



DEPARTMENT OF THE TREASURY  
WASHINGTON

March 11, 2015

INSPECTOR GENERAL

The Honorable Jeff Miller, Chairman  
The Honorable Corrine Brown, Ranking Member  
Committee on Veterans Affairs  
U.S. House of Representatives  
335 Cannon House Office Building  
Washington, D.C. 20515

Dear Chairman Miller and Ranking Member Brown:

On December 19, 2014, Chairman Miller referred to my office a document written by the Counselor to the Inspector General of the Department of Veterans Affairs. The document, dated December 8, 2014, and entitled "Review of Allegations Regarding the Technical Acquisition Center's Award of Sole-Source Contracts to Tridac for the Virtual Office of Acquisition," accused Ms. Iris Cooper, a former employee of the Department of Veterans Affairs (VA), now the Senior Procurement Executive of the Department of the Treasury, of misconduct in connection with the award of a contract, and with "lack of candor" in responding to questions from the VA Office of Inspector General (OIG).

Chairman Miller expressed concern with the Review's allegations of contract steering based on personal relationships, work division done to avoid competition requirements, and the above-cited "lack of candor" in dealing with VA OIG investigators. This referral specifically asked that Treasury OIG "take action as necessary to protect and maintain the integrity of the Department of the Treasury," and to, *inter alia*, "determine whether the VA OIG investigation was disclosed by Ms. Cooper or whether she was otherwise untruthful when she applied for the Treasury position."

In response to this request, and a similar request from the Department of the Treasury, my office has reviewed the VA OIG Review. We found its conclusions unsupported, and sought supporting documentation from the VA OIG. Our efforts, and those of the Department of the Treasury, to obtain the evidence on which the Review was based, were denied by officials of the VA OIG as non-compliant with requirements of the Privacy Act and other laws. We respectfully disagree with VA OIG's legal assertions on this point.

It was necessary to determine if the Review's allegations and findings could withstand scrutiny if they were to be depended upon by Treasury as a basis for discipline, adverse personnel action, or other activity. We interviewed witnesses with relevant knowledge of the Tridac contract and Ms. Cooper's activities related thereto. Those witnesses have provided consistent testimony that negates the Review's conclusions, and calls into question the integrity of the VA OIG's actions in this particular matter.

We could not substantiate that Ms. Cooper knowingly or willfully engaged in falsehood regarding her application for employment to the Department of the Treasury. We interviewed the Treasury officials responsible for her hiring and reviewed the relevant application paperwork. 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. Ms. Cooper did not know she was the subject of the VA OIG investigation when she applied for the Treasury position, or at any time before she learned of the Review in December 2014 when it was issued. At that time, the evidence shows that she promptly brought it to the attention of her supervisor, as well as the Treasury Office of General Counsel and the Treasury Office of Inspector General.

The evidence we have found shows that Ms. Cooper's actions with respect to the granting and administration of the VOA contract to Tridec did not violate applicable law or regulation, and were consistent with VA practices as understood and conducted by VA procurement officials. Further, each of the witnesses stated that another VA procurement official displayed enmity toward Ms. Cooper and openly boasted of his ability to influence the activities of the VA OIG, generally, and specifically with respect to Ms. Cooper.

In addition to Ms. Cooper, and the Treasury officials involved in her hiring process, we interviewed one current and four former VA employees, identified herein by letter, and their positions:

Witness A, Procurement Analyst, Department of the Treasury, former VA contracting officer

Witness B, Director – Acquisition Policy, Public Building Service, General Services Administration (GSA), former VA procurement analyst and customer advocate

Witness C, former Director of the Technology Acquisition Center, VA

Witness D, former Senior Technical Advisor, VA

Witness E, Executive Assistant / Management Program Analyst, VA

Witnesses B, C, D and E were aware that Ms. Cooper had made it clear that she knew two officials of Tridec, and that she was recusing herself from any involvement in the VOA review and contract award process. Ms. Cooper had pointed out that Tridec was an eligible Service Disabled Veteran Owned Small Business (SDVOSB) with particular expertise in developing systems like the planned VOA. Witnesses C and D, who were most closely involved in the acquisition, stated that this is an appropriate activity, that Ms. Cooper crossed no lines in providing that information, and that as an SDVOSB, Tridec could be awarded a sole-source contract. Witness C, who was also criticized in the Review, actually ran the VA acquisition office in New Jersey that managed the VOA project. She noted that the decision to award the contract to Tridec was reviewed and

approved by several VA officials, including an attorney from VA's Office of General Counsel.

