



Department of Veterans Affairs Office of Inspector General

Administrative Investigation Improper Duty Station and Misuse of Travel Funds, VHA, VA Central Office Washington, DC



DEPARTMENT OF VETERANS AFFAIRS
Office of Inspector General
Washington, DC 20420

TO: Principal Deputy Under Secretary for Health (10A)

SUBJECT: Administrative Investigation, Improper Duty Station and Misuse of Travel Funds, VHA, Washington, DC (2010-02328-IQ-0025)

Summary

We substantiated that a Veterans Health Administration (VHA) senior official was improperly assigned to a duty station outside the Washington, DC, commuting area, requiring his frequent travel to Washington, DC, to perform the responsibilities of his position. This resulted in the official, with the knowledge and approval of his supervisor, Deputy Under Secretary for Health for Operations and Management, misusing over \$130,900 in travel funds for commuting to and from his personal residence to Washington, DC, to avoid relocating.

Introduction

While conducting another administrative investigation, we discovered that personnel records reflected that a VHA senior official's assigned duty station was outside the Washington, DC, commuting area; however, travel records reflected that he rarely worked at that location. To assess this, we contacted the Deputy Under Secretary for Health for Operations and Management and reviewed personnel, email, travel, and other relevant records. We also reviewed Federal laws, regulations, and VA policy.

Results

Issue: Whether an Improperly Assigned Duty Station Resulted in a Misuse of Travel Funds

Federal regulations state that an agency determines an employee's locality rate by determining the employee's official worksite and that the official worksite is the location of an employee's position of record where the employee regularly performs his duties. 5 CFR §§ 531.604 and 531.605. (As a Senior Executive Service employee, the official did not earn locality pay; however, this regulation was cited to show the relationship between an employee's official worksite of record and where the employee regularly performs his work.) Federal law states that a government employee when traveling on

official business away from his designated post of duty is entitled to a per diem allowance, reimbursement of expenses actually and necessarily incurred, or a combination of the two. 5 USC § 5702(a)(1). Federal travel regulations state that an agency may pay only those expenses essential to the transaction of official business; an employee must exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business; and if an employee travels by an indirect route, the reimbursement will be limited to the cost of travel by a direct route and the employee is responsible for any added costs. 41 CFR §§ 301-2.2, -2.3, and -2.4. The General Services Board of Contract Appeals (GSBCA) stated that an employee who is engaged in commuting between his residence and official duty station is performing personal business, not official business for the Government, and the employing agency may not pay the transportation costs the employee incurs while commuting. Freddie G. Fenton, GSBCA 13638-TRAV, 97-1 BCA 28,712 (1996).

While conducting another administrative investigation, we found that although records reflected that a VHA senior official's assigned duty station was outside of the Washington, DC, commuting area, travel records showed that he rarely worked at that location and generally traveled to Washington, DC, at VA expense. In an email, the Deputy Under Secretary for Health for Operations and Management told us that at the time of the official's appointment, the nomination document reflected that the position was located in Washington, DC, as a substantial portion of the organization requiring oversight was located there. However, personnel records reflected that effective January 20, 2008, the official, a member of the Senior Executive Service (SES), was reassigned from his position to that of a higher position with the same duty station outside of the Washington, DC, commuting area. Federal law states that an SES member may be reassigned to any SES position in the same agency for which the appointee is qualified. It also states that an appointee may not be reassigned outside his commuting area before providing notice; consulting with him on the reasons for, and his preferences with respect to, the proposed reassignment; and he receives written notice of the reassignment at least 60 days before the effective date. 5USC§ 3395(a). Although the official signed an SES waiver statement of understanding of a 15-day written notice regarding a reassignment within his commuting area, he did not sign a 60-day waiver for a reassignment outside of his commuting area, nor was there evidence that VA ever issued him a 60-day written notice of a reassignment outside of his commuting area.

The Deputy Under Secretary for Health for Operations and Management also told us that the former Under Secretary for Health and the former Deputy Secretary recommended and approved, respectively, the official for the position. The Deputy Under Secretary for Health for Operations and Management said that due to difficulties "recruiting a suitable candidate" for the position, they sought to fill it internally by reassigning an SES and that the official was the "top candidate for the position." The nomination justification for the reassignment, provided by the Deputy Under Secretary for Health for Operations and Management, stated that the official applied for the position when it was first announced;

however, although offered the position, the official declined, due to the fact that he and his family did not want to move to the Washington, DC, area. The justification further stated that after advertising the position twice more, the efforts “failed to yield viable candidates,” and the official remained the top candidate for the position. The justification reflected that the former Under Secretary then approved changing the duty station to a location outside of the Washington, DC commuting area with the understanding that the official would travel to Washington, DC, “to ensure continuity of service.”

The Deputy Under Secretary for Health for Operations and Management told us that the official, at the time of his appointment, understood that it required him to travel to Washington, DC, to fulfill his responsibilities. He said that the official was responsible for managing and overseeing a highly complex multifaceted organization and that the level of responsibility for the position required the official’s engagement on an on-going basis. He further said that at the time of appointment, the nomination document reflected that the official was required to be present in Washington, DC, because a substantial portion of the organization that the official oversaw was in Washington, DC. He said that the Deputy Secretary and the Under Secretary of Health agreed to make the official’s duty station outside of the Washington, DC, commuting area so that the official would accept the position.

The Deputy Under Secretary for Health for Operations and Management also said that the official offered to move to Washington, DC, in April 2009 on the condition that VA provided him a “standard guaranteed home buyout compensation package.” He said that VA denied the official’s request, so he continued working from a location outside of the Washington, DC, commuting area. VA’s Employee Relocation Policy and Permanent Change of Station Quick Reference guides state that a guaranteed home buyout is discretionary and not an entitlement. Personnel records reflected that the official lived outside of the Washington, DC, commuting area, and County property records reflected that he purchased that home in 1999.

