

Department of Veterans Affairs

Memorandum

Date: June 20, 2012

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigation, Appearance of Preferential Treatment, VHA
Office of Informatics and Analytics, St. Petersburg, FL (2011-04536-IQ-0003)

To: Assistant Deputy Under Secretary for Health (ADUSH) for the Office of
Informatics and Analytics (10P2)

1. The VA Office of Inspector General Administrative Investigations Division investigated allegations that [REDACTED] VHA Office of Informatics & Analytics (OIA), misused Government resources and gave preferential treatment to a contractor by allowing the contractor to give a presentation to VA employees in Government-leased spaces at the Franklin Templeton Building, St. Petersburg, FL. To assess these allegations, we interviewed [REDACTED] current and former members of [REDACTED]'s staff, attendees at the presentation, the [REDACTED] for OIA, a contractor employee, and you. We also reviewed email records, contracting officer written guidance on meetings with contractors, and relevant Federal regulations and VA policies. We did not substantiate another allegation, and we will not discuss it further in this memorandum. (b) (7)(C)

2. We found that [REDACTED] did not misuse resources or engage in preferential treatment when she set up a meeting for the two owners of [REDACTED] to give a presentation to VA employees; however, we found that her actions resulted in the appearance of preferential treatment, due to her personal relationship with the two [REDACTED] owners. We suggest that [REDACTED] take refresher ethics training and that, to avoid the appearance of preferential treatment, she have no future involvement in VA-related actions involving [REDACTED] its owners, or its employees. We are providing this memorandum to you for your information, official use, and whatever action you deem appropriate. **No response is necessary.** (b) (7)(C)

3. Standards of Ethical Conduct for Employees of the Executive Branch require that employees protect and conserve Federal property and not use such property, or allow its use, for other than authorized activities. 5 CFR § 2635.704. They also require that employees act impartially and not give preferential treatment to any private organization or individual and that employees endeavor to avoid any actions creating an appearance that they are violating the law or these ethical standards. Id., at 2635.101(b)(8) and (14). Further, they state that an employee shall not use his or her public office for 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. Id., at 2635.702. Federal Acquisition Regulations require that Government business be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and preferential treatment for none. 48 CFR § 3.101-1.

4. An email from [REDACTED] to the [REDACTED] of the Franklin Templeton Building reflected that [REDACTED] reserved a conference room for 9:00 a.m. on August [REDACTED] 2011, so that one of the [REDACTED] owners and his associates could give VA employees an overview of the services his company had to offer. [REDACTED] told us that [REDACTED] a service-disabled veteran-owned small business, contacted her and asked if they could give a presentation about [REDACTED]. She said that she agreed and that the two [REDACTED] owners gave her and several other VA employees a presentation on [REDACTED] products and services. She further said that, about 2 weeks before the presentation, the [REDACTED] [REDACTED] for OIA told her that allowing a contractor to give a presentation was not a problem, as long as no further information was shared with them. [REDACTED] told us that she considered such presentations a "normal business practice" and that they were "a regular thing" at the Franklin Templeton Building.

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5. [REDACTED] told us that she did not give the [REDACTED] owners any specific information about VA contracts and that they did not express an interest in bidding on a particular contract. She said that the [REDACTED] owners asked her general questions about VA's contracting process and that she referred them to the [REDACTED] [REDACTED] for further information. She said that she did not give [REDACTED] any preference by allowing the owners to give a presentation and that she extended the same opportunity to any contractor who asked to give a presentation. [REDACTED] told us that she met with a number of contractors in her office, citing a few examples. However, she said that most of these were "spur of the moment" meetings initiated by the contractors, rather than formal, prearranged presentations, and that she had no calendars, conference room schedules, or other records to show that these presentations took place.

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6. Members of [REDACTED]'s staff told us that they knew of no other instances when [REDACTED] arranged a contractor presentation. One staff member told us that contractors often dropped off business cards, but he did not recall any other contractor giving a presentation. The [REDACTED] who was responsible for scheduling the VA conference rooms, told us that she was not aware of any other contractor using their conference rooms to give a presentation.

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7. The Federal Procurement Data System reflected that [REDACTED] had a contract with VA's Center for Acquisition Innovation in Austin, TX. However, OIA's contracting support group confirmed that [REDACTED] did not have a contract with OIA. The two [REDACTED] owners declined to be interviewed as part of our investigation.

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8. The [REDACTED] told us that she was not aware of the [REDACTED] presentation and did not recall [REDACTED] asking for her advice about it. However, she said that, in the past, [REDACTED] asked her for guidance about contractor presentations and routinely called her with questions about contracting and acquisitions. She further said that [REDACTED] who was not a contracting officer, was not in a position to award or steer contracts and had no influence over who was awarded a contract.

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9. The [REDACTED] and you told us that contractor presentations to VA employees were not improper or a misuse of VA resources, but rather an essential part of VA's "market research" process. The [REDACTED] said that the information contractors provided in such presentations may be used in the development of VA requirements and sent to a contracting officer for the next step in the acquisition process. The [REDACTED] also said that she encouraged VA employees to meet with contractors, that she often met with contractors, and that she referred the information they provided to the appropriate offices for use in their market research. However, the [REDACTED] told us that if [REDACTED] gave one contractor an opportunity to give a presentation she was required to offer the same opportunity to other contractors who asked for it. She said that it would be preferential treatment if [REDACTED] gave one contractor an opportunity to give a presentation but denied it to another contractor.

