



Department of Veterans Affairs Office of Inspector General

Administrative Investigation Conduct Prejudicial to the Government and Interference of a VA Official for the Financial Benefit of a Contractor Veterans Health Administration Procurement & Logistics Office Washington, DC



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

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

SUBJECT: Administrative Investigation, Conduct Prejudicial to the Government and Interference of a VA Official for the Financial Benefit of a Contractor, Veterans Health Administration (VHA), Procurement & Logistics Office (PLO), Washington, DC (2013-03065-IQ-0159)

Summary

We substantiated that Ms. Susan M. Taylor, Deputy Chief Procurement Officer (DCPO), VHA, PLO, engaged in conduct prejudicial to the Government when she pressured contracting staff under her authority to give preference to and award a task order for reverse auction services to FedBid, Inc. (FedBid). We also found that she engaged in a conflict of interest when she improperly acted as an agent of FedBid in matters before the Government, improperly disclosed non-public VA information to unauthorized persons, misused her position and VA resources for private gain, and engaged in a prohibited personnel practice when she recommended that a subordinate senior executive service (SES) employee be removed from SES during her probation period, as Ms. Taylor identified the subordinate as the person she suspected of making protected disclosures of Ms. Taylor's ethic violations. Further, we found that Ms. Taylor interfered with the VA Office of Inspector General's (OIG) review of the FedBid contract and that she did not testify freely and honestly concerning her involvement in the solicitation and award of the task order to FedBid, as well as other matters. We made a criminal referral of the conflict of interest and false statements to the U. S. Department of Justice (DOJ), but they declined to criminally prosecute in favor of any appropriate administrative actions.

We also found that Ms. Taylor, Mr. William E. Dobrzykowski, former Chief Financial Officer (CFO) at the U.S. International Trade Commission (USITC), and FedBid executives together, to financially benefit FedBid, willfully and improperly acted to thwart Mr. Jan Frye, Deputy Assistant Secretary (DAS), Office of Acquisition and Logistics (OAL), in his oversight duties associated with VA's procurement operations. After Mr. Frye received complaints from VA suppliers concerning a requirement to use FedBid and that VHA contracting officials were allowing FedBid to perform inherently Government functions by abdicating their responsibilities to FedBid, he instituted a moratorium on using FedBid to fully assess VA's use of reverse auctions and determine whether it complied with existing VA policy and whether it interfered with already

established VA supply chains. Ms. Taylor, Mr. Dobrzykowski, and FedBid executives took significant measures to disrupt and deprive VA's right to transact official business honestly and impartially, free from improper and undue influence. In their own words, their intent was to "storm the castle," use a "heavy-handed-puncher," to "rally the troops up on the Hill," have "enough top cover to overwhelm," to "unleash the hounds," to "assassinate [Mr. Frye's] character and discredit him," and to keep "close hold" nonpublic information Ms. Taylor provided FedBid executives, as well as repeatedly and falsely tell VA leadership that there was "no cost to VA for its use of FedBid," all for the "indomitable world of FedBid."

Furthermore, we found that Mr. Dobrzykowski, Ms. Taylor's close personal friend, was improperly involved with Ms. Taylor in matters related to VA and FedBid, which we discuss further in this report. Mr. Dobrzykowski declined our request for an interview. We conducted a joint investigation with USITC OIG, and their investigation of Mr. Dobrzykowski found that he engaged in administrative and potentially criminal misconduct in matters pertaining to his USITC employment. Mr. Dobrzykowski declined USITC OIG's request for an interview unless DOJ granted him immunity from criminal prosecution, and USITC OIG referred these matters to DOJ. For further information on USITC's investigation of Mr. Dobrzykowski, see their report OIG-I-0234, dated March 21, 2014. On April 1, 2014, after USITC leaders told him of their intent to terminate his employment, Mr. Dobrzykowski resigned.

Introduction

The VA OIG Administrative Investigations Division investigated an allegation that Ms. Taylor interfered with a review of the FedBid contract being conducted by the OIG's Office of Contract Review, and while investigating the original allegation, we discovered and investigated Ms. Taylor for giving preferential treatment to and engaging in a conflict of interest with FedBid, improperly acting as an agent of FedBid before Federal agencies, disclosing non-public information to unauthorized persons, misusing her position and resources, improperly using transit benefits, and failing to testify freely and honestly in matters involving her VA employment. To investigate these matters, we interviewed Ms. Taylor, VA employees, as well as non-VA employees. We also obtained and reviewed contract, personnel, email, and telephone records, as well as applicable Federal law, regulations, and VA policy. We conducted a joint investigation with USITC OIG and pursuant to the Privacy Act of 1974, Title 5, United States Code, Section 552a(b)(7), obtained records related to Ms. Taylor's prior employment at Pension Benefit Guaranty Corporation (PBGC). We reviewed employment records associated with Ms. Taylor's employment at PBGC, as well as Mr. Dobrzykowski's USITC employment.

Background

Ms. Susan M. Taylor, VHA DCPO

Personnel records reflected that Ms. Taylor began her Federal career in 1985, holding appointments to various contracting positions at the Departments of Transportation (DOT), Defense (DOD), Agriculture (USDA), and Housing and Urban Development (HUD), and the U.S. Nuclear Regulatory Commission (NRC). In February 2007, she received a Senior Level (SL) appointment as PBGC's Director of Procurement, and on July 4, 2010, she received an SES appointment to her current VHA position. As the Deputy Chief Procurement Officer, Ms. Taylor was responsible for the operational execution, oversight, compliance, direction and support of all acquisition organizations within VHA, consisting of more than 2,400 employees. The Associate DAS for Procurement Policy, Systems, and Oversight, Office of Acquisition and Logistics (OAL), told us that Ms. Taylor never held a warrant while employed at VA. Although her position does not require her to hold a warrant, she has a Federal Acquisition Certification-Contracting (FAC-C) Level III certification.

Mr. William E. Dobrzykowski, (former) USITC CFO

Mr. Dobrzykowski's resume reflected that he held various Federal appointments from 1970 until his retirement in 2002, including the Federal Power Commission (predecessor to the Federal Energy Regulatory Commission), Securities and Exchange Commission, Federal Deposit Insurance Corporation, and HUD. FedBid records reflected that in early 2012, Mr. Dobrzykowski sought employment at FedBid and that Mr. Glenn Richardson, former President of FedBid, considered hiring him as a "strategic advisor." However, USITC records reflected that he instead accepted the CFO position at USITC as a re-employed Federal annuitant on February 24, 2012, with his employment beginning on March 19, 2012. As CFO, he had oversight of USITC's contracting activity, and after he began working at USITC, he suggested that they use reverse auctions. On May 16, 2012, USITC signed a contract with FedBid for reverse auction services.

Ms. Taylor's and Mr. Dobrzykowski's Relationship

Ms. Taylor told us and email records reflected that she and Mr. Dobrzykowski had a 20-year close personal relationship that began in 1994 when both were employed at HUD and he was her supervisor. Ms. Taylor said that in December 2006 Mr. Dobrzykowski proposed marriage to her, and she accepted. Email records reflected that she told her family and friends of their engagement. Ms. Taylor also told us that she and Mr. Dobrzykowski together picked out a loose diamond in November 2007; she paid for it; and he later reimbursed her for the diamond. She said that they then had it mounted, and about a month later, Mr. Dobrzykowski proposed to her again, giving her the diamond ring as a Christmas gift. Jeweler and credit card records reflected that Ms. Taylor purchased a ring mounting and a diamond for a total cost of \$11,490. At the

time Mr. Dobrzykowski paid for and gave her the ring, he was a contractor employee working in Ms. Taylor's PBGC office. Therefore, Ms. Taylor either improperly accepted a gift from a prohibited source, in violation of 5 CFR § 2635.202, or accepted a gift from her fiancé. Personnel and email records reflected that Mr. Dobrzykowski, during this entire 20-year period of time, was married to and living with his wife.

On May 18, 2012, Ms. Taylor sent an email from her VA email account to her personal email account. Attached to it was a letter addressed to Mr. Dobrzykowski's wife. In the letter, Ms. Taylor referred to herself in the third person as if she were someone outside the relationship with knowledge of it. The letter began, "I am sorry to have to inform you that your husband Bill has been having an affair for over 17 years," and "I will share with you as much of the details as I know." The letter stated that their relationship began when they both worked at HUD and described how their relationship grew over the years. It also stated, "In December 2006, he asked her to marry him and they announced to the family and her friends that they were engaged. On Christmas Eve 2007, he gave her a diamond engagement ring." We could not determine if Ms. Taylor ever sent the letter to Mr. Dobrzykowski's wife.

Email and credit card records reflected that from May 2007 to May 2013, Ms. Taylor spent close to \$30,000 on gifts and travel for Mr. Dobrzykowski, and when they traveled together, Ms. Taylor told us that they stayed in the same hotel room. In seeking a partial reimbursement for one travel event, Ms. Taylor referred to Mr. Dobrzykowski as her husband, and in another, she referred to him as her fiancé. In a July 13, 2013, email, Ms. Taylor told him that she was "financially devastated" by constant cancellations, postponements, and shortened trips planned together and paid for by Ms. Taylor.

Ms. Taylor's Misconduct while at PBGC

PBGC records reflected that in 2007, a few months after PBGC employed Ms. Taylor as the Director of Procurement, her then fiancé, Mr. Dobrzykowski, applied for the position of PBGC CFO, and Ms. Taylor acted as a professional reference for him. After he was not selected for the position, in September 2007, Ms. Taylor allowed her subordinate, the Deputy Director of Procurement, to award a purchase order with an annual value of \$80,000 to Paradigm Financial Solutions (PFS), Mr. Dobrzykowski's privately-owned company. This purchase order was for Mr. Dobrzykowski to work as a consultant in Ms. Taylor's department, and Mr. Dobrzykowski's résumé listed Ms. Taylor as his supervisor for this time period. Ms. Taylor told us that less than 2 months after awarding the \$80,000 contract to PFS, she paid about \$12,000 for a diamond and ring setting, Mr. Dobrzykowski reimbursed her for the diamond, and 1 month later, he gave her the ring as a gift.

PBGC records also reflected that on several occasions, Ms. Taylor made false statements to PBGC officials concerning her relationship to Mr. Dobrzykowski. She claimed that they were only friends; failed to disclose that they were paramours since 1994; and as of

December 2006 they were engaged to be married. For example, a PBGC OIG employee told us that when they asked Ms. Taylor about a possible conflict of interest due to her personal relationship with Mr. Dobrzykowski, a PBGC contractor, Ms. Taylor said that they were merely friends. The PBGC OIG employee said that she showed them a diamond ring and said Mr. Dobrzykowski was a married man and she was engaged to someone else; therefore, they could not be in a close personal relationship. In another example, Ms. Taylor provided PBGC a written declaration in connection with a grievance she filed. In her March 19, 2009, declaration, signed under the penalty of perjury, she denied having an “inappropriate relationship with a PBGC contractor and hiring a personal friend in a noncompetitive procurement” and she was “offended by accusations that [her] relationship with Mr. Dobrzykowski was any more than friendship or that it was inappropriate in any way.” Ms. Taylor told us that she did not tell her PBGC supervisors of the true nature of her and Mr. Dobrzykowski’s close personal relationship, because she thought of it as “a personal friendship. I hoped it would someday be more and I did tell [my supervisor] that.”

PBGC records reflected that in December 2008, a PBGC Performance Review Board (PRB) commended Ms. Taylor for making substantial progress in several initiatives and for providing tireless support to the Director. However, the PRB also reported that her accomplishments were undermined by her poor judgment and lack of accountability. Addressing these concerns, the PRB documented that Ms. Taylor allowed a personal friend to be hired in her department as a contractor (Mr. Dobrzykowski); resisted her supervisor’s requirement that the contract be terminated; made numerous attempts to find work for her friend in other departments; and attempted to go around her supervisor to the Director. The PRB concluded that these actions, as well as others, reflected poorly on Ms. Taylor’s individual performance objectives in leadership/supervision, resource management, and technical competence.

VA Office of Acquisition and Logistics (OAL)

As a principal VA staff office, OAL is responsible to the VA Secretary, through the Assistant Secretary for Acquisition, Logistics and Construction, for awarding and administering national contracts for goods and services. In addition to its primary role of supporting VA programs, OAL has a Government-wide role in the supply management of medical supplies and non-perishable subsistence. Due to its VA-wide and Government-wide mission, as well as its role in protecting the integrity of the procurement and supply system, OAL is organizationally independent of the activities it serves. All OAL operations are funded through the self-sustaining VA Supply Fund which is managed by OAL. The operating costs are recovered through a variety of cost recovery mechanisms that are designed to pass the costs of services along to the beneficiaries of such service.

Mr. Jan Frye, DAS, VA OAL

Mr. Frye is responsible for VA's acquisition and logistics policy development and enforcement. He is also the Senior Procurement Executive (SPE) for VA and serves as primary advisor to the Chief Acquisition Officer and the VA Secretary. Mr. Frye's responsibilities include establishing and managing all acquisition workforce policies and programs in the Department; testifying before Congress on acquisition and logistics activities; and directing a full range of programmatic and oversight duties associated with acquisition and logistics policies and procedures, including procurement policies and procedures for the Department, which includes VHA. He further supports VA's healthcare procurement requirements as well as the needs of the other Government agencies, including the development and administration of healthcare related Federal Supply Schedules and national standardization contracts for healthcare system, commodities, equipment, services, and just-in-time distribution programs.

VHA Procurement and Logistics Office (PLO)

VHA's contracting activities are through PLO, and the DCPO leads that organization. The procurement side consists of three Service Area Offices (SAO), East, Central, and West. An SES Director leads each SAO, which includes its subordinate Network Contracting Offices (NCO) and managers. They provide acquisition support to 21 Veterans Integrated Service Networks (VISN) and their associated VA Medical Centers (VAMC) and Community Based Outreach Clinics (CBOC).

FedBid, Inc.

FedBid's website, www.fedbid.com, reflects that they are a privately held company based in Vienna, VA. FedBid is a GSA Schedule contract holder offering reverse auction services—an auction in which the sellers compete to obtain business from the buyer and prices typically decrease as the sellers undercut one another. According to its service description on the GSA Schedule, FedBid's Reverse eAuction Service “enables buyers to publicize, or post, specifications for commercial items required by an agency and then to notify potential sellers of the opportunity” and allows “sellers of commercial items to the Government to compete against each other on the internet in real time in an open and interactive environment that safeguards each seller's identity and pricing.” VHA awarded FedBid a task order contract on November 24, 2010, off the GSA Schedule for reverse auction services for 1 base year and 4 option years. Not including the significant costs associated with transaction fees that VHA indirectly paid to FedBid, the direct cost to VHA for each option year was \$1 annually. FedBid's website further reflects that their Board of Directors, Key Advisors, and Consultants consist of a cadre of former key Federal and Military senior officials.

Mr. Ali Saadat, FedBid

FedBid's website reflects that Mr. Saadat is FedBid's Board Chair, founder, and Chief Executive Officer (CEO).

Mr. F. Glenn Richardson, FedBid

FedBid's website reflects that Mr. Richardson was a former FedBid President and currently serves as Senior Advisor to the Chairman and CEO. Mr. Richardson told us that as the FedBid President, his primary focus was on the organization within FedBid called Account Operations which essentially was the sales and business development part of the organization. He said he resigned his position as FedBid President in April 2012 but that he continued working as a member of its Board of Advisors under an independent contractor agreement.

Mr. Luther Tupponce, FedBid

FedBid's website reflects that Mr. Tupponce is a Chief Administrative Officer, directing Government relations efforts, oversees human resources, and assists in developing overall corporate strategy. As their General Counsel, he is responsible for all legal aspects of FedBid's operations, including corporate policy development and implementation, intellectual property, commercial and government contract negotiations, contract performance and enforcement issues, dispute resolution and litigation management, conflicts of interest determinations and employment issues. It reflects that he also ensures company, systems, and process compliance with applicable local, state and Federal laws and regulations, to include Federal Acquisition Regulations.

General George Casey Jr., FedBid

FedBid's website reflects that General Casey, former Army Chief of Staff (retired), has served as a member of FedBid's Board of Directors since January 2012.

Mr. Robert Crossett, FedBid

FedBid records reflect that Mr. Crossett is the Vice President, Account Operations at FedBid and a Senior Account Representative to VHA.

Mr. Chet Edwards, former FedBid

FedBid's website reflected that Mr. Edwards was formerly a member of FedBid's Board of Advisors. Mr. Edwards' website reflects that he was a former Texas State Senator and U.S. Congressman.

Mr. Steven Green, former FedBid

FedBid records reflect that Mr. Green was formerly the Senior Vice President, Defense at FedBid and an account representative to VHA. Open sources reflect Mr. Green is no longer employed with FedBid.

Ms. Barrie Kydd, former FedBid

Ms. Kydd was Vice President of Business Development and was instrumental in FedBid's contract with VHA. In 2012, Ms. Kydd filed a claim against FedBid in Fairfax County Circuit Court (FCCC), Fairfax, VA, after FedBid terminated her employment. FCCC records, Case No. CL 2012 985, Exhibit 1, reflected that Ms. Kydd established multi-million dollar contracts with national and worldwide customers, to include VHA, and she negotiated fees with customers to increase FedBid's revenue. In June 2013, the jury's verdict was in her favor and assessed her damages in the amount of \$150,000. FedBid satisfied the judgment in July 2013. Ms. Kydd declined to be interviewed.

Revolution Growth

Revolution Growth's (RG) website reflects that they invested "in 'speed-ups'—helping companies take ideas from niche to mass and scale to capitalize on huge market opportunities." It also reflects that they were "very hands-on and a true partner, working relentlessly with management teams, over a long period of time, to help build their businesses" and that their strategy was to "attack existing, multi-billion dollar markets ripe for disruption with innovative companies;" they were "most effective" when they were "the lead and largest investor;" and once they made an investment, they "go all-in" with their time and reputations. In January 2012, RG invested a reported \$25 million in FedBid; thereby acquiring a major stake in the company. A press release on January 18, 2012, reflected that one of the RG cofounders was then named as Chairman of FedBid's Board of Directors and began working closely with FedBid's CEO, Mr. Saadat.

Mr. Steve Case, RG

RG's website reflects that Mr. Case was a cofounder of America Online, another of the RG cofounders and partners, and currently the Chairman and CEO of Revolution, LLC.

Results

Issue: Whether Ms. Taylor Engaged in Conduct Prejudicial to the Government and She, Mr. Dobrzykowski, and FedBid Executives Acted Jointly to Interfere with a VA Official for the Financial Benefit of FedBid

Federal regulations state that an employee shall not engage in conduct prejudicial to the Government. 5 CFR § 735.203. Standards of Ethical Conduct for Employees of the Executive Branch state that an employee has a responsibility to place loyalty to the Constitution, laws, and ethical principles above private gain and shall act impartially and not give preferential treatment to any private organization or individual. 5 CFR § 2635.101. Federal acquisition regulations (FAR) require contracting officers to ensure that all requirements of law and regulations were met before entering into a contract and that contractors receive impartial, fair, and equitable treatment. 48 CFR § 1.602-1(b) and 1.602-2(b). It further states that Government business shall be conducted in a manner above reproach and that Government contractors must conduct themselves with the highest degree of integrity and honesty. *Id.*, at § 3.1002 and 3.101-1.