Travel records reflected that the official was away from his assigned duty station on or planned to be on official travel an average of about 85 percent of his work days between January 1, 2009, and March 31, 2011. This percentage was calculated without deducting the number of days that the official took leave during that time period; however including his leave would only increase that percentage. Travel records also showed that the official spent or planned to spend approximately 65 percent of his work days, or about 80% of his official travel, in Washington, DC, at a cost of over \$130,900. Further, travel records reflected that the official established a routine for his near weekly travel to Washington, DC. He usually arrived in Washington, DC, on Mondays at about 8:00 a.m. and departed for home on Fridays at about 2:00 p.m.

The Deputy Under Secretary for Health for Operations and Management told us in an email that the official was required to travel from his assigned duty station outside of the Washington, DC, commuting area to Washington, DC, to “ensure continuity of

operations for [his position].” He said that at the time of the official’s appointment, the official understood that the position required him to travel to Washington, DC, “to fulfill his responsibilities.” The Deputy Under Secretary for Health for Operations and Management further said that it was less expensive for the official to travel to home each weekend than to remain in Washington, DC. He said that the cost to remain in DC would be between \$228 and \$282 per day and that airfare from DC to his home was between \$159 and \$260. The U.S. General Services Administration (GSA) website confirmed that for Fiscal Year 2010 a one-way ticket between these airports was \$159 to \$260. However, travel records reflected that the official’s frequent travel added additional costs, such as reimbursable expenses for transportation and transaction fees, in addition to the value of his time in travel status to and from Washington, DC.

A GSA travel database reflected that between January 1 and August 16, 2010, VA spent over \$80 million on travel related costs; however, once the database is updated to compile information for all of 2010, it will reflect a substantially higher amount. These records also reflected that the official was one of the top five purchasers of airline tickets between January 1 and August 16 and that the only VA employees with more frequent air travel were healthcare practitioners working within the VA Pacific Islands Health Care System. In the last 18 months, we issued reports identifying VA employees assigned to duty stations outside of the Washington, DC, commuting area but frequently traveling to DC or receiving improper locality pay. Based on our previous and current findings, we referred this matter to OIG Office of Audits and Evaluations. They agreed to consider a systemic review, VA-wide, of the appropriateness of locality pay and duty stations.

Conclusion

We substantiated that the senior official was improperly assigned to a duty station outside of the Washington, DC, commuting area, requiring his frequent travel to Washington, DC, to perform the duties of his position. This resulted in a misuse of over \$130,900 in travel funds in 2009, 2010, and the first part of 2011 to pay for his commute from his personal residence to Washington, DC, to avoid relocating. Federal regulations require that an employee’s duty station be where the employee regularly performs his duties, and the Deputy Under Secretary for Health for Operations and Management told us that the official’s responsibilities were in Washington, DC. Further, the justification to transfer the official into the position reflected that his duty station was changed for his benefit with the understanding that he would travel to Washington, DC, for “continuity of service.” The GSBCA stated that an employing agency may not pay the transportation costs the employee incurs while commuting, and Federal travel regulations state that an agency may pay only those expenses essential to the transaction of official business. Moreover, the Deputy Under Secretary for Health for Operations and Management told us that the official was willing to relocate to Washington, DC, in April 2009, and although the official set the conditions of his move, VA had the authority to transfer him, as an SES employee, with a 60-day written notice, without conditions. Moreover, the

cost of a permanent change of station would have been a one-time expenditure, whereas, frequent travel costs to Washington, DC, have been ongoing for over 3 years and continuing indefinitely as long as the duty station remains outside of the Washington, DC, commuting area.

Recommendation 1. We recommend that the Principal Deputy Under Secretary for Health determine the appropriate corrective action and ensure that such action is taken.

Comments

The Principal Deputy Under Secretary for Health was responsive to our recommendation. His comments are in Appendix A. We will follow up to ensure that the recommendation is fully implemented.

JAMES J. O'NEILL
Assistant Inspector General for
Investigations

Principal Deputy Under Secretary Comments

**Department of
Veterans Affairs**

Memorandum

Date: May 31, 2011

From: Principal Deputy Under Secretary for Health (10A)

Subject: **Administrative Investigation, Improper Duty Station and Misuse of Travel Funds, VHA, Washington, DC**

To: Assistant Inspector General for Investigations (51)

1. The draft report has been reviewed, and several options have been considered.

2. The attached corrective action plan for the report's recommendation indicates that to address the issues outlined in the draft report, the official duty station for the position in question will be changed to Washington, DC. To effect this, the Veterans Health Administration will initiate requirements for a direct reassignment pertaining to a Senior Executive Service employee.

3. Thank you for the opportunity to review the draft report. If you have any questions, please contact Linda H. Lutes, Director, Management Review Service (10A4A4) at (202) 461-7014.

(original signed by:)

Robert Jesse, M.D., PhD

Attachment

**Principal Deputy Under Secretary's Comments
to Office of Inspector General's Report**

The following Principal Deputy Under Secretary's comments are submitted in response to the recommendation(s) in the Office of Inspector General's Report:

OIG Recommendation(s)

Recommendation 1. We recommend that the Principal Deputy Under Secretary for Health determine the appropriate corrective action and ensure that such action is taken

The official duty station for the position in question will be changed to Washington, DC. To effect this, the Veterans Health Administration will initiate requirements for a direct reassignment pertaining to a Senior Executive Service employee.

OIG Contact and Acknowledgments

OIG Contact

For more information about this report, please contact the Office of Inspector General at (202) 461-4720.

Acknowledgments

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