3-12-15

Assistant Inspector General for Investigations: 

Date: 3-7-15

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Exhibits

1. VA OIG report “Review of Allegations Regarding the Technical Acquisition Center’s Award of Sole-Source Contracts to Tridec for the Virtual Office of Acquisition” dated December 8, 2014.

2. VA OIG documents supplied by the U.S. House of Representatives Committee on Veterans Affairs to TOIG.


7. Memorandum of Activity, Interview of former Director of the Technology Acquisition Center, VA, dated February 12, 2015.


10. Memorandum of Activity, Meeting with VA OIG, dated February 27, 2015.

11. Memorandum of Activity, Contact with Special Agent, VA OIG, dated February 13, 2015.