FedBid's Opposition to VA's Efforts to Procure Reverse Auction Software

Email records reflected that in July 2009, OAL issued a solicitation for a reverse auction services requirement but cancelled it before the end of the solicitation period. On July 20, 2009, in response to the cancellation, Ms. Kydd sent an email to Mr. Frye and told him that FedBid provided “a service that has no cost to the VA, realizes no risk in continuing its solicitation efforts. Award would simply provide yet another purchasing tool for its contracting staff.”

In June 2010, almost a year later, OAL issued another solicitation, this time for a reverse auction software requirement that would provide VA the ability to conduct its own reverse auctions rather than using an outside provider. In response to the solicitation, Mr. Richardson sent an email to Mr. John Gingrich, former VA Chief of Staff (COS), and asked him to intervene, stop the new solicitation, or at minimum, direct OAL to reissue their 2009 solicitation for reverse auction services, which was more consistent with FedBid's business model. Mr. Richardson told Mr. Gingrich, “We request that you reassess VA's reverse auction requirements, cancel the current solicitation and issue one that is objective and unaffected by previous or existing biases from any VA personnel toward interested vendors...if a commitment to obtain the targeted software cannot be withdrawn, we ask that VA also reissue the aforementioned solicitation from 2009 as an appropriate model for commodity purchases primarily under \$100k.” Mr. Gingrich told us that he did not recall these solicitations or communications.

Ms. Taylor Gave FedBid Preferential Treatment

Ms. Taylor told us that she used FedBid's reverse auction services when employed by PBGC, and 6 months into her VHA employment, Ms. Kydd contacted her and asked if she would be interested in using FedBid at VHA. Contrary to Ms. Taylor's testimony, email records reflected that Ms. Taylor initiated the contact with Ms. Kydd and sought to implement FedBid reverse auctions within VHA. On August 11, 2010, about a month after her VHA appointment, Ms. Taylor received an email from a former PLO manager, Subject: "How some agencies are cutting contract costs - FederalTimes.com." The email contained a link to a Federal Times online article that reflected some agencies used reverse auctions to achieve cost savings. The article did not identify any specific reverse auction service provider by name. The next day, Ms. Taylor, changed the email subject line to "FedBid," forwarded it to her three subordinate SAO Directors, saying: Can you please advise me if your areas are using FedBid for reverse auctions for supplies?... FedBid does all the work for you...is a free service to the [F]ederal government."

Each SAO Director responded that they were not aware of FedBid or reverse auctions being used in their respective areas. Exchanges within this email discussion identified Mr. Jeffrey Ryan, former SAO East Director, as being responsible for coordinating the upcoming Network Contracting Managers (NCM) Conference to be held November 1-5, 2010, in Orlando, FL. Ms. Taylor told the SAO Directors that she would be "glad to provide the contact information for the VP at FedBid...These are very competent people and very helpful. The price is right - free."

On August 16, 2010, 5 days later, Ms. Taylor sent an email to Ms. Kydd, with Mr. Ryan on copy, and she said:

Barrie - I have left PBGC for a new position as Deputy Chief Procurement Officer at the VHA, VA. I learned that our offices, which have over 500 contracting officers nationwide plus hundreds of additional purchasing agents, are not doing reverse auctions and are not familiar with FedBid. I would like to introduce them to this process as a way to save money on supply purchases. VHA currently spends over \$13 billion annually on its procurements so there appears to be a huge opportunity here. We will be holding a conference in Orlando November 2-4...would you or someone on your staff be available to make a presentation and demonstration[?]

Ms. Kydd replied the same day and accepted Ms. Taylor's invitation to the November conference. Thus began a process of Ms. Taylor working extensively and exclusively with FedBid to implement reverse auctions within VHA.

In September 2010, during the time that Ms. Taylor and Ms. Kydd discussed bringing FedBid into VHA, including OAL's plans to procure their own reverse auction software, a FedBid Senior Advisor sent an email to Mr. Gingrich's staff assistant asking the status

of Mr. Richardson's June 2010 request that OAL cancel their reverse auction software procurement. Email records reflected that Mr. Gingrich contacted OAL senior management, and they gave him an analysis comparing commercial reverse auction services, which included paying transaction fees of up to 3 percent, and using reverse auction software. OAL personnel reported that the analysis concluded that FedBid's services would be too cost-prohibitive when performing a large number of auctions, due to the transaction fees. We found no evidence that Ms. Taylor or FedBid told Mr. Gingrich that they were working to implement reverse auction services in VHA or that Mr. Gingrich took any action to stop OAL from getting reverse auction software. Mr. Gingrich told us that he did not recall these communications with OAL or FedBid.

FedBid email records reflected that Ms. Taylor met several times with Ms. Kydd to discuss implementing FedBid's reverse auction services in VHA. Ms. Kydd documented her discussions with Ms. Taylor in reports she sent to FedBid Leadership. An August 19, 2010, email reflected that Ms. Kydd told FedBid executives:

Met with Susan Taylor, the Deputy Chief Procurement Officer for VHA Procurement and Logistics Office...Susan has asked that we present at their procurement conference in Orlando (November 2-4)...She would like us to brief her folks...and do a demonstration...Susan's goal is to introduce our process to the managers to educate them about the benefits of the use of our site...She is considering a competition for [reverse auction] services, but will make that determination after the conference... [VA's Electronic Contract Management System (ECMS)] is an issue because of the perception that policy dictates...it has to go through the link within ECMS not the link in FedBid...She asked who to speak with so that she can clarify if this is in fact a policy and it was explained that (Jan Frye and Iris Cooper own the system). She inquired if they knew about FedBid, hence a conversation about our BASIC history with them [as a result of FedBid's opposition to VA's efforts to procure reverse auction software] was discussed. Susan wants to see this happen.

In a September 2, 2010, email to FedBid executives Ms. Kydd said:

Good morning all. Below is a debrief of the meeting with Susan Taylor at VA. The purpose of the meeting was to explain the First Consideration memo and share the process and documents that relate to the [U.S. Army Research, Development, and Engineering Command] e-Buy announcement, [Statement of Work] and Agency Agreement. Susan has asked for electronic copies of all documentation so that she does not need to "recreate the wheel" when issuing her version for VHA...We also had...a mutual agreement...that Susan will proceed with the effort without any discussion or notification to the policy side of the house (keep it on the down low) as

VHA makes their own decisions...discussed the link within [VA's Electronic Contract Management System] to FedBizOpps...Susan is doing research on her own, (again on the down low). Susan had me connect with the Gentleman who is scheduling the speakers for the conference in November...Susan wants us to do a thorough presentation of the process and benefits, and then a demo of the site including creating a buy...As soon as I have more details and specifics about the conference...we can discuss our plans for the presentation.

Ms. Taylor continued communicating with Ms. Kydd and Mr. Richardson prior to FedBid giving their presentation on November 3, 2010, at the NCM Conference.

- In a September 2, 2010, email, Ms. Kydd sent Ms. Taylor sample documents;
 - a GSA e-Buy posting (announcement) for FedBid's commercially available reverse auction services;
 - a statement of work for commercially available reverse auction services;
 - a task order contract previously issued against FedBid's GSA contract, GS-35F-0752R, for commercial reverse auction services; and
 - the "First Consideration" memorandum containing language mandating use of FedBid for future inclusion into VHA procurement policy.
- On October 4, 2010, Ms. Kydd gave a presentation of FedBid's reverse auction services to Mr. Ryan and his staff at the SAO East office in Pittsburgh, PA.
- In an October 6, 2010, email, Ms. Kydd reported to FedBid executives that she discussed the following with Ms. Taylor:
 - FedBid's presentation and demonstration at the upcoming conference;
 - Ms. Taylor's goal of obtaining "buy in" from SAO Directors and Network Contracting Managers before implementing FedBid nationally in VHA; and
 - Ms. Taylor's plan to issue a "First Consideration" policy requiring VHA contracting staff to use FedBid.
- On November 2, 2010, the evening before FedBid's presentation at the NCM Conference, Ms. Taylor dined with Mr. Richardson and Ms. Kydd in Orlando, FL, and they discussed VHA's implementation of FedBid.
- On November 3, 2010, FedBid gave their presentation at the conference.

Ms. Taylor Created a False Sense of Urgency to Award a Reverse Auction Contract

Email records reflected that Ms. Taylor assigned responsibility for the procurement of reverse auction services to Mr. Ryan the same day that FedBid gave their presentation at the NCM Conference in Orlando, FL. FedBid email records reflected that after their presentation, Ms. Taylor told them that she wanted to “rollout immediately” but that Mr. Ryan expressed concerns about moving forward without a contract. Records further reflected that Ms. Taylor told FedBid that VHA would be releasing a request for quotes (RFQ) within the next few days and hoped to award the contract very shortly thereafter.

Mr. Ryan told us that after FedBid’s presentation, FedBid aggressively pushed VHA to immediately award a sole-source contract but that he resisted the idea. He said that Ms. Taylor wanted to make an award quickly; FedBid was the only one she “advocated or pushed” to her contracting staff to use; so FedBid was the only reverse auction service provider that garnered their attention. Email records reflected that on November 3, 2010, Mr. Ryan assigned the procurement to a VHA Lead Contracting Specialist, and he pushed the Contracting Specialist to move quickly on it. Ms. Taylor told us, “Well, I think we were anxious to begin the saving money process...we would want to get that implemented as soon as we could so that we could start reaping the benefits...did it have to be done by a particular date? Of course not. But did we want to get started with this process as soon as possible? Yes, we did.”

VHA contracting staff told us that Ms. Taylor and FedBid executives knew that OAL was trying to procure their own reverse auction software to conduct reverse auctions within VA but that this type of reverse auction was contrary to FedBid’s business model. Staff said that Ms. Taylor wanted VHA to contract with FedBid before OAL implemented its own reverse auction capability at the Department level. As reflected in the August 19, 2010, email, Ms. Kydd told Ms. Taylor of the “BASIC history” between FedBid and OAL, which included OAL’s solicitation for reverse auction software. The September 2, 2010, email reflected that Ms. Taylor did not want OAL to know about her plan to use FedBid for reverse auctions, as she asked Ms. Kydd to “keep it on the down low.”

The Contracting Specialist told us that “around this time, there was discussion that the VA side of the house was working on a reverse auction solution for VA...Mr. Frye's group.” He said that he was told that there were “competing interests on developing a reverse auction solution that may or may not happen. But we want[ed] to be the first ones.” A former SAO Deputy Director told us that Ms. Taylor and Mr. Ryan wanted to quickly award a contract to FedBid, as they believed that OAL was working on a reverse auction solution that would directly compete with FedBid. The former SAO Deputy Director said, “There was a goal, a mind-set...that we may be told not to do something so we had to get it done and in place before that happened.”

In a November 4, 2010, email to Mr. Ryan and the former SAO Deputy Director, his then supervisor, the Contracting Specialist expressed his concern of a competing interest and

that contracting warrants issued to VHA COs provided limited authority and specifically prohibited a VHA CO from awarding a contract that competed with a national (OAL) contract. He said:

Our Limited Warrants DO NOT GRANT authority to award NATIONAL CONTRACTS, including FSS contracts or BPAs/BOAs. Additionally, the [CO] is not granted authority to award REGIONAL CONTRACTS OR agreements that compete with national contracts. Based on our limited warrants, I do not believe we have the authority; without a waiver from OAL or perhaps finding someone with an Unlimited Warrant (if unlimited warrants do not contain the limited warrant language) to execute this contract action; *particularly, when we know that OAL is working on a national contract for an eProcurement solution.* (Italics added.)

Mr. Ryan replied the same day, dismissing the Contracting Specialist's concerns, and said:

[Name] – don't worry about a game plan - start putting together a GSA RFQ that you can issue no later than this upcoming Monday....We will find someone to sign the BPA, and if necessary we can award 3 separate regional contracts, as none of them will compete with any national contracts. Our estimated costs are going to be Zero and [our] PALT [Procurement Action Lead Time] time needs to be 7 to 10 days from today.

PALT or Procurement Action Lead Time is defined in the VHA Procurement Manual (VHA PM) as the time interval between the initiation of procurement and the award of the contract, and provides that the processing time begins upon receipt of a complete acquisition package with all necessary approvals and documentation. VHA PM, Volume Twelve: Acronyms/Glossary of Terms.

Failure to Conduct a Fair and Open Competition

Federal regulations require agencies to perform acquisition planning and conduct market research for all acquisitions in order to promote and provide for full and open competition or, when full and open competition is not required in accordance with Part 6, to obtain competition to the maximum extent practicable, with due regard to the nature of the supplies or services to be acquired. 41 USC §3301 and 48 CFR §7.102(a)(2). In addition, FAR Part 8 applied, since the task order was issued against FedBid's GSA Schedule contract.

Ms. Taylor told us that she directed Mr. Ryan to initiate the procurement for reverse auction services, but she could not recall what the requirements for the procurement were or whether she provided him with the requirements at all. She said that the requirements should have been developed from conducting market research which she said should have

been done “at the time you’re contemplating a solicitation.” We reminded Ms. Taylor that she was the head of the program office for which the contract was awarded; she considered using reverse auctions since at least August 2010; and she was responsible for doing market research and for providing the requirements to the contracting officer. She said, “I don’t do market research on anything. That’s not my job.” The VHA PM defined a “Requirements Package” as a written request submitted by the Program Office that initiates the contracting process and includes what is needed, when the need must be met, and the appropriate expenditure authority.

Mr. Ryan told us that “Ms. Taylor tasked us to put a contract in place, but didn’t give us a [requirements] package, didn’t give us a statement of work, didn’t give us any of the traditional stuff that a customer would have given to us, because again we’re not really supposed to write the requirement, you know.” He said that usually the requesting office and the contracting office were separate from each other. He said, “Obviously, you typically want to have a separate group that’s the official COR, that ends up coming up with the requirements and gives it to you, and then we buy it. In this particular case, we were asked to be...one in the same...[Contracting Specialist] could be the awarding [CO]. But we really didn’t have like a Ms. Taylor or somebody in DC saying here’s our [SOW], here’s our specifications. Go out and buy this. It wasn’t a traditional package.”

Ms. Taylor, Mr. Ryan, and the Contracting Specialist all initially told us that the procurement was properly conducted and awarded to FedBid after extensive market research and fair and open competition. Ms. Taylor and the Contracting Specialist steadfastly asserted this to be the case on several occasions, not only to us, but also to VA Leadership and in response to Congressional inquiries. Mr. Ryan later acknowledged that Ms. Taylor “advocated or pushed” for FedBid, wanted to quickly complete the procurement, and FedBid may have had an advantage over other vendors during the selection process.

On November 4, 2010, 6 days before the RFQ for reverse auction services was issued, Mr. Ryan, while still at the NCM Conference in Orlando, sent an email to the Contracting Specialist and said, “[Name] – don’t worry about a game plan - start putting together a GSA RFQ that you can issue no later than this upcoming Monday...Our estimated costs are going to be Zero and our PALT time needs to be 7 to 10 days from today.” Mr. Ryan’s email told the Contracting Specialist the requirements were: (1) Reverse auction services must be purchased off of the GSA Schedule; (2) Zero dollars were to be paid to the contractor, and; (3) the contract needed to be awarded within 7 to 10 days. Later that day, Mr. Ryan communicated a fourth requirement in another email, saying: “Also must make it clear that we are not able to support any proposed type of reverse auction solution that requires the purchase of any hardware or software - and that we want a completely web-based ‘hosted’ solution.”

In a November 4, 2010, email to Mr. Ryan and Ms. Taylor, Ms. Kydd sent them sample copies of a GSA e-Buy posting, SOW, and a task order contract for reverse auction

services. Ms. Kydd said, “Per your request are the documents that were sent to [the Contracting Specialist] for your review.” Mr. Ryan forwarded the sample documents to the Contracting Specialist, and said, “Can’t remember if I sent this to you? Hopefully you can use this info to help expedite our process. Mr. Ryan then sent another email to the Contracting Specialist and said, “Talk about market research....this shows that the anticipated dollar value is \$1 per year or \$3 for 3 year[s].” The \$1 pricing came from the sample documents of past FedBid contracts.

On November 7, 2010, Ms. Kydd sent an email to Ms. Taylor and Mr. Ryan giving them the contact information for the VA employee they needed to contact in order to facilitate FedBid obtaining all of the usernames and passwords for each FedBizOps account holder within VHA. Ms. Kydd said, “The below is your VA FBO Administrator contact...that would provide the username and password for each station. You will probably have to send her a note to ask her for the info, as we have worked with her before and she has always required an internal request.” We found that FedBid needed this information so that when a VHA CO initiated a reverse auction on FedBid’s system, the system would automatically post the required information on the FedBizOps website. Mr. Ryan in turn sent Ms. Kydd’s email to the Contracting Specialist.

On November 8, 2010, the Contracting Specialist sent an email to Mr. Ryan and the former SAO Deputy Director providing an update and outlining various steps he took thus far on the procurement, including creating an acquisition plan, attempts at getting approval from the information security officer (ISO) and privacy officer (PO), and determining how to process a zero or \$1 procurement through VA’s financial management system. Mr. Ryan thought that the Contracting Specialist was working too slow and asked, “Did you issue the RFQ today?...Can you...finalize this other info while the RFQ is on the street for 4 or 5 days?”

On November 9, 2010, 1 day before issuing the RFQ, the Contracting Specialist told Mr. Ryan that he was prepared to issue the RFQ that day but wanted to make sure that he (Mr. Ryan) was directing him to issue it without completing the information security checklist through the ISO/PO or obtaining a quality assurance review. Mr. Ryan replied,

I am not instructing you to do anything illegal, but I am very frustrated that you make promises about how quick and easy this is going to be - and based on those assurances from you I make promises and commitments to senior leadership in DC - and then you fail to meet the milestones...You have had this info before we even went to Orlando...And then you send long emails listing all of these roadblocks and hurdles you now face that prevent you from meeting the deadlines...Now if you don’t get this out by tomorrow, we lose another week - with Thursday being Veterans Day and Friday your day off – so that means it will not go out until Monday the 15th...Making award at the end of November is not an option....I need you to get this done and figure out how to solve problems and make things

happen...don't make it any harder or more complicated than this has to be, and add more requirements that will delay it even further.

On November 10, 2010, Mr. Benjamin Iachini, Quality Compliance Officer, SAO East, sent an email to the Contracting Specialist titled, "eBuy RFQ Review" containing his quality assurance review of the Contracting Specialist's anticipated RFQ for reverse auction services. In the RFQ package, the Contracting Specialist identified FedBid as the "suggested vendor." Mr. Iachini asked the Contracting Specialist about not using "performance-based" statements as provided for in Part 37 of the FAR. He said, "To the maximum extent practicable, agency requirements shall be performance-based statements (see subpart 37.6). There are no performance thresholds or acceptable standards of service incorporated into the SOW. How will we know whether or not the vendor is performing to an acceptable level of service? Strongly recommend the use of performance-based methodologies." The Contracting Specialist replied,

Without significantly more market research and a technical subject matter expert (COTR) to assist me with writing performance based requirements (e.g. determining scaling/load balancing to meet spikes in demand, service level metrics and reporting, etc.) that may result in an unacceptable level performance. However, looking at the suggested vendo[r's] GSA schedule catalog [FedBid] their service deliverables appear to be sufficiently defined under their service offering. Ultimately, our cost for this service is \$1 per year and we have no transaction quotas or commitment to use the system if it is determined to be unacceptable.