Regarding the allegation that Ms. Cooper divided the contract improperly, Witness B specifically stated that the contract was an Indefinite Delivery, Indefinite Quantity (IDIQ) contract, used when an agency can't determine, above a specified minimum, the precise quantities of supplies or services that it will need during the contract period. IDIQs allow the agency to place task orders for services against a basic underlying contract. Minimum and maximum quantity limits are specified in the basic contract as either number of units (for supplies) or as dollar values (for services).

Witness B specifically explained that as an IDIQ procurement, the VOA award to Tridec generated task orders on the initial contract, which generated requirements for more services by Tridec. The ceiling for the contract was increased by the Contracting Officer, not Ms. Cooper.

We have not seen evidence that Ms. Cooper committed violations of government ethical standards. There is no evidence that she had any financial interest in the matter, or that her friendship with principals of Tridec constituted a covered relationship as defined in the Federal employee Standards of Conduct, 5 C.F.R. Part 2635. She acknowledged knowing two officers of Tridec from contracting she had done at other agencies, and stated that she was friends with one of them. This friendship is not a covered relationship within the meaning of 5 C.F.R. Section 2635.502 which would trigger a conflict of interest.

Ms. Cooper recommended their company based on her knowledge of work they had done on a similar system at the U.S. Maritime Administration. Ms. Cooper did not award the contract and stated that she recommended the principals of Tridec based on their prior work in other companies. We found no indication that the contracting officer felt undue influence from Ms. Cooper.

As to the accusation of "splitting," this 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(c)(2), sole-source contracts may be awarded to SDVOSBs if the anticipated contract value is over the simplified acquisition threshold and the anticipated award price for the contract will not exceed \$5 million. We reviewed the publicly-available contract data, and found nothing in the timing, amounts or other administration that could support a claim that the awards were broken into pieces solely to ensure Tridec could be awarded them on sole-source basis.

The Review accused Ms. Cooper of lack of candor, defined in VA regulations as refusal to testify, or concealment or willful provision of inaccurate testimony about material facts in connection with an investigation or hearing. We asked Ms. Cooper if her statements to VA OIG investigators 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 if she was a subject, they replied, "No."

We reviewed the particular allegations in the Review, and conclude that Ms. Cooper's statements, including the instances where she stated she could not recall particular events, were credible. Without more information and documentation, we were unable to establish the intent necessary to substantiate an offense of lack of candor. The Review found her statements "difficult to believe." But the offense of lack of candor requires more than mere skepticism: it requires proof that an individual knowingly withhold or mislead concerning material information. That is not demonstrated in the Review, and despite requests, no corroborating evidence was provided, and the testimony of Witnesses B, C, and D negates the allegations.

In sum, a finding that Ms. Cooper acted improperly, unlawfully, or unethically with respect to VOA and Tridac, is not supported, and is in fact refuted by witnesses with first-hand knowledge.

Beyond this refutation of the VA OIG Review's accusations and findings, Witnesses A, B, C, D and E all stated that VA procurement official Jan Frye threatened to have the VA OIG investigate people with whom he had disagreements. Witnesses A, B, C, D, and E all stated that Mr. Frye ran an office within VA's procurement function that managed a revolving fund that provided funding for several VA OIG staff positions, and that he boasted that he could cause the VA OIG to investigate anyone he wanted, a statement that the witnesses all took as constituting a threat. Witnesses A, B, D, and E specifically stated that Mr. Frye claimed to have special influence with the Counselor to the VA IG, Maureen Regan, the author of the Review at issue here. One witness, Witness E, specifically stated that Mr. Frye claimed to have insisted that the VA OIG issue this Review when there was internal debate about doing so. All the witnesses stated that Mr. Frye sought to retaliate against Ms. Cooper after Ms. Cooper testified against Mr. Frye in an Administrative Investigation Board for creating a hostile work environment. Witness E specifically explained that Mr. Frye had told her he was determined to get the Review to Treasury so that Ms. Cooper would lose her job.

With this submission, I believe Treasury OIG has addressed the concerns the Committee asked us to review. We did not find evidence of misconduct in Ms. Cooper's work on the VA's procurement, a lack of candor in her responses to the VA OIG, or a lack of candor or integrity in her seeking her current position at Treasury. We do not see in these events any threat to Treasury's procurement program by Ms. Cooper's service as Senior Procurement Executive. If evidence that refutes what we have presented exists and is provided to us, we will of course evaluate it, and amend our work if appropriate.

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My staff and I are available to provide further briefings to you, your colleagues, and staff. Please call me on [redacted], or your staff can contact my Counsel, Rich Delmar on [redacted]

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric M. Thorson', with a long horizontal line extending to the right.

Eric M. Thorson  
Inspector General