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10. A VA employee who attended the [REDACTED] presentation told us that the [REDACTED] owners gave an overview of the services they provided, the project management tools they used, and the expertise they had available within their company. The employee said that, before the meeting, [REDACTED] told VA employees in attendance that they were not promising anything to the vendor—they were just taking a look at what services the vendor had to offer. The employee also said that when [REDACTED] introduced the [REDACTED] owners, she said, "we're just taking a look at what they do and what they have." Another VA employee told us that the [REDACTED] owners gave an overview of their management services and talked "in generalities" about their basic approach to information technology and contract management and the "methodologies" behind their services. This employee did not remember [REDACTED] giving instructions about what VA employees could or could not say to contractors in that situation, but said that he knew the basic rules on what he could or could not say during such a meeting.

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11. [REDACTED] told us that she and the [REDACTED] owners were "acquaintances" whom she met at a dinner party given by mutual friends, and that she saw them occasionally at other parties given by mutual friends. However, members of her staff perceived that she and the [REDACTED] owners were friends who socialized together on a regular basis. In an August 24, 2011, email exchange with the [REDACTED] [REDACTED] asked to schedule the conference room for one of the [REDACTED] owners to meet with VA staff. The [REDACTED] asked if she meant, "Your friend [REDACTED]" and [REDACTED] answered, "Yes, he has business in the VA and will be meeting with other people."

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12. The [REDACTED] told us that [REDACTED] and one of the [REDACTED] owners were "friends" and that another staff member was "a little upset" about the August 25,

2011, presentation, since one of the [REDACTED] owners was "a friend of [REDACTED]" and was invited to give a presentation as a contractor. Another staff member told us that [REDACTED] and the two [REDACTED] owners were "good friends," that they "go out all the time, partying and stuff," and that [REDACTED] socialized with their families. This staff member believed that [REDACTED] gave the [REDACTED] owners the opportunity to give a presentation because they were her friends.

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13. A contractor employee, who said that she used to socialize with [REDACTED] outside the workplace, told us that [REDACTED] and the two [REDACTED] owners were "friends" and that she saw [REDACTED] socializing with the two owners in public gathering places. She said that [REDACTED] met the [REDACTED] owners at restaurants and bars for dinner or drinks and made social visits to the home of one of the owners. She said that [REDACTED] had a closer relationship to one of the [REDACTED] owners than to the other and that [REDACTED] was also friendly with this [REDACTED] owner's wife and family. The contractor employee further said that [REDACTED] was "very sociable" and socialized with a lot of people. She told us that she no longer socialized with [REDACTED] because she became concerned about the environment and "politics" of the office.

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14. A former staff assistant in [REDACTED]'s office told us that he believed [REDACTED]'s relationship with the [REDACTED] employees was "a friendship" that grew over time. He also said that they were "social acquaintances" and part of a group of adults who "rubbed elbows from time to time" at a local bar or "watering hole." The staff assistant said that his perception of their relationship was based solely on what [REDACTED] told him. He told us that [REDACTED] often ate lunch with him and other members of her staff and would tell them about her weekend social activities. He said that [REDACTED] would tell them, for example, "I hung out at such-and-such a bar, and I saw so-and-so there." He said that [REDACTED] sometimes mentioned meeting the [REDACTED] owners at these venues.

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15. The former staff assistant told us that he heard comments from another staff member that [REDACTED]'s relationship with the [REDACTED] employees could create a perception or appearance of preferential treatment. He said that this staff member told him that [REDACTED] "better be careful, bringing people around that she knows," and, "it can be perceived in a certain way." He said that he told [REDACTED] to be careful about her relationship with the [REDACTED] owners. He told us that, in his opinion, [REDACTED] enjoyed her friendship with the [REDACTED] owners without fully understanding the vendor's intentions. He further said that he cautioned [REDACTED] about her tendency to share information about her personal life with her staff. He also told us that [REDACTED] did not pressure him, as the small purchase card purchasing agent, to purchase anything from [REDACTED] and that while he was on staff from [REDACTED] 2010 to [REDACTED] 2011, [REDACTED]'s friendship with the [REDACTED] owners did not result in any preferential treatment to their company.

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16. We found that [REDACTED] did not misuse resources or engage in preferential treatment when she set up a meeting for the two [REDACTED] owners to give a presentation to VA employees at the Franklin Templeton Building. However, we found that her actions resulted in the appearance of preferential treatment, due to her personal relationship with the two [REDACTED] owners. We suggest that [REDACTED] take refresher ethics training and that, to avoid the appearance of preferential treatment, she have no future involvement in VA-related actions involving [REDACTED] its owners, or its employees.

(b) (7)(C)

17. We are providing this memorandum to you for your information and official use and whatever action you deem appropriate. It is subject to the provisions of the Privacy Act of 1974 (5 USC § 552a). You may discuss the contents of this memorandum with (b) (7)(C) within the bounds of the Privacy Act, but you may not release a copy of it to her. If you have any questions, please call (b) (7)(C) (b) (7)(C)

WARNING
5 U.S.C. §552A, PRIVACY ACT STATEMENT

This memorandum contains information subject to the provisions of the Privacy ACT of 1974 (5 U.S.C. §552a). Such information may be disclosed only as authorized by this statute. Questions concerning release of this memorandum should be coordinated with the Department of Veterans Affairs, Office of Inspector General. The contents of this memorandum must be safeguarded from unauthorized disclosure and may be shared within the Department of Veterans Affairs on a need-to-know basis only.