On November 10, 2010, the former SAO Deputy Director told the Contracting Specialist in an email, "Barrie Kydd is calling to see when the announcement will go out...I told her that we cannot share that information with her as we are not telling the others." The Contracting Specialist replied, "I explained to her that I would be contacting her when we issue." The Contracting Specialist also told the former SAO Deputy Director of Mr. Iachini's earlier quality review of the anticipated RFQ, but he failed to say that Mr. Iachini questioned why "performance based" statements were not used in the draft SOW. The Contracting Specialist told the former SAO Deputy Director,

I met with Ben [Iachini] and am almost done formally addressing his review...He didn't attend the FedBid presentation so we discussed the pricing models used by hosted reverse auctions and the \$0 versus \$1 funding consideration for a contract. We are good to go on his review just want to document my response.

On November 10, 2010, Ms. Taylor told Mr. Ryan in an email, "I have a call from Barrie [Kydd] that I missed, so before I call her back I was wondering where we are on the solicitation. Have you decided how long they will be advertised?" Mr. Ryan immediately forwarded Ms. Taylor's email to the Contracting Specialist asking, "What

should I tell her?” The Contracting Specialist replied, “I am ready to solicit...I am still waiting on the ISO/PO review concurrence...Shall we issue now for a quote due Friday and amend/mod as necessary?” Mr. Ryan replied,

You’re the CO – you have to make the call on when to solicit. If we are just waiting for the ISO and PO to say whether or not the security clause is added – one suggestion I have is to issue it without it, and then if the ISO or PO come back and say it is needed, then we can modify the RFQ to add it and extend the bidding time accordingly. If it turns out the ISO and PO say[s] it is not needed, then it can close as projected and we can make the award based on the original proposals.

The Contracting Specialist replied, “I am inclined to put the clauses in, solicit now, allow the Offerors more time [until] 11/15/2010 [and] the ability to review and quote accordingly, and amend/mod out if not required.” A short time later, Mr. Ryan told the Contracting Specialist that he spoke with Ms. Taylor regarding the RFQ, and he said, “Just spoke to Susan, and she suggested that we go out without the [information security] clause, and modify if needed (but her gut feeling is that it should not be necessary given the nature of the work.)” Ms. Taylor denied, under oath, that she had any involvement or extended any influence in any part of the procurement for reverse auction services.

Further, on November 10, 2010, the Contracting Specialist sent an email to the ISO/PO in response to several questions regarding the information security requirements. Initially, the ISO/PO did not understand that the reverse auction services being sought were web-based and resided on a non-Government owned system, and they asked whether the contractor employees would need access to VA’s network. The Contracting Specialist replied, “Onsite staff will not be connecting in any way to our internal protected network. If we request them to provide onsite training they will conduct from their own equipment, their own internet service, through there [sic] own A/V equipment to a publicly accessible website - www.fedbid.gov.”

On Wednesday, November 10, 2010, at 7:45 p.m., the Contracting Specialist issued RFQ’s to 4 vendors listed on the GSA Schedule, including Fedbid, #GS-35F-0752R; Global eProcure, #GS-35F-0732N; Aeon Nexus Corporation, #GS-35F-0238M; and Solutions Engineering Corporation, #GS-35F-4824G. The Contracting Specialist set the deadline for their respective submitted quotes by Friday, November 12, 2010, at 1:00 p.m., less than 48 hours after issuing the RFQs. Thursday, November 11, 2010, was Veteran’s Day, a Federal Holiday.

On November 12, at 11:00 a.m., the Contracting Specialist sent an email to Mr. Ryan and the former SAO Deputy Director and told them, “Two recipients, Aeon (requested additional time – COB Tuesday, November 16) and Solutions Engineering (requested additional time – no date suggested). No response from Global eProcure yet. FedBid responded yesterday that they will be able to quote today by deadline at 4:00 PM...I set

the deadline today at 4:00 PM EST versus 1:00 PM to give us time if we get a response to the IS requirement from the ISO and PO today to amend or if we don't get any quotes in the 48 h[ou]r turn-around-time we gave."

About an hour later, the Contracting Specialist sent Mr. Ryan and the former SAO Deputy Director another update, and he said, "Just received FedBid quote...No response from Global eProcure to date. Aeon and Engineering Solutions need more time and are unlikely to respond by 4pm deadline." At 1:15 p.m., the former SAO Deputy Director told the Contracting Specialist, with Mr. Ryan copied, "I know we are under a tight deadline but that turnaround time was quite unfair considering yesterday was a holiday and *only FedBid had previous knowledge of our intent.*" (Italics added.)

On November 12, 2010, at 2:31 p.m., the Contracting Specialist told the former SAO Deputy Director and Mr. Ryan, "I have received 2 quotes to review out of 4 solicited. If a vendor has a solution that meets our requirements it should already be up and running upon award...Vendors, particularly GSA contract holders, should have their service offerings ready to go...I still need to review the quotes we have received to ensure they do, in fact, meet our needs."

On November 12, 2010, at 10:37 p.m., the Contracting Specialist told Mr. Ryan and the former SAO Deputy Director, "I have read through each of the quotes received. This is a summary of my review on Price and Past Performance. Price – FedBid; VHA-\$0; Sellers – Pay 0–3% transactional fee based on the [bid price] (NTE \$10K p/transaction); [another vendor]: VHA – One Time \$25K Implementation Setup Fee, plus \$65K per year; Sellers – Do not appear to pay any fees...FedBid: Meet Requirements; [another vendor]: Meet Requirements...Both reverse auction technologies provide a comparable level of flexibility to create auction events. Both vendors provide onsite and remote training. I need to login to each of the system demo sites to test drive their user-functionality."

The Contracting Specialist completed a written cost analysis, and he determined that FedBid would cost VHA only \$1.00 per year, or \$5.00 over a 5-year period, whereas the other vendor would cost \$350,000, including a \$25,000 first year setup fee and a \$65,000 annual fee thereafter for 5 years. However, when the Contracting Specialist did this cost analysis, he failed to consider the FedBid transaction fees VHA would pay for the procurements, whereas the other vendor's quote did not include any transaction fees. The Contracting Specialist then issued VHA's task order to FedBid on November 24, 2010. Email records reflected that the 12-day delay in awarding the task order was unintentional and due to problems associated with obtaining the ISO/PO approval.

The award of the task order generated a November 29, 2010, email conversation between Mr. Tupponce, Mr. Richardson, Mr. Saadat, and Ms. Kydd. Mr. Richardson said that he could put the VHA award in their December "In the News" press release, and Mr. Saadat replied, "I've thought we should keep quiet on the VHA award till successful rollout?" Mr. Richardson replied, "We didn't wait on USN, USMS, MCCS, others."

Mr. Saadat then said, “We have VA HQ RA award (Iris SOB) issue here.” Mr. Tupponce responded, “Check with Barrie [Kydd] on this, but this was to be hush-hush so HQ didn’t put the kibosh on it.” Ms. Kydd said, “I will speak with Susan [Taylor] today.” As noted previously, Ms. Taylor did not want OAL to know about her plan to use FedBid for reverse auctions and that she wanted to contract with FedBid prior to OAL implementing its own reverse auction capability at the Department level.

FedBid Misrepresented Its Services as Being No Cost or Free to the Government

FedBid’s GSA contract, GS-35F-0752R, as well as FedBid’s November 12, 2010, quote, covering the period July 28, 2005, to July 27, 2015, stated, “All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence. The contract also stated:

Once the buyer: i) determines that the results of the FedBid Reverse eAuction have met the competition, savings and other buyer generated criteria for the procurement and ii) selects a winning seller from those results, the buyer issues an order to the selected seller for delivery of the commercial items. When the buyer receives the procured items, it pays to the selected seller the total bid amount. Contractor then collects from the selected seller the transactional fee, which consists of not more than three (3) percent of the transaction. The buyer reserves the right to pay the transactional fee directly to FedBid.

FedBid’s quote to provide VHA reverse auction services, which was incorporated into and made part of the task order contract with VHA, stated in paragraph 1.4.2.2 Reduces Costs Per Sale, “The system adds an equal percentage transaction fee to all seller bids prior to submission to the buyer. When the buyer makes an award to a seller, FedBid will collect the included fee from that seller. FedBid’s model eliminates out-of-pocket fees for seller!” In other words, the buyer, or in this case, VHA, paid the transaction fees; however, the Contracting Specialist told us that FedBid’s GSA contract “does not state that the agency pays the transaction fee.”

Mr. Ryan gave us examples of FedBid Buy Packages that FedBid produced for the reverse auction process, and contained in the packages, we found that FedBid told sellers that they must not bid more than their applicable contract ceiling price, excluding FedBid’s fee. It further said that sellers understood that FedBid ranked all bids by price, but it did not disclose that FedBid would amend a seller’s final bid by adding a transaction fee. However, a VHA CO told us, in an email, that when a VHA user logged into the FedBid website, they must agree to FedBid’s Terms of Use. He said that unless someone went “out of their way to actually read” the Terms and Conditions, the information was not readily available elsewhere to draw their attention. The CO said that

these Terms and Conditions stated, “a proportional transaction fee will be applied to all bids, and that the fee is included in the payment from [VHA] to the seller.”

We found that FedBid repeatedly misrepresented to VA/VHA that using their reverse auction services resulted in no cost to VA/VHA. Ms. Kydd, in a July 20, 2009, email, told the DAS for Acquisition & Logistics that using FedBid’s service “has no cost to the VA.” Further, on October 4, 2010, Ms. Kydd briefed Mr. Ryan and others within that office on the use of FedBid’s reverse auction. In her presentation, one of the slides reflected: No Risk...Guaranteed Results. FedBid receives a minimal transaction fee, included in the seller’s bid (and invoiced to the seller). She did not explain that FedBid’s fee was not inclusive of the seller’s bid but that FedBid later amended the seller’s bid to add the fee for VHA to pay.

The former SAO Deputy Director told us that she attended FedBid’s October 4, 2010, presentation along with Mr. Ryan, the Contracting Specialist, and others. She said that during the presentation, FedBid representatives were “less than candid” and chose their words very carefully as to present their reverse auction services as “no cost” to VHA, which she said was “very untrue.” She said that the meeting with FedBid became very contentious, because FedBid was “adamant in presenting that it was free to the Government” and VHA employees knew that was not an accurate statement. She said that she knew that even though the seller was going to pay the transaction fee to FedBid, VHA was going to first pay that fee to the seller and that FedBid’s marketing strategy was designed to hide the fact that the Government would be paying the transaction fees. However, the Contracting Specialist, who was also present during FedBid’s October 4 presentation, acknowledged that FedBid “was not received well,” but he did not tell us the point of contention was FedBid’s insistence that their services were free to the Government. Instead, the Contracting Specialist blamed his colleagues and told us that the meeting became contentious because “we have some pretty negative people in our office...they never, ever want to see vendors do presentations.”

The Contracting Specialist admitted that he knew that VHA would be indirectly paying FedBid for the transaction fees but he chose not to consider that factor when comparing what VHA would pay using FedBid versus what it would pay the other vendor who did not charge any transaction fees. In his written cost analysis, he determined that over a 5-year period, FedBid would cost VHA only \$5 whereas the other vendor would cost \$350,000. He defended his approach and claimed that he had no way of knowing exactly how much the fees would be, since they were a percentage of the accepted bid price and he did not know to what degree contracting staff would use reverse auctions in the future. We agree that the Contracting Specialist could not determine with specificity how much the transaction fees would be in the future; however, he had FedBid use data available to him, as prior to Ms. Taylor’s employment at VHA, and unbeknown to her SAO Directors, VHA contracting staff in one region used FedBid, without a contract, to conduct reverse auctions. FedBid executives made that data available to Ms. Taylor,

Mr. Ryan, and the Contracting Specialist in advance of FedBid's October 4 presentation. Although the Contracting Specialist dismissed this information as not being applicable, Mr. Ford Heard, Associate DAS for Procurement Policy, Systems, and Oversight, told us that this data provided a reasonable basis or starting point from which the Contracting Specialist could have determined a reasonable usage for future reverse auctions and what FedBid's services would cost the Government.

Contrary to the Contracting Specialist's assertions to us that he knew all along that VHA paid the transaction fees associated with using FedBid, in March 2013, when asked by OIG's Office of Contract Review (OCR) employees whether VHA paid the transaction fees, the Contracting Specialist told them that FedBid did not provide information in their reporting to VHA regarding the amount of transaction fees collected on transactions, as it was a "seller incurred fee." He also told the OIG OCR employees that it did not matter to VHA what the seller agreed to pay to do business with FedBid. This misled OIG OCR employees to believe that the Contracting Specialist did not realize at that time that VHA indirectly paid the transaction fees.

Initially, Ms. Taylor told us that VHA did not pay FedBid's transaction fees, but she later acknowledged that FedBid added the fee to the seller's bid price and VHA indirectly paid it. When asked who authorized FedBid to adjust the final bid price by adding a fee, Ms. Taylor told us that it was part of FedBid's agreement with VHA as outlined in VHA's standard operating procedures (SOP). VHA's Procurement and Logistics SOP, dated May 1, 2012, contained no wording that authorized FedBid to amend the seller's final bid so that VHA paid the transaction fee. Even if the SOP contained language to this effect, it would not be binding since the SOP was not a contract document signed by the CO and FedBid. The CO is the only person authorized to amend a contract or otherwise obligate the Government.

Additionally, we found that even though Ms. Taylor knew that VHA paid the transaction fees, she touted it as being a free service to her subordinates, VA leadership, in a VA news feature, and more recently to FedBid executives for a December 11, 2013, House Committee on Veterans' Affairs hearing on the use of reverse auctions.

- In an August 11, 2010, email exchange with VHA's SAO Directors introducing them to FedBid for the first time, Ms. Taylor told them that FedBid "is a free service to the [F]ederal government." In a second email message within the same string, in reference to using FedBid's service, she said, "The price is right - free."
- In a June 24, 2011, email to her first and second line supervisors, as well as other VHA officials, Ms. Taylor said, "In March 2011, VHA's Office of Procurement and Logistics (OPL) implemented the use of FedBid, an online reverse auction procurement service that is free to the government and requires no software or system to use."

- In an August 29, 2011, email to VHA’s SAO Directors, Ms. Taylor forwarded a newsletter titled *Notes from the Administrator* that contained a subheading titled *Spotlight on Success*. It stated that in March of 2011, VHA’s OPL began using a commercial online reverse auction service that was free to the Government.
- In a September 6, 2011, email to the Executive Director, Center for Acquisition Innovation, OAL, Ms. Taylor forwarded him the August 2011 newsletter titled *Notes from the Administrator*, which reflected that the use of the reverse auction service was free to the Government.
- In an October 14, 2011, VA news feature posted to VA’s website, Ms. Taylor was quoted, “Earlier this year we began using a commercial online reverse auction service. It’s free to the Government.”
- In a January 23, 2012, email to Mr. Richardson, Subject: Meeting with Jan, Ms. Taylor said, “The meeting with Jan is a very good idea...he really doesn’t understand how this process works and believes we are paying the 3% fee.”
- In a December 2, 2013, email, 9 days before the House Committee on Veterans’ Affairs hearing on reverse auctions, Ms. Taylor forwarded the *Notes from the Administrator* article and told FedBid executives, “I thought you might be interested in seeing something from the past. Attached is a newsletter from OFPP’s Administrator...In it, VHA is praised as a success story for its use of commercial online reverse auctions.” The newsletter stated, “...free to the Government.”

In addition to Ms. Taylor falsely claiming that the use of FedBid was free to VA, we found that Mr. Saadat was disingenuous to Mr. Case about the fees when he sent Mr. Case their point by point responses to Mr. Frye’s email to send to VA’s former Secretary, Eric K. Shinseki. In a March 4, 2012, email, Subject: VA Operation and Support Shutdown, Mr. Saadat told Mr. Case, “As you requested, I am sending you the following email that was circulated yesterday by Jan Frye, along with point by point responses from our team at FedBid.” Several hours later, Mr. Case forwarded that email to Secretary Shinseki, changed the Subject line to: Email from Steve Case regarding urgent VA matter, and said, “I wanted to make you aware of an issue that I believe merits your urgent attention...I am forwarding an email from Ali Saadat, the founder and CEO of FedBid. I asked him to forward the email from Mr. Frye, as well as point by point responses by FedBid...I will call your office tomorrow, but wanted to make you aware of the issue in advance, given the urgency of the situation.” The point by point responses stated, “There is no cost to VA for its use of FedBid...Not only is there no cost...there have been significant savings.”

Although Mr. Ryan initially told us that there was no cost to VHA to use FedBid, he later agreed that FedBid presented their business model as if the seller paid the fee and that there was no cost to VHA. He agreed that FedBid adjusted the sellers' bids so that VHA ultimately paid the fee; however, he said that "the assumption is it's worth us paying the 3 percent, because we're saving 7 percent." He said, "We really, right or wrong, drank the *Kool-Aid* and listened to the other people and thought we were doing the right thing...this was no risk, no cost, you know, that this was a great deal." He further said, "We didn't look at it as a cost. We looked at it as we were giving part of our savings back to [FedBid]. We were sharing our savings." When we asked Mr. Richardson how much profit FedBid made from VHA in 2011, 2012, and 2013, his representative advised him not to answer, saying that information was "proprietary."

A GAO Report to Congress, dated December 2013, stated:

When a [seller] submits a bid, FedBid automatically adds its fee and ranks the adjusted bid (i.e., the [seller's] bid plus the fee) against adjusted bids submitted by other [sellers]...When the reverse auction ends and the contracting officer receives the results, the bids, which already include FedBid's fee, are ranked from lowest to highest...When the agency receives the goods or services, it pays the entire bid amount to the selected [seller], including the reverse auction fee. FedBid then sends an invoice to the selected [seller] for the reverse auction fee.

To better understand reverse auctions and associated costs, we asked Mr. Ryan to provide us several buy package examples for a general review, not a statistical analysis. A review of the 14 buy packages he gave us disclosed that 11 out of the 14, or 79 percent, required the sellers to be on the GSA or NASA Solutions for Enterprise Wide Procurement (SEWP) schedules. GSA's internet website reflected that GSA procurements included an industrial funding fee (IIF), which was 0.75 percent of sales, and the NASA SEWP website reflected that specific procurements through SEWP included a .45 percent surcharge. Therefore, using FedBid to conduct a buy requiring the use of GSA or SEWP resulted in VHA not only paying a funding fee or a surcharge, but also resulted in VHA paying FedBid's 0-3 percent transaction fee. For example, purchasing a \$100 item from GSA cost VHA \$100, with GSA's fee included in the \$100. Using FedBid for this same \$100 purchase from GSA sellers could cost VHA \$103, with GSA's fee being inclusive, but FedBid adjusting the \$100 bid price by adding their transaction fee. Based on GSA's and SEWP's published fees, we found that for the 11 of the 14 example buy packages we reviewed, VHA not only paid a fee for the GSA or SEWP purchase, which was inclusive to the purchase price, but also paid over \$14,500 in transaction fees to FedBid for their reverse auction services. For additional information on FedBid's reverse auction process see VA OIG's Review of the Veterans Health Administration's Use of Reverse Auction Acquisitions, report 13-01408-294.

Moratorium on the Use of FedBid

Mr. Frye told us that he was not aware that VHA contracted with FedBid until sometime in 2011 when he began receiving complaints from suppliers about a requirement for them to use FedBid. He said, and email records reflected, that on March 3, 2012, he instituted a moratorium on the use of reverse auctions VA-wide. In his email, Subject: Cease Reverse Auctions, Mr. Frye told Heads of Contracting Activities (HCA) and others within VA, “Immediately and until further notice, please discontinue all use of reverse auctions in VA contracting operations. As reverse auctions are being used primarily in VHA, I request the VHA HCA immediately notify FedBid to remove themselves from all VA operations. While I am not opposed in principle to reverse auctions, it is clear they are causing significant perturbations in the VA supply chain, including at least one protest, potential increased costs, small business program anomalies, violations of our VA contract hierarchy, and a ground swell of complaints from our suppliers. Anecdotal evidence also points to contracting officers turning the process over to FedBid, without the appropriate oversight by cognizant, contracting officers.”

Mr. Frye told us that in order to ensure that certain medical supplies were available whenever needed, the VA many years earlier had established a “just-in-time” system using prime vendors and underlying contracts to supply VA medical centers and that the use of FedBid might interfere with already established VA supply chains. He said that until they had time to “sort it out,” he wanted to review existing policy, contract files, and the CO files for reverse auctions to see how they used it. He said that the information coming into his office was that the COs were “just dumping their requirements” to FedBid and that “FedBid assumed responsibility” for VA. Mr. Frye said that he heard the files lacked documentation or no files existed, which he said turned out to be true.

Email records reflected that Mr. Norbert Doyle, VHA Chief Procurement and Logistics Officer forwarded Mr. Frye’s March 3, 2012, email to Ms. Taylor, and he directed her to comply with his instructions and to “check into the GSA version of reverse auction as an alternative.” Ms. Taylor replied that VHA had “a competed contract with FedBid for reverse auctions,” and she then incorrectly told him that the contract prohibited VHA from using any other reverse auction provider. However, we found that it was not a requirements contract and there was no requirement to use FedBid as a provider of reverse auction services. Email records further reflected that on March 9, 2012, the Contracting Specialist told Ms. Taylor that the contract did not require VHA to use FedBid, and she replied, “By directive issued in October, VHA buyers are to use FedBid unless they put a memo in the file saying why they are not using it.” Ms. Taylor issued that directive on October 7, 2011.

Mr. Frye told us that prior to instituting the moratorium, he discussed it with Mr. Glen Haggstrom, VA’s Chief Acquisition Officer, and that Mr. Haggstrom authorized him to put the moratorium in place. However, Mr. Frye said that Mr. Haggstrom was the only

person in his chain of command that supported the moratorium. He said that VA leadership, specifically Mr. Gingrich, and the former VA Deputy Secretary, Mr. Scott Gould, did not support the moratorium, and Mr. Frye believed they were unduly influenced by pressures FedBid brought to bear which eventually caused them to rescind the moratorium. Mr. Frye told us that the “people on the 10th floor [VA leadership]” and individuals within VHA were absolutely opposed to the moratorium. He said, “They went after me. They made it look like I had performed a criminal act by protecting the public’s interest...I know that it was VHA that fed this information to FedBid within hours or minutes maybe after I put this moratorium directive out...within hours that General Casey, who’s on their Board of Directors, contacted [Mr. Gingrich].”

Mr. Gingrich told us that there was long-standing “friction” between the organizations of OAL and VHA acquisitions. He said that because they reported up through different chains of command, there was a struggle as to who was in charge. He said that VA’s Secretary instructed Mr. Haggstrom to assess VA’s acquisitions and that VHA was in the process of consolidating all of their acquisition components under the same chain of command. He further said that VA’s Secretary told OAL and VHA leadership to resolve the conflict existing between their organizations and to fix the problems VHA procurement had providing quality acquisition support to medical centers and other VHA facilities or else he was going to consolidate all contracting activities under OALC. Mr. Gingrich said that his goal was to resolve the conflict between the organizations and that when he first learned of the moratorium, he thought it was the ongoing feud between OAL and VHA. He said that Mr. Frye had the authority to initiate the moratorium; however, he thought it was more feuding, due to the way Mr. Frye did it. Mr. Gingrich said that if Mr. Frye or Mr. Haggstrom had, from the beginning, gotten the Deputy Secretary or himself (Mr. Gingrich) involved, they may have handled things differently.

Ms. Taylor, Mr. Dobrzykowski, and FedBid Executives Improperly Acted to Thwart the Actions of a VA Official Responsible for Oversight of Procurement Operations

As reported above and discussed further below, FedBid executives falsely claimed that their reverse auction services were free or at no cost to the Government and they took significant measures to disguise who actually incurred the cost of the transaction fees charged by FedBid, making it look as if the seller of the goods or services paid the fees instead of the Government. We found that shortly after Mr. Frye instituted the moratorium on March 3, 2012, via an email that was addressed only to VA employees, there were numerous communications between Ms. Taylor, Mr. Dobrzykowski, and FedBid executives. For example, 2 hours after Mr. Frye sent out his email, Mr. Dobrzykowski told Mr. Richardson, in an email:

Glen[n,] sorry I have been so prophetic as it relates to [J]an [F]rye. Now is the time to throw down the gauntlet and use in a strategic manner to discredit [F]rye on the [H]ill and publicly. I have other strategic thoughts

and would be happy to share them with [yo]u if [yo]u like. Feel free to give me a call XXX-XXX-XXXX. As a taxpayer I am appalled at his actions but as we have discussed, not surprised.

We cannot determine who told Mr. Dobrzykowski of the moratorium, but 2 hours after he emailed Mr. Richardson about it, Mr. Richardson forwarded Mr. Dobrzykowski's resume to FedBid executives and said:

In case you saw or see my calendar invitation to an unidentified person... that person is Bill D – resume attached – provides us with background info – currently under consideration to bring on board as Strategic Advisor but would be open to a larger (consulting, P/T etc) role (esp strategic one), and *very close to Susan Taylor (very...)*. Resume attached...He'll be there – should prove valuable to our strategy efforts re the VA note from Frye. (Italics added.)

In a March 3, 2012, email sent to the FedBid chief financial officer, with Mr. Saadat and Mr. Tupponce on copy, Mr. Richardson said, "I just got off the phone with Susan Taylor (VHA exec) and have had conversations with others today...how much revenue is at risk (or how much we have in FY12 plan for VHA), which is \$3.6M."

FedBid email records reflected that the next day, on March 4, 2012, Mr. Dobrzykowski, at Mr. Richardson's invitation, attended a meeting at FedBid's offices in Vienna, VA, and that the purpose of the meeting was to "strategize regarding Frye decision to shut down RAs in VA." Attached to Mr. Richardson's meeting invitation was a copy of Mr. Frye's March 3 email instituting the moratorium. Ms. Taylor told us that she was aware that Mr. Dobrzykowski met with FedBid executives on March 4, but she did not know it was about Mr. Frye and the moratorium. Contrary to her assertion, FedBid emails reflected that on March 3, the day before the meeting, Ms. Taylor and Mr. Richardson had a lengthy telephone conversation in reference to Mr. Frye and the moratorium, and they made arrangements for Ms. Taylor to participate in the March 4 meeting by telephone. We could not determine if she actually participated; however, the March 3 email reflected that Ms. Taylor knew more about the meeting than she admitted.

Email records further reflected that during the March 4 meeting, FedBid executives drafted a point-by-point response to Mr. Frye's March 3 email, which they later gave to VA leadership and members of Congress. At 6:36 p.m. that day, Mr. Case sent an email to Secretary Shinseki's private email account, with the subject line stating, "Email from Steve Case regarding urgent VA matter." Mr. Case told Secretary Shinseki that FedBid executives were shocked when they received an email reflecting that VA ordered a moratorium on the use of FedBid. He also said that the moratorium would "create considerable reputational risk for the VA" and that this constituted a "constructive termination" of the FedBid contract. However, Mr. Case failed to tell Secretary Shinseki

that under the contract, VHA had no obligation to use FedBid's services and that the total amount obligated to FedBid was \$1. Mr. Case also sent Secretary Shinseki a copy of FedBid's point-by-point response to Mr. Frye's email and encouraged Secretary Shinseki to read it. In the response, FedBid executives continued the scheme to hide the fact that VA paid up to a 3 percent fee for using FedBid by falsely stating, "There is no cost to VA for its use of FedBid...Not only is there no cost to VA, but rather, there have been significant savings."

In a March 4, 2012, email, sent at 9:39 p.m., Mr. Case sent FedBid executives the email he sent to Secretary Shinseki 3 hours earlier. About 10 minutes later, Mr. Saadat told FedBid executives in an email, "First down and more to go...Great team work everyone, the final product came out great!"

In a March 5, 2012, email, an RG employee told Mr. Case and others:

General Casey spoke to General Shinseki's COS John Gingrich about 20 minutes ago...they were all caught flat-footed by this (hard to tell if positive or negative) and are working to get to the bottom of it. Gingrich will call Casey as soon as he knows more about the situation. Gingrich "knows what we want" and will be back to us. General Shinseki did receive Steve's email and is "reacting to it internally"—so perhaps now would be a good time to follow-up with a call.

About 5 hours later, at 2:49 p.m., Mr. Case sent an email to Mr. Saadat:

I just got a call from General Shinseki. He said he was blindsided by the whole FedBid issue; the first he heard of it was the email he received from me last night. He now has people looking into it, and mentioned Gingrich specifically. But he also said he has been advised by the VA lawyers not to be personally involved, given our pre-existing relationship (he used to be on the board of a company I own in Hawaii.) He had asked somebody to call me to close the loop, and was surprised they hadn't, hence his call to me to do it personally. I told him in fairness Gingrich did talk to Casey and indicated he had received my email and they were on it – but since I hadn't heard anything personally I thought reaching out made sense...thanked him for making it a priority...So our immediate goal of making sure the senior team at VA is aware of the issue, our concerns, and the urgency of the matter has been accomplished.

In a March 5, 2012, email, at 3:03 p.m., Mr. Case told Mr. Saadat and other RG executives, "I also just got a call from John Gingrich. He confirmed that they were working on it. He is meeting with the deputy and others at VA and will get back to us as soon as they have a clearer view of the situation. I thanked him for making this a

priority.” Less than 20 minutes later, Mr. Evan Morgan, an RG partner, told Mr. Richardson in an email, “It feels like we have stormed the castle and that people are VERY aware. The common theme seems to be that everyone was blindsided by this directive...let me know what Susan has to say.” About 30 minutes later, in an email, Mr. Richardson told Mr. Morgan, with Mr. Saadat and Mr. Tupponce on copy, “I just got off the phone with Susan [Taylor]...she received a message scheduling a meeting concerning reverse auctions and their impact on VHA...There was no mention of the current action or our response in the meeting announcement message (which was paraphrased for me by Susan)...Do we have a sense of when Gingrich might follow up with SC/GC?”

In a March 5, 2012, email sent at 11:06 p.m., Mr. Richardson told FedBid executives, “Just got off the phone with Bill [Dobrzykowski] who provided some other inside info that obviously cannot be sent to me open channel but nevertheless has given me some thoughts re how to move forward.”

In a March 6, 2012, email, Mr. Dobrzykowski told Mr. Richardson:

As you might know, Susan Taylor is in need of your [Fed]Bid’s immediate and direct help in providing information and a white paper requested by Dep[uty] Sec[retary] Gould. She is your champion and you all know that. She is overwhelmed and to a great extent her ability to respond to requests from [C]ongress and [G]ould etc. [I]s important to resolving the [FedBid] issues. Immediate and all hands on deck is the mantra to support Susan as she responds to requests for IMMEDIATE information, data and papers. I know you all will be doing that. Respectfully, Bill [D].

Mr. Richardson replied, “On it! Just spoke with her.” Mr. Dobrzykowski then told him, “There is a view that [J]an [F]rye wrote the questions that are to be answered by the [VA] from [J]ohnson [HVAC]. Not conspiratorial 80 percent certain. So someone on [J]ohnson[’]s staff is likely [J]an [F]rye supporter and contact. It would be important to know your enemy and see if you can determine origin of those comments.

The following are examples of Ms. Taylor and Mr. Dobrzykowski’s continued contact with FedBid executives concerning the moratorium:

- In a March 7, 2012, email, Mr. Richardson told FedBid executives “Just got off the phone with Susan.”
- In a March 8, 2012, email, Mr. Saadat told Mr. Richardson, “Send this to Bill or Susan.”
- In a March 8, 2012, email, Mr. Richardson told Mr. Saadat, “Just spoke with Susan, preceded by call with Bill...”

- In a March 8, 2012, email, Mr. Dobrzykowski told Mr. Richardson, “[G]ive me a call...re table and [F]ord [H]eard[’]s 2:32 p.m. email to [S]usan.”
- In a March 12, 2012, email, Subject: I have been trying to reach you, Ms. Taylor told Mr. Richardson, “Please call me at home.” Mr. Richardson replied, “Will do – thanks for the note – will call in about 10 minutes.”
- In a March 13, 2012, email, Subject: Just left you a [voicemail], Mr. Richardson told Mr. Dobrzykowski, “Pls give me a shout when you get a chance...”
- In a March 14, 2012, email, Mr. Saadat told Mr. Dobrzykowski, “Once again, thank you for being there and providing great inputs on that Sunday, like to talk to you tomorrow, let me know when is the best time for me to call you?”
- In a March 22, 2012, email, Mr. Dobrzykowski told Mr. Richardson, “Yes heard about it [S]usan has info and I have a suggestion re getting to [S]cott [G]ould. Call you later.”
- In a March 23, 2012, email, Mr. Dobrzykowski told Mr. Richardson, “The ignorance and rudeness and bias of [J]an [F]rye and his people...prepare a letter...to send to secretary deputy and chief of staff and the chairmen (sic) of the senat (sic) and house veterans affairs committees...”
- In a March 24, 2012, email, Subject: Urgent–Reverse Auctioning, Mr. Richardson told Mr. Saadat, “Just left msgs on both her home and mobile phones – will let you know. On the phone with Bill now.”
- In a March 30, 2012, email, Mr. Dobrzykowski told Mr. Richardson, “Glen call me over the week end (sic) to touch base. Thanks [B]ill [D].”
- In a March 31, 2012, email, Mr. Richardson told Mr. Dobrzykowski, “On phone with Susan now – will call shortly.”

On March 9, 2012, Secretary Shinseki forwarded Mr. Gingrich and Mr. Gould an email that he received from an owner of a certified 8(a) small business—the 8(a) Business Development Program offers a broad scope of assistance to firms that are owned and controlled at least 51 percent by socially and economically disadvantaged individuals. Within the email was an internet link to a news article titled: *VA Launches Probe of Reverse Auctions*. The owner told Secretary Shinseki that the owner agreed with Mr. Frye’s determination to stop reverse auctions and applauded and supported his efforts. The owner said that “it seems that political and executive leaders at VA” were pressuring Mr. Frye to reverse the moratorium and that the owner was willing to expend personal funds to travel to Washington, DC, to provide factual information and testify about the matter. The owner also said that the owner’s company was “unethically tricked by FedBid,” and to protect the company, they would no longer take part in any “Federal contracting that [was] funneled through [the] FedBid system.” The owner further said:

FedBid reverse auction system...falsely tells the bidding contractor that their bid “lags” (meaning there is a lower bidder than you) when in actuality there exists no lower bidder...resulted in [the owner’s company]

loosing at least \$30,000 in the three contracts that were won...FedBid fees to the government are cleverly hidden within the cost of goods/services so no one can trace them at higher level.

The owner said that in all three of their reverse auction procurements, FedBid told the owner that their bid was lagging; the owner believed there were no other bidders; and when the owner refused to reduce the bid any further, FedBid awarded them the contract.

Improper Disclosure of Nonpublic Information

Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further her own private interest or that of another, whether through advice or recommendation, or by known unauthorized disclosure. Nonpublic information is defined as “information that the employee gains by reason of Federal employment and that she knows or reasonably should know has not been made available to the general public. 5 CFR § 2635.703(a) and (b).

Mr. Frye told us that he suspected Ms. Taylor was “feeding information” to FedBid, because, “Any information that would go to Susan Taylor about FedBid, they knew about almost immediately....[I]t’s just too obvious to me that she had some sort of a relationship with FedBid.” As noted above, VA and FedBid email records confirmed that Ms. Taylor provided nonpublic information to FedBid executives during the March 2012 moratorium. Records also reflected that before, during, and after the moratorium, she frequently provided comprehensive nonpublic information to Mr. Richardson, the details of which were contemporaneously documented by Mr. Richardson in reports he sent to other FedBid executives. For example, in a January 24, 2012, email Mr. Richardson sent to Mr. Saadat and other FedBid executives, Subject: Notes from Conversation with Susan Taylor, he said, “Spoke with Susan Taylor for an hour during a scheduled call... Susan reiterated her support for FedBid – sees ours as a true ‘partnership’.”

On March 3, 2012, Mr. Richardson resent the January 24 email to Mr. Saadat, Mr. Tupponce, and other FedBid executives as “background & for consideration as we put together meeting/agenda, etc.,” and he highlighted “(Close Hold): Fund also pays for IG support...” In the email, he told his colleagues, “Note highlighted info was shared as ‘close hold’ and divulgence of this info with attribution to Susan could put her at risk – we don’t want that.” Mr. Richardson further documented that Ms. Taylor provided him background information on VA senior officials; their responsibilities; opinions on reverse auctions; organizational funding, to include Mr. Frye’s and other procurement professionals’ salaries (including Susan’s); and IG funding, which he noted was “Close Hold.” Mr. Richardson further noted that “(On FedBid): Jan believes that bid price has a 3% fee tacked on top of it; doesn’t understand that the fee is part of the bid price. (Our

action): educate Jan; inform Jan; get his ‘comfort level’ to the point where he sees that RA is the right thing to do.”

In another March 3, 2012, email Mr. Richardson sent to Mr. Saadat, Mr. Tupponce, and other FedBid executives, Subject: Re VA Note – Initial Thoughts, he described a strategy to discredit Mr. Frye. He wrote:

Notes/bullets based on (my) initial reaction to Frye and a few from my conversation with Bill [Dobrzykowski]. In no particular order just wanted to get them out there for the group as potential fodder for [Mr.] Case talking points and to help frame discussion/planning for tomorrow:

- Worst fears realized – Frye doesn’t want to shut us out of VA, he wants to shut us down completely
- Therefore we need to show this is a malicious and arbitrary attack on us, filled with false statements, innuendo, and absurdities
- Need to assassinate his character and discredit him
- Need immediate connection with Shinseki (via Case) to request that [Shinseki] immediately reverse the requirements in Frye’s note of earlier today until professional due diligence can be conducted and a determination be professionally and objectively made re [reverse auction] policy in VA and FedBid performance/results to date
- We must be able to demonstrate that Frye is acting in a manner that not only is unprofessional and embarrassing to the VA, but more importantly risks the provision of medical care to veterans; his interruption of the provision of medical care, supplies, and equipment via his arbitrary, unfounded, biased, and ungrounded direction; his action is inexcusable – a reprehensible action that no government professional would propose
- Frye’s actions are not supported by professional due diligence nor empirical evidence
- FedBid has been demonstrating success, savings, and inroads that obviously threaten Frye’s existence and infringe upon his kingdom
- His allegations are not supported by any credible info – we must challenge him to support it – we need to go one-by-one on the following items he puts in his email and challenge them (will work on subsequent thoughts on these tonight)
- Causing significant perturbations in the VA supply chain (WTF is this? Steve [Green]–you’re our loggie–any idea what he’s trying to say here?)
- Need to show Shinseki that he has been blindsided by Frye – a rogue individual – operating in contradiction to the premise of the VA’s existence – and indicate that in absence of immediate action from him,

- we have no recourse but to go to the Hill with our information and a request for an immediate investigation into VA and a hearing
- We've got one silver bullet to use on this and we've got to make it count – we need to discredit Frye with the strongest statements that we (as a group...Case/Revolution included) are comfortable making – pull out the stops and take off the gloves, as this is it

Will be calling Susan Taylor this afternoon as well – and get her lined up for a call from us tomorrow. Will advise.”

In a March 4, 2012, email, General Casey told Mr. Gingrich, “I hate to bother you on the weekend, but I would like to see if we could talk today or early tomorrow to discuss an urgent matter pertaining to the abrupt cancellation of reverse-auction procurement processes by Jan Frye.” Mr. Gingrich forwarded Mr. Frye’s email to General Casey and asked, “Need to verify that the below is the topic – I have just reviewed this morning and asked the staff for details.” General Casey replied that it was the same topic and requested an immediate telephone call to discuss the matter.

Mr. Gingrich told us that he first learned of the moratorium when he received either telephone calls or emails from General Casey and Mr. Edwards. He said that he told them that he would gather the facts, give the information to VA’s Secretary, and the Secretary would make the final decision. However, due to VA General Counsel’s advice to the Secretary to not get involved because of his past business relationship with Mr. Case, Mr. Gingrich said that he never involved the Secretary in this matter. Mr. Gingrich said that FedBid executives reached out in an aggressive manner concerning the moratorium; they got Congress involved; and they took measures that he would never have done. He told us that they used their past contacts and high-profile names and positions in their repeated attempts to influence the decision-makers concerning the moratorium.

On March 5, 2012, at 4:28 p.m., Ms. Taylor sent an email to Mr. Haggstrom, who is Mr. Frye’s immediate supervisor, and with Mr. Doyle, her first-level supervisor, on copy, Subject: Stop Work Order, telling him of the number of procurements in “the FedBid system,” and asked if they could award the procurements in process. She said that Mr. Frye said “no” and awaited his response. She then asked, “For future awards, do you want us to issue a Stop Work Order to FedBid before the audit is done and the results are known or should we wait for the audit results?” Mr. Haggstrom replied at 6:36 p.m., “Susan...per Jan's instructions, FedBid is shut down immediately. Ford Heard is doing a review of the transactions and we will determine policy on it[s] use after the review. This issue has reached the Hill and the HVAC has asked the Secretary to respond to multiple questions regarding the use of FedBid....thx.”

Minutes later, Ms. Taylor sent Mr. Haggstrom's reply to Mr. Richardson and said, "Please see below. Glenn is implying that the questions from the Hill to the Secretary have arisen from complaints about FedBid." At 8:06 p.m., Mr. Richardson sent FedBid executives Ms. Taylor's email, Subject: FW: Stop Work Order, Importance: High, and he told them:

Just spoke to Susan at length about this guidance:

- First, 'Stop Work Order' is the title of the email and is not a formal Stop Work Order directed at us, at this time (would have to come through contracting channels)
- Re below: Susan, acting in Norb's absence, submitted a request to Glenn Haggstrom to allow VHA to continue with the appx 600 buys (open), which was previously distributed via a separate email. This was a second request of this nature, the first being submitted by Norb to Jan on Sat afternoon, and the request was denied.
- Below you will see Haggstrom's denial of Susan's request.
- Susan indicated (and mentioned that Phillip has this position as well) that in 25 years of government service she has never seen a case where something was stopped prior to the conduct and findings of a review/audit.
- During call between Susan and all SAOs this afternoon, all SAO Directors indicated that they did not want to stop using FedBid. Norb and his boss, Phillip Matkovsky, also do not want to stop using FedBid but at this point they cannot or will not override guidance from Haggstrom. Also note that in the absence of a formal Stop Work Order, the Directors do not technically have to stop using FedBid (but that's ultimately an internal issue between VA/VHA re the legitimacy of Frye's directive over VHA operations).
- Susan's office has received nothing from the VA front office (Gingrich/Gould) re delaying guidance in Frye's Mar 3 email (or anything else for that matter at this time), nor has Susan seen any of the Congressional inquiries that Haggstrom refers to below.
- Re Congressional inquiries referred to by Haggstrom below Haggstrom mentions HVAC & I didn't see any members who were referenced during our call earlier this afternoon (we do have some SVAC members on 'the list'). These are probably inquiries instigated by the likes of [Name] & others like him.
- Clearly Haggstrom is on board with Frye indicates "we" will determine how to go forward Susan concludes this may be their MO to restrict business.

- As an aside, the VHA compliance director pulled some contract files today to review their state in every case, FedBid “looks good.”
- As Susan & her office are unaware that VA front office (Gingrich et al) have received anything or are taking any action, Case/Casey to follow up with call(s) to Gingrich tomorrow. It’s going to take Gould/Gingrich to override Haggstrom/Frye. Launch Hill related actions detailed in Lu's 5:22pm email. Unleash the hounds.

On March 5, 2012, after speaking with Ms. Taylor, Mr. Richardson sent the above email chain to Mr. Dobrzykowski and said, “Bill, fyi my notes from earlier this evening as a result of a couple of conversations with Susan. Re my last comment on ‘unleashing the hounds’ I need to see what kind of ‘hounds’ those are and as such have requested (from Lu) a couple of the drafts that have been prepared for MOCs signature/transmission tomorrow. I don't know if we're talking Dobermans...or Labradoodles.”

Email records reflected that FedBid executives considered Ms. Taylor to be a valuable source of inside information; they were committed to protecting her; and Ms. Taylor expressed concerns that her identity be protected. In a March 6, 2012, email to FedBid executives, Mr. Richardson provided them with details of a discussion he and Ms. Taylor had, and in his email, he said that Ms. Taylor caveated their conversation with the following statement, “[S]ome of the things we’re talking about – that we’re doing – are important things I would not normally reach out to (contractors) about; therefore, I’ll keep you informed to the extent that I can.”

In a March 6, 2012, email to Mr. Gingrich, General Casey said, “Just thought I’d check on how you were coming on getting to the bottom of the reverse auction ban by Jan Frye. I know you have lots going on, and I am just trying to get a sense of when we might hear something.” The next day, Mr. Gingrich replied, “This is more complicated and complex than first realized. DEPSECVA has call[ed] the team together to get to the bottom of the situation.” General Casey responded, “Thanks. Would it be useful to call Scott [Gould]?” The following day, Mr. Gingrich told General Casey, “I don’t think so because of legal restrictions regarding contracting – we are working to get to the bottom of things. I know from the company’s stand point this seems slow. We actively engaged to get the facts.” General Casey then replied, “Appreciate the legal issues, but can you give me some idea when the company might hear something?”

In a March 8, 2012, email, Subject: Revised DRAFT White Paper, March 8th, Ms. Taylor sent to FedBid executives a copy of a white paper to be sent to Mr. Gould addressing how VHA became involved with FedBid. Two hours later, in an email, Subject: DRAFT RA White Paper Mar 8.docx, Mr. Crossett sent the edited white paper back to Ms. Taylor, and said, “Please take a look at the attached and let me know if you would like additional changes. I am available via phone or email.”

In a March 9, 2012, email, Mr. Crossett told the Contracting Specialist, “Please see the attached response from FedBid that is circulating around the Hill.” The email contained Mr. Frye’s original moratorium message with FedBid’s responses to each of the items. The Contracting Specialist then sent the email up his chain of command and said, “FedBid position. Please Read.” Mr. Ryan then sent the email to Ms. Taylor.

In an email 2 days later, Subject: Call from Susan T, Mr. Richardson told FedBid executives, “Susan called and is getting extremely nervous about some of the emails and other information she has sent to me and how it might be used against her – consequently she is very concerned about her and the VHA. As a result she has requested my continued assurance that we keep her covered – she has really ‘extended herself’ for us over this issue. She has asked that we do NOT forward her emails to anyone. I need to come up with some ways to manage this internally...Bit of a rock/hard place issue here since we have to protect the company, and I’ve told Susan that I’ve got her back, yet at the same time we find ourselves in often unpredictable reactions resulting in directions that need to be managed and cross checked before executing them.” A few minutes later Mr. Crossett replied, “We need to stop Lu from sending out the White Paper from Susan. It’s on the way to Congress.”

Mr. Richardson then responded, via email:

Just spoke with Lu – he called Jim [Noone] [Mercury/Clark & Weinstock] [government relations] to put a hold on doing anything with that paper. Meanwhile, I was beginning to review the white paper (attached) and I don’t see where any content ‘sanitation’ occurred as I read just a few bits of the front page and saw where it could be directly attributed to [Susan Taylor]. Consequently Lu put a hold on it (that was the gist of my last note). However, I do intend to talk to Susan about how using anonymous and sanitized information could help her by making sure VHA’s [point of view] gets to the Hill and isn’t filtered out of any communications by Frye, et al (can make the same point re info we want to get to Casey to support his conversation with Gould).

In a March 14, 2012, email to Mr. Gingrich, with a copy to Mr. Gould, General Casey, said, “It’s been 11 days since FedBid was cut off without any explanation...I would appreciate hearing something concrete from you or Scott [Gould] in the near future.” On March 15, Mr. Gingrich forwarded the email to Mr. Gould and said, “Scott, we should discuss as I got this and a former member [of the Congress] is about to be involved.” Mr. Gingrich responded to General Casey that he, “discussed with the team and FedBid will be getting an invitation to meet early next week to layout the concerns/issues.”

Mr. Frye told us that after he initiated the moratorium, he received no support from Mr. Gingrich or Mr. Gould. He said that, in his opinion, they made it appear as if he

“performed a criminal act by protecting the public’s interest,” and that FedBid turned it into a political issue. On March 21, 2012, VA and FedBid officials met to discuss “concerns with the Department’s reverse auction program.” Mr. Frye said he and Mr. Haggstrom were “made to sit” in a large conference room and “a whole string of FedBid people,” to include Mr. Saadat, Mr. Richardson, and Mr. Edwards sat across the table from them. He said that Mr. Saadat “demanded we play ball with them.” Mr. Frye said that Mr. Gingrich sat silent, so he (Mr. Frye) responded to Mr. Saadat by telling him, “We signed a contract with you for \$1,” and “We will not be beholden to you.” He said that Mr. Gingrich still remained silent. Mr. Gingrich told us that this meeting was to discuss the moratorium and that should Congress question them in the future, he could tell them that all parties met to discuss the matter.

Mr. Frye told us that he believed that Secretary Shinseki, Mr. Gould, and Mr. Gingrich were unduly influenced by General Casey he described as “an old compatriot of the bosses, a retired 4-star,” and by Mr. Edwards. He said that after the meeting, Mr. Gingrich directed Mr. Haggstrom and Mr. Frye to “reinstate the contract to end the moratorium.” Mr. Haggstrom told us that he asked Mr. Gingrich to sign a memorandum ending the moratorium, as he (Mr. Haggstrom) did not feel comfortable doing it himself. Mr. Gingrich reiterated to us that he believed the moratorium was the result of the ongoing OAL and VHA feud and that since a VA General Counsel attorney reviewed the contract and said it was legal, he (Mr. Gingrich) told them to lift the moratorium.

In a March 22, 2012, email, Mr. Saadat thanked Mr. Gingrich for the March 21 meeting and “for giving FedBid an opportunity to discuss our work with the VA. As the data showed, we believe FedBid is saving the VHA millions of dollars that can be used for direct care for our veterans...That is why we hope the VA can restart its work with us as soon as possible.” However, VA OIG OCR’s review of FedBid’s purported savings determined that they were grossly overstated.

On April 2, 2012, at 9:45 p.m., Mr. Richardson sent an email, Subject: 9:30pm Update, to Mr. Edwards and said:

Chet, another update—a result of speaking with Susan [Taylor] several times tonight. You’ll recall from my earlier note that Susan was called into a 5:30 meeting earlier tonight by John Gingrich. Others were in attendance; however, JG indicated that everything discussed in the meeting would remain close hold (consequently I don’t even know who else was in the meeting – I assume the ‘usual suspects’ from the VA and VHA procurement shops). JG also stated that people were “calling him regarding things that were not public information,” and indicated there were “leaks.” As a result, things are tight tonight re the outcome of the meeting. Nevertheless, I do know that Susan is working on a press release for tomorrow (I do not know its contents), and she indicated she’d send me an

email at 1030 tomorrow morning. She had a couple of other questions re process (which I discussed with Steve [Green], Robert [Crossett], Lu [Tupponce], and Ali [Saadat] to ensure we can accommodate – and we can) – and the answers to those questions constituted the majority of the conversations I’ve had with her tonight. Significant to note that from my perspective she sounded very tired, but not angry or frustrated, which I interpret as a good sign. Will definitely keep you posted – thanks, again, for all of your hard work on this!

On April 3, 2012, Ms. Taylor sent an email to Mr. Richardson informing him that the moratorium was lifted. Later that same day at 3:06 p.m., Mr. Saadat sent a congratulatory email to Mr. Case, General Casey, Mr. Edwards, other RG and FedBid executives, and others, Subject: We are back in VA! In his email, Mr. Saadat said:

After an incredibly challenging few weeks, I’m happy to announce that we are back in VA! Thank you all so much for your tireless efforts to meet this challenge. We know this is just the beginning of a larger effort to bring transparency and accountability to the health care arena in both federal and commercial procurement, but we have won this round – and done so decisively. I am proud to say that our ability to respond in such a dynamic, coherent manner when faced with an incredibly difficult and fluid situation clearly speaks to the high caliber of our corporate culture and character.

As a team, we have managed to go through these challenging weeks and come out victorious, untainted and, in fact, in a much better position than we were before this issue began. Along with the many FedBid employees who worked so hard over the past few weeks, I would like to recognize some of our key partners who helped to bring this crisis to a conclusion that was truly better than we had hoped for.

So special thanks to:

- Steve Case who started our first punch on Sunday March 4th a day after D-Day
- [RG executives] and the rest of Revolution Growth team who continue to support our effort on ongoing basis
- General Casey who played his role as the heavy handed puncher when we needed
- Our fantastic Advisors, Steve Kelman and David Wyld, who wrote very timely and persuasive [news] articles in support of FedBid
- Jim Noone at Mercury Clark & Weinstock for his diligent efforts to leverage our ongoing government relations work and successfully rally the troops up on the Hill

- And all of our friends on the Hill
- And the last...I would like to thank Congressman Edwards who kept our communication channels open to the front office and made sure that we had enough top cover to overwhelm those who would have liked nothing better than to see us fail.

In closing, I would like to point out that there are few companies – even those many times bigger than FedBid – that would have, or could have, responded the way we did and achieve the results that we achieved. We are truly a great team, with a mission and values that make what we do so much more than just a business. Here’s to the indomitable world of FedBid! The real game changers...

About 3 months later, FedBid email records reflected that Ms. Taylor was distraught after VA’s Secretary recognized Mr. Doyle for VHA’s use of FedBid and reverse auctions, and she was not recognized. In a July 18, 2012, email sent at 12:42 a.m., Subject: “Troubled,” Ms. Taylor told Mr. Richardson:

I have not been able to sleep tonight as I feel really bad that all the hard work and many hours I put in to get FedBid established at VHA and then to get it reinstated [after the March 2012 moratorium] and used by our buyers is now being credited to Norb [Doyle] by the Secretary. Norb has kept an arm's length from FedBid and was not involved in any way with its implementation. I'm glad I helped our veterans by saving money for them, but this is very hurtful.

In a second email sent at 7:12 a.m. on July 18, Ms. Taylor told Mr. Richardson:

I would like to think that you would not have intended to hurt me after the relationship we have developed and all the work you know I have done 24/7 to help your company, including many weekends...the reality is that Norb got all the credit for success from the Secretary, and that will be reflected in his performance appraisal, when he had nothing to do with the savings we earned or with FedBid's implementation or reinstatement. This sense of unfairness has really turned me off to FedBid now.

The following day, July 19, 2012, at 8:27 a.m., Mr. Richardson sent Ms. Taylor an email, Subject: Proposed Solution, and said, “I have one to mention. Are you avail[able] this morn[ing] sometime [between] 10-12 for a quick call?” Ms. Taylor replied, “I’m at the Supplier Forum in Boston, but will call you during our break.” Travel records confirmed Ms. Taylor’s attendance at that forum. A VA senior official told us that on that date, July 19, he overheard Ms. Taylor speaking on the telephone to an unknown individual outside the room during the morning breakout session, which the schedule reflected was

to be at 10:00 a.m. He said that Ms. Taylor said, in a lighthearted tone, “So when this is all over, does that mean I’m going to have a job with FedBid?” Telephone records reflected that she called Mr. Richardson at 10:26 a.m.; he called her at 11:58 a.m.; and she called him again at 1:07 p.m. Ms. Taylor told us that she did not recall making that statement; it sounded “like a joke;” and she never “sought employment seriously with FedBid.” Mr. Richardson denied talking to Ms. Taylor regarding FedBid employment.

Mr. Frye told us that in October 2013, Mr. Edwards requested to meet with him during which Mr. Edwards apologized for “putting me in the position he put me in during the moratorium.” Mr. Frye said that Mr. Edwards told him “I now understand that what you were trying to do was in the best interest of the Government; that you were just trying to protect the taxpayers. We thought you were going after FedBid.” Mr. Edwards told us that during the moratorium, FedBid executives portrayed Mr. Frye as “the bad guy” and Ms. Taylor as “the good guy.” Mr. Frye said that he believed that Mr. Edward’s apology was “proof positive” that FedBid applied pressure behind the scenes. In a January 16, 2014, email to Mr. Frye, Mr. Edwards said that he was no longer consulting with FedBid and that he would “respect VA’s decisions regarding the role of reverse auctions.”

We also found other emails that Ms. Taylor sent to Mr. Dobrzykowski as a blind copy concerning email communications she had with VA officials, including her chain of supervision. Other times, she forwarded him emails containing sensitive or Privacy Act protected nonpublic information. Ms. Taylor told us that she did not see anything wrong with sharing this information with Mr. Dobrzykowski, because she considered him to be her mentor and that he often assisted her by providing a different prospective on a given situation that she found helpful.

Ms. Taylor’s Prohibition of GSA’s Reverse Auction and Saving VA Money

Ms. Taylor told us that she would “absolutely” use an alternative to FedBid, if it meant saving more taxpayer dollars for veterans, and she denied to us that she prohibited her staff from using GSA’s reverse auction platform, which would provide additional savings, since FedBid charged a transaction fee and GSA did not. She said that she made several attempts to have GSA representatives show her their reverse auction platform but that they never responded to her requests. We found no evidence that Ms. Taylor ever reached out to GSA nor could Ms. Taylor provide us any evidence supporting her claim that she had. To the contrary, GSA and VA email records reflected that Ms. Taylor specifically directed on at least three occasions that all VHA contracting staff not train on or use GSA’s reverse auction platform, emphasizing they were to only use FedBid for conducting reverse auction procurements.

VHA’s SOP for Commercial Supply and Service Procurements, Paragraph 2, issued by Ms. Taylor on May 1, 2012, stated:

It is mandatory to consider and use reverse auctions in the procurement strategy to compete for commercial supply and service acquisitions that exceed the micro-purchase threshold when the contracting official has determined that lowest price technically acceptable (LPTA) will be the award methodology. Implementation of this policy will be verified by the VHA Acquisition Quality Office internal contract audit program.

Attachment “C” of the SOP identified FedBid as VHA’s competitively selected reverse auction service provider.

Email records reflected that on June 3, 2013, OAL’s Procurement Policy Service (PPS) disseminated VA Acquisition Policy Flash 13-15 to VA’s acquisition community, including VHA’s contracting staff nationwide, announcing that GSA would soon offer a reverse auction tool. The Acquisition Policy Flash reflected:

Phase 1 of a reverse auctioning tool is scheduled to be operational on July 1, 2013. Similar to GSA eBuy and GSA Advantage, VA will be able to use the Reverse Auctioning platform easily when using GSA Schedule vendors at no additional cost to VA. Only Schedule vendors will be on the system during the first phase. The second phase will allow the agency to load their contract vehicles and allowing open market contract actions on to the system.” GSA advises that they believe use of this tool will offer a substantial savings to the Department of Veterans Affairs.

Along with this Policy Flash, PPS also disseminated a GSA power point presentation titled, “The Savings and Benefits of Using Government Managed Reverse Auction Platform” and a document called “GSA Reverse Auction Summary,” which highlighted the benefits of using GSA’s reverse auction platform to buyers, management, and industry. This document reflected that there was no charge for using the reverse auction platform and that commercial providers charged fees of up to 3 percent on average.

Email records further reflected that on June 3, 2013, within an hour of the Policy Flash being issued, Mr. Doyle forwarded PPS’s original email to the Contracting Specialist, copying Ms. Taylor, and asked, “Note the statement from below: GSA advises that they believe use of this tool will offer a substantial savings to the Department of Veterans Affairs.” Additional records reflected that VHA contracting staff from across the country began inquiring with their management, requesting clarification from Ms. Taylor’s office as to how the availability of the GSA reverse auction tool would affect VHA policy respective to their “current relationship with FedBid.” For example, in a June 6, 2013, email, Mr. Iachini told Mr. Ryan, “Several of my stations are inquiring about the impact of the new GSA reverse auction tool relative to FedBid.” Mr. Ryan replied, “This topic did come up on our call with DC today, and Ms. Taylor said we have a contract with FedBid, and they are the vendor that we should continue to use going forward.”

In a June 7, 2013, email, Ms. Taylor sent Mr. Doyle's June 3 email to Mr. Richardson and Mr. Crossett, and she said, "Norb has asked me to explain what savings we would have if we went to GSA's reverse auction tool. The below message states that GSA believes we would save money using their tool. Please advise." Mr. Richardson replied that they would call Ms. Taylor later that day to discuss the matter. Telephone records reflected that at 3:50 p.m. that day, Mr. Richardson placed a call to Ms. Taylor that lasted 9 minutes. Also, in an email exchange between Mr. Richardson and another FedBid executive, wherein they discussed how FedBid should respond to inquiries about the GSA reverse auction tool, Mr. Richardson said that he spoke to Ms. Taylor on June 7 about the GSA reverse auction tool.

In an evening June 7, 2013, email, after speaking with Mr. Richardson by telephone, Ms. Taylor told Mr. Doyle:

The GSA reverse auction tool is not up and running yet. It begins July 1, and only for IT purchases. They are probably saying VA could save money using their tool, if VA is not using reverse auction for the big IT buys done at the [VA's Technical Acquisition Center]...I talked to FedBid about the GSA system and they say they welcome the competition...GSA operates on a pay for service basis, so they would be charging a fee for this service as does FedBid. I don't know what the comparability of the fee will be. If a CO is not using reverse auction, and they switched to GSA reverse auction, they may well be able to save money, just as we do with FedBid. However, there is no way to say using the GSA system would save more money than using FedBid.

What Ms. Taylor told Mr. Doyle in her June 7, 2013, email was inaccurate and contrary to what was disseminated by PPS on June 3, including GSA's power point presentation on their reverse auction program. She incorrectly told Mr. Doyle that the GSA reverse auction tool was only for "IT purchases." Page 4 of GSA's power point presentation stated that their reverse auction tool was an "efficient and cost-effective process for buying noncomplex commodities and simple services" on GSA Schedules. She also incorrectly told Mr. Doyle that GSA would charge a fee for its services as did FedBid. GSA and PPS clearly stated that there would be no transactional fees charged to agencies, and GSA's power point presentation, page 7, stated in large bold letters, "No Additional Fees for products purchased on GSA schedule vehicles..."

In a June 11, 2013, email, Mr. Rick Lemmon, Director, SAO Central, told Ms. Taylor that he directed his NCMs to use FedBid's reverse auction instead of GSA's, since VHA had a contract with FedBid. However, he also said, "I received an email from one of my NCMs that stated if VHA's contract with FedBid is not a requirements contract, they were concerned about not using GSA's platform if it was less costly." Mr. Lemmon then asked Ms. Taylor if it would be okay to provide a copy of VHA's contract with FedBid to

his NCMs. Ms. Taylor immediately replied and said, “The cost of our contract with FedBid is \$1. Anyone who wishes to see the contract is able to do so. It is not a requirements contract, but it is the contract VHA has determined to use for reverse auctions. GSA’s platform is not less costly at all.”

Mr. Lemmon then forwarded Ms. Taylor’s response to the Contracting Specialist and requested a copy of the FedBid contract. On July 12, 2013, the Contracting Specialist replied to Mr. Lemmon, copying Ms. Taylor, and provided the current year task order (option year 2), the link to FedBid’s website describing their fees, and the current VA/VHA policy and guidance documents. The Contracting Specialist also told Mr. Lemmon:

While the price of the Task Order (TO) with FedBid is \$1 per year which is technically a micro-purchase order, there is a 0-3% transactional fee that is paid directly to FedBid by the Seller...The transactional fee between the Seller and FedBid may be incurred and paid by the Seller at the conclusion of a successful reverse auction where there is a savings between the target price set by the VHA Buyer and an accepted/winning bid by the VHA Buyer. The transactional fee (if any) is loaded in the “price” we pay; therefore, we “indirectly” pay the additional transactional “cost.” I am purposefully distinguishing the “price” VHA Buyers pay, and the seller incurred “cost” element that Sellers are obligated to pay FedBid so that there is no confusion about the way our transactional business relationship is structured with this contractor.

Ms. Taylor replied back to the Contracting Specialist a few minutes later and said, “Although we do not have a requirements contract with FedBid, I have directed that VHA use our contractor for their reverse auctions.”

In a July 12, 2013, email, a GSA official told the PPS Director, “GSA's field reps have been receiving a lot of feedback about mandatory use of commercial reverse auction sites and/or restrictions to using GSA's new platform. Below is one example that appears to be from the VHA. Knowing we’ve recently seen use of our site by the VA, it appears to be as we discussed...an Administration policy/memo as opposed to the Department.” The cited example reflected that a VHA training officer cancelled a previously scheduled training session on the use of the GSA reverse auction platform. The VHA training officer’s email string contained earlier messages from July 10, 2013, reflecting that in a staff meeting Ms. Taylor directed that VHA contracting staff use only FedBid to conduct reverse auctions and not the GSA reverse auction tool.

In a July 13, 2013, email, Ms. Taylor told Mr. Frye, Mr. Heard, and Mr. Doyle, in advocating for the use of FedBid versus GSA’s reverse auction, she said, “VHA is under contract to FedBid for reverse auctions (although it is not a requirements contract), the VHA staff has been using FedBid with successful results, and it is our expectation that

our staff should use the contract platform that they have been taught to use. It is our assessment that we have received—and continue to receive—value-for-fees, particularly in light of the total cost of ownership/operation, with regard to the FedBid RA platform and FedBid services.”

In a morning July 15, 2013, email, Ms. Taylor forwarded to the Contracting Specialist a copy of her July 13 email to Mr. Frye, Mr. Heard, and Mr. Doyle, and said, “Jan Frye and some GSA reps have been telling our staff that the GSA Reverse Auction platform is free and we should therefore use it. I was asked to respond to this and sent the below information to Jan over the weekend. You may also be interested in this. Nothing awarded on a GSA contract is free.”

On July 16, 2013, the Contracting Specialist replied to Ms. Taylor’s July 15 email, and he said, “The GSA IFF applied in all sales regardless of the method of competition; GSA’s reverse auction platform was always free to use for GSA schedule buys whereas FedBid’s reverse auction platform was not always free due to FedBid charging a transactional fee in addition to the applicable GSA IFF that would be charged regardless of platforms or methods used to make the purchase.”

The Contracting Specialist also provided Ms. Taylor a side-by-side illustration comparing a hypothetical sample buy using GSA versus using FedBid. In his comparison, he used an example of a buy where the procurement strategy was to use the GSA Schedule, the target price was \$150,000, and the final bid price was \$135,000. He demonstrated that the cost of using GSA’s reverse auction platform would have been \$1,013 for the 0.75 percent IFF, whereas the fees charged using FedBid’s reverse auction platform would have been \$5,063, which included the IFF plus the 3 percent transaction fee charged by FedBid. The Contracting Specialist further demonstrated that VHA’s overall savings using the GSA reverse auction platform in the example would have been \$13,988 versus \$9,938 using FedBid’s reverse auction platform, a difference of \$4,050.

On July 17, 2013, Ms. Taylor also sent an email to Mr. Crossett asking him what percentage of VHA reverse auction buys were from the GSA Schedule. In reply, Mr. Crossett told Ms. Taylor that VHA awarded 47.5 percent of all buys in fiscal year 2012, and 51.6 percent of all buys in fiscal year 2013, through the GSA/VA FSS Schedules. Ms. Taylor responded:

So about half of the FedBid awards at VHA are from GSA Schedules. I may be wrong, but I see a potential landslide here, and at other agencies as well, if GSA will not be adding an additional fee above the [industrial funding fee] for reverse auctions and FedBid does. *We will need to be able to show a value added for the additional fee from FedBid*, assuming that GSA’s platform would also result in a lower cost for the buy...It would be helpful if you could provide a graph showing what FedBid provides that GSA does not...*I will need to be able to justify vendors paying the FedBid*

fee for GSA buys when GSA would not charge an additional fee for reverse auctions from the FSS Schedule. (Italics added.)

Mr. Crossett replied that he understood and provided additional information on VHA's savings realized using FedBid reverse auctions through the GSA/VA FSS Schedules for fiscal years 2012 and 2013, to date. Mr. Crossett reported that for fiscal year 2012, VHA made 3,645 awards from the Schedules with an aggregate target price of \$159.2 million, saving \$23 million, or 14.5 percent of the target price; and for fiscal year 2013, to date, VHA made 2,679 awards from the GSA/FSS Schedules with an aggregate target price of \$120.7 million saving \$9.7 million, or 8.1 percent of the target price. However, Mr. Crossett did not provide data on how much VHA paid in transaction fees so there was no way to know the true savings, if any, and VA OIG OCR's report states that FedBid's purported savings were grossly overstated. Ms. Taylor told Mr. Crossett, "GSA will assert that this saving could have been incurred on their platform for reverse auctions as well; therefore, we need to be able to show other benefits not offered by GSA."

In a July 25, 2013, email, after receiving additional inquiries from VHA contracting staff regarding GSA's reverse auction platform, the Contracting Specialist sent Ms. Taylor another email:

I am forwarding this email to you (as an informational reference only) because there is a lot of speculation and rumors floating around out in the field amongst leadership, management, and buyers...What is our official position/policy on VHA use of reverse auction tools? Are VHA buyers prohibited, or in any way restricted from using the GSA Reverse Auction tool? Is there anything in writing that I can reference that clearly states what VHA Buyers can and cannot do in terms of using reverse auction tools? What should my answer(s) be to these questions? I have not responded back to the NCM from NCO2 below, and I have others that are chomping at the bit for answers.

In response, Ms. Taylor said:

We are presently under contract to FedBid. They are performing well and saving the VHA millions of dollars...We intend to exercise the options remaining on their contract. No one from GSA has ever contacted either Norb or me with respect to explaining the GSA platform for reverse auctions. We would be happy to meet with them and I have even provided my contact information to them, but have yet to hear from them. My understanding is that their platform is limited to GSA Schedule buys only. We do not want buyers using that tool until it has been explained to Norb and me and approved for use.

On July 29, 2013, the Contracting Specialist replied:

Yes, I would like to know more about the platform myself. If you would like our office to actually conduct a reverse auction on a good GSA FSS type buy to give you more decision support information on it – please let me know. I can keep my eye out for one that would be good to conduct on the GSA reverse auction platform, do a side-by-side comparison, collect some screen shots and note the process/technology differences.

On July 29, Ms. Taylor replied, “Mr. Doyle has said that we will not be doing anything with the GSA reverse auction platform, including testing it, until GSA calls on Norb and me and presents their program.”

The Contracting Specialist told us that Ms. Taylor refused to allow VHA contracting staff to use the GSA’s reverse auction, even after he showed her it would save money over using FedBid. He said the “biggest alarm that went off in my mind” was after Ms. Taylor said that GSA had to first “step forward [to] give their pitch” before their reverse auction platform would be considered. He further said that he found it very surprising when he asked Ms. Taylor a second time about trying the GSA platform, and she suddenly mentioned in her response that Mr. Doyle did not want to use the GSA platform until GSA first contacted PLO leadership. The Contracting Specialist said that to his knowledge Mr. Doyle was not previously involved in the matter.

Mr. Doyle told us that he recalled having a conversation with Ms. Taylor regarding the GSA reverse auction platform and about concerns that GSA did not first present their product to him or Ms. Taylor and that he may have conveyed a message that GSA should have first contacted him and Ms. Taylor. However, Mr. Doyle said that he was not aware that Ms. Taylor first sought assistance from FedBid before responding to him regarding the fee differences between the GSA and FedBid. He further said that he was not aware that the Contracting Specialist provided Ms. Taylor information that the GSA platform would save money over FedBid and that a majority of VHA’s reverse auction buys were conducted through use of the GSA Schedule.

Improper Use of FedBid for the Performance of Inherently Governmental Functions

On October 12, 2011, the Office of Management and Budget (OMB) Office of Federal Procurement Policy (OFPP) issued OFPP Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions. Section 4 of the Policy Letter stated:

It is the policy of the Executive Branch to ensure that government action is taken as a result of informed, *independent judgments* made by government officials. Adherence to this policy will ensure that the act of governance is performed, and decisions of significant public interest are made, by officials who are ultimately accountable to the President and bound by laws

controlling the conduct and performance of Federal employees that are intended to protect or benefit the public and ensure the proper use of funds appropriated by Congress. To implement this policy, agencies must reserve certain work for performance by Federal employees and take special care to retain sufficient management oversight over how contractors are used to support government operations and ensure that Federal employees have the technical skills and expertise needed to maintain control of the agency mission and operations. (Italics added.)

The Policy Letter further provided examples of inherently governmental functions. One was “The drafting of official agency proposals for legislation, Congressional testimony, responses to Congressional correspondence, or responses to audit reports from an Inspector General, the Government Accountability Office, or other Federal audit entity.” OFPP Policy Letter 11-01, Appendix A. It also gave examples of functions closely associated with the performance of inherently governmental functions that supported acquisition, such as areas of acquisition planning, preparing a technical evaluation and associated documentation, participating as a technical advisor to a source selection board or as a nonvoting member of a source selection evaluation board, drafting price negotiations memorandum; and contract management. *Id.*, at Appendix B. These requirements were subsequently codified in Subpart 7.5 of the FAR.

On March 5, 2012, Congressman Bill Johnson, Chairman, Subcommittee on Oversight & Investigations, House Committee on Veterans’ Affairs, U.S. House of Representatives, sent a letter to Secretary Shinseki asking for answers to several questions regarding VHA’s use of FedBid to conduct reverse auctions.

On March 6, Mr. Dobrzykowski sent an email to Mr. Richardson telling him that Ms. Taylor was “overwhelmed” and requested that FedBid help her respond to inquiries from VA Leadership and Congress. He said, “Susan Taylor is in need of your [FedBid's] immediate and direct help in providing information and a white paper requested by Dep[uty] Sec[retary] Gould.” Later that day, Mr. Dobrzykowski sent another email to Mr. Richardson, and said, “There is a view that [J]an [F]rye wrote the questions that are to be answered by the [VA] from [Chairman] [J]ohnson [on the] [HVAC].”

Subsequent emails reflected that Ms. Taylor communicated with and received assistance from Mr. Richardson and Mr. Crossett with preparing a white paper for Mr. Gould for VHA’s responses to Chairman Johnson’s FedBid related questions in his March 5 letter. In an email to Ms. Taylor titled “Input” sent on March 7 at 12:11 p.m., Mr. Richardson said, “Susan – input/background for the white paper. Working on the questions now.” At 1:04 p.m., Mr. Richardson sent another email to her, and stated, “Here we go – a few tweaks to strengthen!” In a third email to Ms. Taylor sent at 2:06 p.m., Mr. Richardson said, “Ok no more tweaks—I just saw another couple of areas to strengthen it—highlighted in yellow. You may want to consider not referencing the 0-3% fee and instead just use a

‘performance based fee’ reference lest the 0-3% range beg more questions. Also clarified for ‘readability’ the reference to ‘Reverse Auction’ in the last para[graph] of page one.”

In a separate email sent to Mr. Crossett, Mr. Green, and another FedBid executive on March 7, 2012, Mr. Richardson said, “I just got off the phone with Susan – two items: During our conversation she received an email from Ford Heard asking who the POC was at FedBid for the Agency Ops Reports that VA received–Susan gave him your name/email. I advised Susan re the questions from the Congressional letter and to send them to [the Contracting Specialist]–she’s sending [the Contracting Specialist] the entire letter[.]”

The next day, on March 8, the Contracting Specialist sent Ms. Taylor an email, Subject: “Issue Summary – Letter from Chairman Johnson to Secretary Shinseki,” and said, “I was asked to provide responses to questions to the attached issue summary that may help you tonight. You may have some other subject matter experts that could help frame what I have written.” Ms. Taylor then forwarded the Contracting Specialist’s email, along with his answers to the questions, to Mr. Crossett at FedBid. Mr. Crossett in turn forwarded the email to Mr. Richardson, Mr. Saadat, Mr. Tupponce and other FedBid executives, and said, “I have been on and off the phone with Susan since 7 tonight. The attached questions are due to Chairman Johnson tomorrow. [The Contracting Specialist] created the agency responses. Please take a look and let me know if you see any issues. I am about to jump on another call with Susan to discuss the questions.”

In another email sent later on March 8, Ms. Taylor told Mr. Richardson, “I’m getting really weary from all this as I’m sure you can tell. *I will do my best to continue to help you survive.* The questions from Sunday are due tomorrow, so they have the first priority, followed by questions from Ford [Heard]. I still don’t know where the questions [the Contracting Specialist] was working on came from.” (Italics added.)

Ms. Taylor Improperly Allowed FedBid Executives to Influence Government Decisions

Email records reflected that Ms. Taylor frequently sought FedBid’s assistance with responding to assignments given to her by her supervisors. In one example, she issued a policy memorandum, October 7, 2011, to all VHA acquisition employees which directed how and when to use reverse auctions within VHA. About 2 weeks later, after reviewing the memorandum, Mr. Doyle questioned the worth of using FedBid. Ms. Taylor forwarded Mr. Doyle’s email to Mr. Crossett and Mr. Green and asked them to provide her with a response that she could send to Mr. Doyle. Further, we found instances when Ms. Taylor received supplier complaints about VHA’s use of FedBid, and she forwarded the complaint to FedBid executives to craft a response. Once they gave her their response, Ms. Taylor forwarded to the supplier. In another example, Ms. Taylor contacted Mr. Crossett to get a telephone number for Ms. Taylor’s own subordinate.

Ms. Taylor's continued requests for FedBid executives to assist her gave the appearance that FedBid employees were, in effect, influencing Government decisions. Very clearly, she was sharing non-public Government information with FedBid that was outside the scope of the requirements under the task order. The evidence reflected that Ms. Taylor relied heavily upon FedBid executives to help her do her job: from writing white papers, responding to Congressional inquiries, to contacting them afterhours for her own subordinate employee's telephone number.

On March 9, 2012, at 4:14 p.m., Ms. Taylor sent an email to Mr. Richardson, Mr. Crossett, and Mr. Green and said:

Philip Matkovsky, my second level supervisor, has requested to see an example of how FedBid has saved money on an individual buy. Please provide an example showing the IGCE, award price, what it was for, and the savings. Also, he wants to know the percentage of awards that are supplies vs. services. I told him supplies would be the vast majority, but he said Jan is saying we do a lot of services. That is not my understanding. He is asking to have this as soon as possible.

At 4:42 p.m., Mr. Richardson replied, and he told Ms. Taylor:

Thanks, Susan – as Robert said (who is standing right here with me), “we got it!” Quick question for you: do you know the data points that Philip requires as we'd like to make sure we respond with the appropriate level of detail? In other words, items like contract number; schedule; item description/part numbers, number of active bids, number of times sellers bid, set aside requirements, etc. And—are there any other things that he might want? BTW—we've already found some potential buys—just wanted to check and make sure we provide appropriate detail and enable you to “answer the mail.”

Ms. Taylor Acted as an Agent for FedBid before the Defense Logistics Agency (DLA)

Federal laws and regulations provide for criminal, civil, and administrative penalties for whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, other than in the proper discharge of his official duties. . . acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or civil, military, or naval commission in connection with any covered matter in which the United States is a party or has a direct and substantial interest. 18 USC §205. We made a criminal referral of the conflict of interest to DOJ, but they declined to criminally prosecute in favor of any appropriate administrative actions. By reference, a violation of Section 205 is also a violation of the Standards of Ethical Conduct for Employees of the Executive Branch. 5 CFR §2635.902 (d).

Email and travel records reflected that on February 21, 2013, Ms. Taylor and members of the SAO East office met with DLA officials, in Philadelphia, PA, to talk about several topics and share best practices, including the use of reverse auctions. Email reflected the meeting was coordinated by Mr. David Fitzgerald, former SAO East Director, and the DLA Deputy Commander for Troop Support, both having known each other while serving in the U.S. Navy.

On February 11, 2013, 10 days before her meeting with DLA, Ms. Taylor sent an email to Mr. Crossett and Mr. Richardson telling them that she was going to visit DLA “to see what best practices have been developed at DLA for reverse auctions.” She said, “I’m told they are saving \$1 billion in that region alone.” About 15 minutes later, Mr. Richardson replied to Ms. Taylor, asking for an “impromptu” meeting the next day. He told Ms. Taylor, “I’m also getting some background info from Steve Green re DLA we’d like to arm you with some questions for your trip to Phila next week.” Email records reflected that they were unable to meet on February 12, due to an apparent scheduling conflict; however, records reflected they met on February 15, 2013, at a café in Ms. Taylor’s office building in Washington, DC.

After the meeting, Mr. Richardson sent an email to Mr. Crossett, and other FedBid executives titled “VHA & DLA.” In his email Mr. Richardson said:

Good meeting with Susan re her trip to DLA in Phila next week (followed by visit to VA Med [Center] in Phila). DLA prefaced the invitation with something along the lines of ‘we’ve saved \$1B thru RAs.’ Susan assumed they saved it thru FedBid – I informed her (obviously) it wasn’t us (yet...). Knowing this, Susan is in a position to ‘advertise’ FedBid success stories with DLA. *And she’ll do it (because I asked).* [Italics added.]

In this same email, Mr. Richardson asked Mr. Crossett to prepare talking points and a series of questions to give to Ms. Taylor.

A subsequent email reflected, and Mr. Richardson later acknowledged during his interview with VA OIG, that his intent was to provide Ms. Taylor with this information in order to assist her in obtaining strategic information from DLA for FedBid’s use in future contract competitions for reverse auction services held by DLA. Mr. Richardson said in the email to FedBid executives:

Robert – all she requested was the updated weekly [report] however I’m also thinking that a 1-page point paper might help as well, citing savings to date, savings last FY, proj svgs this FY, etc. Maybe success stories...as well [as] anything to highlight the power of the marketplace & other differentiators (from Procure Ex, etc). Need this by Weds pls as meeting is on Thurs. Also when you send the weekly pls cc me.

Steve, Tks for the Qs. I'm going to package them up & send to her along with aforementioned 1-pager on Weds. *Susan and I agreed to talk Fri[day] afternoon Eastern time & she'll debrief me.* [Italics added.]

In a February 20, 2013, email, 1 day before her meeting with DLA officials, Ms. Taylor asked Mr. Richardson and Mr. Crossett about the questions Mr. Richardson told her he would provide her. She said, "I will be meeting with DLA in Philly Thursday. I think you said you would be providing some questions for me." Mr. Richardson sent her an email a short time later containing the talking points and questions. In his email, he told Ms. Taylor, "Susan, to follow up our discussion on Friday, I've listed a few questions below that you might find useful in your visit to DLA in Philadelphia, and attached information regarding VHA's results attributable to the use of reverse auctioning." He also provided her information concerning FedBid's previous marketing efforts aimed at convincing DLA officials to use FedBid services. He said:

Let me also provide some insights that you might find helpful—our experience with Philadelphia has been limited. We've found that the 'head guy' there—[Name] (SES, and Deputy to the Commander)—may have a misperception about our fee (or the fee incurred from any reverse auction provider)...I should mention that I haven't personally met with [Name], but Steve Green certainly has, and has relayed the gist of those interactions with me. The senior acquisition person there is [Name]—is it safe to assume he's hosting you (or someone from his shop)? I should also mention that Steve and two others from FedBid met with the Chief of the Acquisitions Program Division at DLA HQ yesterday...Steve gathered from the meeting yesterday that the DLA team easily recognized FedBid as a full service marketplace with all the "bells and whistles" rather than a reverse auction software application...you might want to mention the full suite of services that benefit VHA (in addition to the savings and other results listed on the attached document).

Mr. Richardson provided Ms. Taylor 12 questions to ask DLA officials that focused on Procurex, a competitor of FedBid's and the reverse auction contractor that DLA was using at the time. Mr. Richardson told Ms. Taylor:

Now to the questions and facts behind them. DLA only uses RA for over 150k. The major buying centers are using Procurex (reverse auctioning software and outsourced purchasing solutions) for RA...

1. How does DLA determine what's suitable for RA?
2. Does the strategy support other requirements such as small business goals?

3. What about the requirements that are processed manually under 150K? (Most of DLA requirements are auto reordered, but there are still 200K manual requirements under 150K. We understand that DLA had training included in Procurex, and other additional services have an associated fee.)
4. How is training accomplished? Is refresher training or new employee training all included on request?
5. Does Procurex provide routine reports and customer reports when requested?
6. Is there a seller quality control function, and how does it work?
7. Do Procurex reps visit the DLA sites to provide support and sustainment training?
8. At end of the FY, what additional support is provided during peak season?
9. The Procurex contract, as we understand it, is for three years (1+2). What happens at the end of the three years?
10. Who manages software upgrades and enhancements to capability?
11. What is average length of time to execute a reverse auction?
12. How much time is the use of Procurex saving (average) each procurement?

After receiving the 12 questions, Ms. Taylor sent an email to Mr. Richardson containing the official DLA meeting agenda and itinerary document titled “Itinerary for Benchmarking Visit between DLA Troop Support and Department of Veterans Affairs Veterans Health Administration.” The information was on DLA letterhead and identified the names and titles of the VHA and DLA officials scheduled to participate in the meeting as well as the planned topics for discussion. A subsequent email reflected that Mr. Richardson sent the DLA meeting agenda document to Mr. Saadat, Mr. Crossett, Mr. Green, and other FedBid executives.

On Thursday, February 21, 2013, Ms. Taylor and her staff met with DLA officials as planned. When asked about her meeting with DLA Troop Support officials and about conversations she had with Mr. Richardson, both before and after the meeting, Ms. Taylor told us that she did not recall many of the things she and Mr. Richardson discussed. For example, when asked if she met with Mr. Richardson before her trip to discuss her meeting with DLA officials, she told us, “I may have told him I was going there” and that she did not recall if she told him anything more than that. She further said that she “may have told him that I was going to hear about what they were doing with reverse auctions which was the purpose of our trip.”

When asked about the talking points and questions Mr. Richardson sent her and whether she agreed to use them during her meeting with DLA officials, Ms. Taylor told us, “There were some points that he may have raised. I don’t recall what those were or what the – I don’t remember the context of them.” When asked if she met with Mr. Richardson in

person prior to her meeting with DLA officials and if she discussed with him how she would advocate for FedBid, Ms. Taylor told us, “I wouldn’t have advocated for FedBid with anyone.” She later told us that she did advocate for FedBid, and when we pointed out that she gave conflicting answers, she said that she did not understand the question when initially asked.

The Contracting Specialist was part of the SAO East delegation and was present at the February 21 meeting with DLA officials. He told us that during the meeting, Ms. Taylor told DLA officials, “you really should use FedBid.” He said that the meeting was “pretty much promoting FedBid.” Mr. Ryan also attended the meeting, and when asked if Ms. Taylor advocated for FedBid during the DLA meeting, Mr. Ryan said, “That’s what I recall...she knew the system, and she knew the ins and outs of it. So she was pretty articulate, you know, in terms of being able to say what ours did compared to theirs.”

Ms. Taylor travelled home via train on Friday, February 22, 2013. During her train ride, email records reflected that she and Mr. Richardson spoke by telephone, and he then sent the following email, including the aforementioned DLA meeting agenda and itinerary, to Mr. Saadat, Mr. Crossett, Mr. Green, and other FedBid executives:

Team, to update everyone on the VHA meeting with DLA – Phila yesterday... Susan and I spoke this evening (UK time) as she was on a train heading back to DC...Following are the salient points of the call:

- [The DLA Deputy Commander] conducted/chaired the meeting – and there was a ‘table full of people’
 - Five attendees from VHA (including Susan)
 - Other attendees included on attachment (and there could have been more – this is the itinerary that DLA prepared for Susan and she shared it with me)
- [Name] clearly does not like FedBid’s fee structure – he wants a flat fee (for RA services for the year)
 - In other words, not based on services, number of transactions, savings, etc.
- Current RA provider (Procurex) won DLA’s RA contract with a \$350K bid, and they did 15 RAs last year
 - Susan noted that if DLA had used FedBid, and FedBid had imposed the max fee of \$10K/transaction, then DLA still spent \$200K too much (as our total fees in this example would have been \$150K for 15 transactions)
- Susan went through the list of questions we provided, and the issues Susan and I discussed over lunch last Friday; as expected, all answers were ‘no’.
 - Procurex software operates on a server, not the cloud

- The buyer chooses who to solicit, vice an opportunity presented to a managed marketplace
- No training, no additional support (e.g., busy season), no [software] upgrades or enhancements (without additional costs)
- No reports
- Process is also different – if someone bids in the last 5 minutes of an open solicitation, the time period is extended an additional 5 minutes – someone else bids during those additional 5, it's extended another 5...(repeat)
- Some of the transactions ended in ties; or 3-way ties, or other end states that had to be manually resolved
- DLA is having lots of problems and issues with Procurex
 - Indications are that DLA will not exercise the option years on the current contract and will recompet
 - In addition, DLA brought in PwC to analyze the [software] and the processes – their conclusion: ‘not good’ (so not only did they pay more for Procurex – they also paid a top-tier consultancy to validate the problem!)
- Still – [Name] remained (until the end of the meeting) of the mindset that the use of FedBid might work for VHA (who has lots of transactions) but it (FedBid) wouldn't work for DLA (due to the low number of transactions)
- Susan extolled the benefits of FedBid, as did her staff
 - She also opined that what DLA has isn't good
 - Reminded DLA of the government-wide initiative(s) to get off servers and use cloud
 - Indicated that DLA's approach was expensive, inefficient, and exposed shortcomings in the [software]
 - Indicated that DLA appears to be ‘operating with their hands behind their backs...’
 - Noted that [Name] still opposed the fee structure at this point, but his staff was becoming very interested in FedBid
- Re staff's interest – this appeared to grow as the meeting went along – hard to tell if [Name] was swayed but he eventually admitted “dissatisfaction” with current [software] and processes
 - [Name] later admitted he was unfamiliar with FedBid; didn't know about the managed marketplace
 - Appeared he may be rethinking the approach, but Susan couldn't tell for sure
- Susan's assessment: DLA may have things to offer VHA, but not in the area of RAs

- Susan may introduce DLA to the VHA logistics folks who may have an interest in DLA's eCatalog for items; Med/Surg Prime Vendor; other catalogs; etc)
- Susan also indicated that the meeting was the result of the relationship between [Name] and Dave Fitzgerald (former Navy buddies)
- Also noted the upcoming change of command – said she met a “female Rear Admiral” who told the group that this is her last week – next week a new commander is coming on board (who will be [Name's] boss) – this new commander has been in [Philadelphia] before (I assume we know who this is and are tracking?)

Believe we have an opportunity to exploit the dissatisfaction and position FedBid for success by shaping the recompete [sic] for a managed marketplace, training, reports, etc., etc. (in other words, everything that FedBid is and others aren't...). Also important to note that ST [Susan Taylor] continues to advocate for us. (Italics added.)

Email records reflected that the next day, February 23, 2013, Ms. Taylor briefed her supervisor, Mr. Doyle, on her meeting with DLA officials; however, she did not include all the same information that she provided Mr. Richardson the previous day.

When asked, Mr. Richardson acknowledged to us that he asked Ms. Taylor to obtain information about DLA's reverse auction program and to provide him, and FedBid executives, with that information. He said, “FedBid...is going to take advantage of whatever information source they have. That information source very openly and very rightly includes current customers. Customers talking to each other.” We asked Mr. Richardson to explain his comment in his February 15, 2013, email to FedBid executives, “Susan is in a position to ‘advertise’ FedBid success stories with DLA. And she'll do it (because I asked),” and he told us, “I don't recall the specific context. I know it wasn't because I ordered her or something like that to do something, if that's the inference.” He said, “This is a normal process whereby–this is how businesses, not just FedBid but pick one, does business with the Government...An opportunity to engage in getting information about in this case DLA.”

Ms. Taylor Acted as an Agent for FedBid before VA OIG and Interfered with OIG OCR

The Inspector General Act of 1978 authorizes VA OIG to conduct and supervise audits and investigations for the detection and prevention of fraud and abuse in, and the promotion of economy, efficiency, and effectiveness in the administration of the programs and operations of VA; and, to require by *subpoena* the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this

Act, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States District Court. 5 USC App.

On May 7, 2013, VA OIG OCR issued a subpoena to FedBid as part of an official review of a task order for eProcurement Reverse Auction Services that VHA awarded to FedBid under their GSA Schedule Contract GS-35F-0752R. The subpoena called for records pertaining to FedBid's proposed transaction fee amounts and bidder information and their final bid for "all VHA Buys awarded between October 1, 2011, and January 31, 2013, and any adjustments thereto." (For additional information see VA OIG's Review of the Veterans Health Administration's Use of Reverse Auction Acquisitions, report 13-01408-294.)

A series of email communications, after OIG OCR issued the subpoena to FedBid, reflected and strongly suggested that Ms. Taylor knew in advance that FedBid was going to send her a letter on May 17, 2013, and that she used that letter to advocate for FedBid by attempting to have the Counselor to the Inspector General provide FedBid relief from the subpoena requirements.

On May 7, 2013, at about 5:35 p.m., Mr. Crossett sent an email, Subject: FedBid – Conference Call, to Ms. Taylor, copying Mr. Richardson, and said, "Susan, Thank you for your time today on the conference call. We are currently preparing the executive level summary document and expect to have it to you as soon as possible[.] I expect to have a version for you to review by COB tomorrow. Please let me know if this timeline is an issue." About 1 hour later, Ms. Taylor emailed Mr. Richardson and asked him to call her at her home telephone number. We have no record of their discussion; however, email records reflected that at 7:23 p.m., Mr. Crossett sent a request to recall the May 7 5:35 p.m. email, Subject: Recall – FedBid – Conference Call.

That same evening, Ms. Taylor sent an email to the Contracting Specialist, Subject: Urgent, and asked, "Does our contract with FedBid have audit provisions contained in it?" In a follow up email to the Contracting Specialist the following morning, May 8, Ms. Taylor told him, "FedBid has advised me that the OIG has subpoenaed them yesterday to provide thousands of records and detailed research that will require extensive resources for them as a small business to produce. This was not anticipated and they see this as an undue burden that was imposed upon them."

Ten days later, on May 17, 2013, at 10:35 a.m., FedBid sent Ms. Taylor an email with a letter attached signed by Mr. Tupponce. At 10:53 a.m., she forwarded Mr. Tupponce's email and letter to Ms. Phillipa Anderson, Assistant General Counsel, VA Office of General Counsel (OGC), Staff Group V (Government Contracts, Real Property and Environmental Law), copying Mr. Matkovsky and Mr. Doyle. In her email, Ms. Taylor said, "This morning I received the attached letter from Lu Tupponce, General Counsel for FedBid. The letter outlines FedBid's objections to a subpoena issued by VA's OIG

Office of Contract Review for thousands of records. Philip Matkovsky has asked that I send this to you for an opinion.”

That same day, at 11:06 a.m., Ms. Taylor sent an email to Mr. Tupponce and said, “Thank you for your letter informing me about the details of the subpoena issued to you by VA’s OIG Office of Contract Review. I have forwarded your letter to VA’s General Counsel for review. As your email indicates, please keep me informed as you proceed in addressing these issues.” Email records reflected that Ms. Taylor and Mr. Richardson spoke by telephone and that at 1:05 p.m., Mr. Richardson sent an email to Mr. Tupponce, copying Mr. Saadat, Mr. Crossett and other FedBid executives. He said:

Lu, as I expected, I had a follow on (and good) call from Susan after she received the letter. *Overall, she’s pleased.* [Italics added] She mentioned that an organization exists with a name something like the “Council of IGs” – sounds like it may be a group similar to the Federal CFO Roundtable; the CIO Council; etc. She and another senior SES with whom she confided believe it might be interesting to connect with the IG council to see if any other instances in the fed govt exist where the IG acted in a clearly OCI matter. They think it’s highly likely (and I think we agree based on our experience) that no other agency has the ‘unique funding arrangement’ that we see in VA (OALC funding OIG, etc). She’s also of the opinion, from a contracting perspective, tha[t] an OCI exists. This (council) might be something with which [FedBid’s outside legal counsel] is familiar.

At 1:10 p.m., Ms. Anderson replied to Ms. Taylor’s request for an “opinion” regarding FedBid’s complaint letter. Ms. Anderson told Ms. Taylor, “I recommend that you refer FedBid to the OIG’s General Counsel’s office. They are questioning the subpoena authority of the OIG, authority for which the OIG’s General Counsel should address.” Ms. Taylor replied by asking for OIG’s General Counsel’s contact information, and Ms. Anderson told us that she inadvertently did not respond to Ms. Taylor’s follow up request. Another email reflected that Ms. Taylor got the contact information from someone else in Ms. Anderson’s office.

At 3:24 p.m., Mr. Richardson sent another email to Mr. Tupponce, Subject: Summary of Follow-On Conversation with ST. He said:

Lu, to summarize... ST called to indicate that she received the letter (as she indicated in her email response to you), and forwarded it to GC of Contracting (Philippa Anderson) per direction of Philip Matovsky [sic] (you might recall Anderson as the counsel in the room when we had the meeting with Gingrich, Haggstrom, Frye, et al, last year). Anderson returned the letter to ST, indicating that FedBid is questioning the subpoena authority of the IG; therefore, in Anderson’s opinion, ST should forward

our letter to the GC of OIG. ST countered along the lines of our not questioning the authority of the IG, but informing her of our concerns – there were a few back and forths [*sic*] between ST and Anderson and the end result was that ST is attempting to send the letter to the OIG GC. After trying to track down who the “OIG GC” is (as there’s not one listed in VA’s global directory, org chart, etc[.]), ST finally discovered the POC for Maureen Reagan (*sic*). I recognized that name from our meetings with [FedBid’s outside legal counsel]. ST, who does not know Maureen (nor of our potential connection with her via [attorney’s name]/external counsel), is concerned that if Maureen is “paid by JF, then she’s in JF” pocket...and if she audits, the results won’t be good for us...etc. *I reassured her without getting into details of our connections* (other than retained external counsel to help us with the issue, etc). (Italics added.)

On May 20, 2013, at 12:53 p.m., Ms. Taylor forwarded Mr. Tupponce’s May 17 email and letter to Ms. Regan, and said:

I received a letter (attached) from FedBid Friday in which they informed me that they have objections to the extent of a subpoena issued by the OIG Office of Contract Review for literally thousands of records. I was told that FedBid would have to endure the hardship of virtually shutting their small business down for 2 weeks in order to obtain all the extensive information requested. Philip Matkovsky advised me to obtain an opinion on their letter from OGC, so I sent it to Phillipa Anderson. She then said that the General Counsel for the OIG should review and opine. Her office informed me that would be you. *Can you please take a look at this for me?* [Italics added.]

Ms. Taylor misrepresented Ms. Anderson’s advice when she intervened and acted on FedBid’s behalf rather than referring FedBid to OIG’s General Counsel. Ms. Regan responded, “FedBid needs to talk to the [manager] who issued the subpoena or they [FedBid] can contact me when I get back. I am familiar with the subpoena and do not believe it is overly burdensome.”

At 1:06 p.m., after Ms. Regan replied, Ms. Taylor told Mr. Richardson in an email:

The letter to me from your company has been forwarded to the General Counsel for the OIG Office of Contract Review, Maureen Regan, for an opinion. She has responded that FedBid needs to talk to the manager who issued the subpoena or you can contact her when she returns to the office on the 23rd. She indicated that she is familiar with the subpoena and does not believe it is overly burdensome.

Email records reflected that Ms. Taylor and Mr. Richardson spoke again by telephone regarding VA OIG's subpoena and that Mr. Richardson then briefed Mr. Tupponce on their telephone conversation in a May 20, 2013, email at 5:04 p.m. He said:

Lu I just got off the phone with Susan. Interesting to note that she indicated Maureen responded "immediately" to her email message (with our letter attached) with the indication that (as Susan cites below) the requirements in the subpoena are not "overly burdensome." The response was so quick, according to Susan, that there was no way Maureen could have read/digested the contents of our letter. This seems to validate our concern that the subpoena and its outcome may be "predetermined." Thought you might want to pass this on to Steve, et al.

Ms. Taylor told us that after receiving Mr. Tupponce's May 17 letter, she was "unsure of how to respond to it or what to do with it." She said that she sent it to Ms. Anderson and asked her to provide a legal opinion. She further said, "Phillipa then responded back to me that it would be properly directed to the counsel for the IG, not to the counsel for contracting matters. And she asked me to send it to the OIG counsel." Ms. Taylor told us that she spoke with Mr. Doyle, and he said that the OIG counsel, Ms. Maureen Regan, said to send the letter to her so that was what she did.

When asked why she did not follow Ms. Anderson's instructions to refer FedBid to OIG General Counsel, Ms. Taylor told us, "Quite frankly, whether I send it to [Ms. Regan], or whether FedBid sends it to [Ms. Regan], the bottom line is it would go to Maureen Regan. I don't see that it's an issue who sends it." Mr. Doyle told us that he never spoke with Ms. Taylor or assisted her in obtaining Ms. Regan's contact information. He said that if she asked him about it, he would "like to think" that he would give her the same advice as Ms. Anderson. He said that it was "an issue between FedBid and the IG." Ms. Regan told us that she received Ms. Taylor's May 20, 2013, email containing Mr. Tupponce's May 17, 2013, letter and that Mr. Doyle never contacted her prior to her receiving it and that Ms. Taylor's email was the first indication she had that FedBid contacted Ms. Taylor about the subpoena.

After reviewing the May 17, 2013, letter that Mr. Tupponce sent Ms. Taylor, Mr. Richardson told us that he did not recall if he knew of the subpoena prior to Mr. Tupponce sending the letter to Ms. Taylor. He said that he knew there was a request for data but that he did not recall if it was "a request" or "had been subpoenaed." He further said that he heard that FedBid staff composed a letter but that he had no involvement in it. He told us that Ms. Taylor, to his knowledge, "had no involvement in the crafting, creation, draft review, coordination process involving this letter." Mr. Richardson told us that he did not recall if Ms. Taylor knew ahead of time about the letter and that it was sent to her as "their primary executive point of contact" to "send it to

the appropriate person within the VA” rather than FedBid “directing it to OIG or general counsel.” He further said that he “was not in the loop on this one.”

Ms. Taylor’s Improper Endorsement of FedBid

Standards of Ethical Conduct for Employees of the Executive Branch states an employee shall not use or permit the use of her Government position or title or any authority associated with her public office to endorse any product, service, or enterprise. 5 CFR § 2635.702(c). Further, an employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes. *Id.*, at § 2635.704. VA’s Limited Personal Use of Government Office Equipment Including Information Technology policy permits limited use of Government office equipment for personal needs if it does not interfere with official business, involves minimal expense to the Government, and is used during non-work time. VA Directive 6001, Paragraph 2a. It is the responsibility of employees to ensure that they are not giving the false impression that they are acting in an official capacity when they are using Government office equipment for non-Government purposes and if there is an expectation that such a personal use could be interpreted to represent an agency, an adequate disclaimer must be used. *Id.*, Paragraph 2e. VA policy states that email shall be used for authorized Government purposes and that users must exercise common sense, good judgment, and propriety in the use of this Government resource. VA Handbook 6500 (September 18, 2007).

Ms. Taylor’s organization consisted of more than 2,000 contracting employees. In a November 1, 2012, email, to all of her contracting staff, Ms. Taylor attached a copy of an October 2012 FedBid Newsletter that included endorsements of the company by some VHA contracting specialists. In her email, Ms. Taylor said:

I am forwarding a newsletter from FedBid which shows the total dollars VHA saved using reverse auctions in FY12 - \$38.9 million, a savings of 11.92% over the [G]overnment estimate. The letter also lists our top 10 employees in terms of use of reverse auction as well as quotes from them. Thank you goes out to everyone who learned how to do reverse auctions this year and have allowed us to earn these significant savings that can be used to buy other items for our Veterans. This was a true team effort, and I want to personally thank all of you for making this happen.

On December 3, 2012, VA OIG sent Ms. Taylor’s November 1 email and the FedBid newsletter to VA’s Office of General Counsel (OGC). An OGC Attorney reviewed the email and newsletter and concluded that the endorsements by VHA staff printed in the newsletter as well as Ms. Taylor’s action of sending the newsletter to her staff constituted a violation of the Standards of Ethical Conduct for Employees of the Executive Branch, specifically, 5 CFR §2635.702(c). In a January 18, 2013, email, Subject: Contractor endorsements, the OGC Attorney told Ms. Taylor that the

endorsements by her VHA contracting staff and her action of sending the newsletter out to her staff violated ethics rules. The OGC Attorney then offered to provide VHA contracting staff with ethics training on “Contractors in the Workplace.” In response, Ms. Taylor requested to meet with the OGC Attorney and a meeting was scheduled for January 23, 2013 at 10:30 a.m.

Meanwhile, email records reflected that on January 21, 2013, 2 days before her scheduled meeting with OGC, Ms. Taylor forwarded the OGC Attorney’s email of January 18 to Mr. Richardson and Mr. Crossett at FedBid. In her email, she said:

I received the below opinion from an ethics official on Friday. Some time ago I had forwarded the FedBid October newsletter developed for VHA to the procurement staff. The email indicates that I should not forward a promotional newsletter developed by FedBid to members of the staff and that employees should not send endorsements to you for publication. Please see the below email for an explanation of this opinion.

FedBid records reflected that after receiving Ms. Taylor’s email, Mr. Richardson asked FedBid staff to research whether a FedBid newsletter was used at other Federal agencies, and if one was used, if the agency had a similar reaction as VA. He told them, “I’d like to get info re precedence (if it exists) to ST tomorrow prior to her meeting with ethics.”

In another email dated January 23, 2013, sent a few minutes before Ms. Taylor was to meet with the OGC Attorney, Mr. Richardson told Ms. Taylor,

Susan...re the newsletter or other communications being within the scope of our contract. Part of the SOW from that contract states the following: “Other support that contractor is expected to provide to the acquisition staff in the performance of reverse auctioning services to include, but not limited to, are the following:... Create and maintain solid relationships with the VHA user community (Buyers and Sellers).” The newsletter was submitted to VHA in support of that contractual requirement. For your consideration as you approach the 1030 meeting.

In reply, Ms. Taylor told Mr. Richardson, “Thank you. I will give this a try with them.”

The OGC Attorney told us that the matter was not referred to Ms. Taylor’s supervisor and their actions were only to provide ethics guidance to Ms. Taylor. According to the OGC Attorney, Ms. Taylor did not request the ethics training offered by the OGC Attorney.

Misuse of VA Nationwide Teleconferencing System (VANTS)

Email records reflected that in July 2013, Ms. Taylor engaged the professional services of a non-VA psychologist, who was previously contracted by VHA to provide motivational speeches at conferences, for relationship counseling for her and Mr. Dobrzykowski.

Records reflected that on July 11, 2013, Ms. Taylor utilized the VA Nationwide Teleconferencing System (VANTS) for a call between her, Mr. Dobrzykowski, and the psychologist for this relationship counseling. Telephone records reflected that the call began at about 11:31 a.m. and lasted over 70 minutes. Ms. Taylor told us that she engaged the services of the psychologist after seeing him speak at conferences and thought he could be helpful to her in working through some personal issues. Ms. Taylor said that she paid the psychologist \$300 for his services and provided a copy of the cancelled check as proof of payment. Ms. Taylor told us that she and Mr. Dobrzykowski received counseling from the psychologist via email and telephone calls but that she could not recall “how that was done.” She said that it “never occurred” to her that it would be considered improper to use the VANTS line for personal counseling.

Misuse of Transit Benefits

VA’s Transit Benefit Program (TBP) was established to provide a subsidy to employees to encourage the use of mass transportation in their daily commute. VA Handbook 0633, Section 1(b) (October 18, 2011). TBP policy defined a daily commute as, “Using some form of mass transportation from an employee’s residence when commuting to and from work, or, commuting one way, to or from work.” *Id.*, at § 18(a). TBP policy restricted a participant’s use of the subsidy for their daily commute only and not for personal Metro trips or for parking costs. *Id.*, at § 4(f). To participate in the TBP, qualified employees must complete VA Form 0722 and submit it to their Organizational Transit Manager. On VA Form 0722, employees certify that they are “eligible for a public transportation fare benefit, will use it for my daily commute to and/or from work, and will not transfer it to anyone else.”

We reviewed Ms. Taylor’s transit benefit records, as well as Washington Metropolitan Area Transit Authority (WMATA) records from 2011 to present, after we discovered that Ms. Taylor commuted, at times, to and from her VA duty station in Washington, DC, in an automobile with Mr. Dobrzykowski. We reviewed Ms. Taylor’s VA Application for transit benefits (VA Form 0722) and email communications with VHA’s Transit Benefit Office. We also reviewed WMATA records associated with two different SmarTrip cards registered by Ms. Taylor. Records reflected that Ms. Taylor submitted two transit benefit applications. The first, dated July 9, 2010, listed her Washington, DC, duty station on I Street, and the second, dated December 13, 2013, listed it as on 1st Street. However, records reflected that Ms. Taylor moved to the second duty station in March 2012; her transit costs decreased; yet, she continued to receive the higher benefit amount.

WMATA records reflected that Ms. Taylor used her transit benefits on more than 20 occasions between November 2010 and March 2013 for trips that were outside of her daily commuting route. Records also reflected that between April and May 2013, she used her transit benefits for at least 5 trips that were not part of her daily commute. Although records reflected that Ms. Taylor added personal funds to her SmarTrip account, it was not enough to cover the extra usage costs.

Misuse of Official Title

Email records reflected that Ms. Taylor misused her title when sending personal emails which displayed her official title in the signature block. For example, in an email dated February 17, 2012, Ms. Taylor complained to a vacation resort manager and inquired about getting a refund in connection with an earlier stay at the resort. In another email, she complained to the leader of her church concerning a private internal church matter. In yet another email, she used her official title in messages sent to a private tree service for the purpose of negotiating a price to remove trees from her yard. In an email dated January 11, 2014, Ms. Taylor told the tree service owner:

Surprisingly, the [other tree service] quote to remove the dying oak and the surrounding tagged trees was \$1100 compared to your price of \$1300 for that work...If you are able to meet that price, I would have you do both trees while you are out and...If that price doesn't work for you, you would do the pine tree and I will have them do the oak.

Ms. Taylor's signature at the bottom of these emails reflected: Susan M. Taylor, Deputy Chief Procurement Officer, Veterans Health Administration, Dept. of Veterans Affairs.

Violation of the FedBid Contract Gratuity Clause

FedBid's GSA Contract, GS-35F-0752R, contained a "52.203-3 Gratuities" clause that stated: "The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative (1) Offered or gave a gratuity (e.g., an entertainment or gift) to a Government officer, official, or employee; and (2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract." 48 CFR§ 52.203-3. Standards of Ethical Conduct for Employees of the Executive Branch state that an employee shall not directly, or indirectly, solicit or accept a gift from a prohibited source or given because of the employee's official position or for being influenced in the performance of an official act. A gift includes any gratuity, favor, discount, entertainment, hospitality, or other items having monetary value, and a prohibited source includes a person who does or seeks to do business with the employee's agency. 5 CFR § 2635.202 and 203.

In April 2012, OIG Hotline received a complaint that during an NCM Conference in Charleston, SC, Ms. Taylor hosted a dinner party and that during the dinner a FedBid employee purchased wine for everyone in attendance. Email records reflected that she permitted Mr. Green to purchase wine. One of the employees who attended the dinner told us that during the dinner, they poured her a glass of wine and kept insisting that she taste it. The employee said that there were three or four bottles sitting out but that she did not know how many individuals drank the wine.

Email records reflected that on the evening of October 19, 2011, during an NCM Conference in Charleston, SC, Ms. Taylor hosted a dinner and invited the SAO Directors, NCMs, and their respective deputies to attend. She also invited FedBid executives who were scheduled to present during the conference. Records also reflected that during the dinner, Mr. Green, acting on behalf of FedBid, purchased wine for everyone at the table. Ms. Taylor told us that she gave Mr. Green permission to buy the wine, as the cost of the wine when divided by the number of people at the table would have been below the \$20 threshold for accepting gifts. Although there were about 20 Federal employees at the dinner, not all drank the wine. Ms. Taylor and others told us that they did not drink the wine, and we could not determine the exact number of employees who had wine.

Email records reflected that Mr. Green's objective in buying the wine was to garner their favorable consideration in using the FedBid system to conduct reverse auctions. Records also reflected that Ms. Taylor asked FedBid to attend this and other conferences in order to further educate and promote a greater use of FedBid by the NCMs. In a July 27, 2011, email inviting Mr. Green to the Charleston NCM Conference, Ms. Taylor told him, "I think it would be very helpful for you to address this audience as a means to educate managers and invoke greater utilization of the FedBid process." Mr. Green accepted the invitation and said, "If there is an opportunity within ethical guidelines to host or sponsor something, I'll gladly seek permission/funding. Just let me know!"

In an email, dated August 30, 2011, Ms. Taylor told Mr. Richardson about two upcoming conferences, including the NCM Conference in Charleston in October 2011. She said, "you or Steve may want to present to the staff in an effort to move forward with getting more buyers on board." In yet another email, dated October 16, 2011, Ms. Taylor invited Mr. Green to attend the dinner in Charleston, she said, "if you will be at the conference on Thursday night after your presentation, it would be good to have dinner with some of the managers and me to get to know them a little bit on a personal level." Mr. Green told Ms. Taylor that his return travel plans did not allow him to attend the dinner on October 20, so she moved the dinner to October 19 to accommodate Mr. Green's schedule.

In a post-conference email, dated October 20, 2011, Mr. Green told Mr. Richardson that with Ms. Taylor's permission, he spent "roughly \$250" on wine for the table and that it was "money well spent." He also said there were 20 NCMs present at the dinner, but he did not specify how many of them drank the wine. FedBid expense records reflected that Mr. Green charged \$390 to the restaurant that evening.

In a March 21, 2012, email, sent to Mr. Richardson during the moratorium period, Ms. Taylor told him the following:

Ok. Just so you know, Norb [Doyle] told me that today Jan [Frye] said 3 people reported to him that "alcohol was flowing" at dinner at the Charleston NCM conference paid for by FedBid. The truth is that Steve asked me if he could buy a glass of wine for everyone at the table for

dinner. I said he could because each person is entitled to take a \$20 gratuity from a contractor at a given event, \$50 per year, per the FAR. Surely a glass of house wine or even two glasses would not have exceeded \$20 per person. It is amazing that our own staff would have reported this nonevent to Jan.

In response, Mr. Green told Mr. Richardson, “Amazing...so Susan has at least 3 moles among her NCMs and SAOs[.] I believe I bought 4 bottles of wine...there were just at 22 people at the table...but 4 were not [government] RC, EC, Bill D and I.” Mr. Richardson replied, “I learned my policy early on in government consulting (at [previous employer]): don't buy nuthin' [sic] for nobody.”

Prohibited Personnel Practice – Whistleblower Retaliation

Federal law provides that any employee who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority – take or fail to take, or threaten to take or fail to take, a personnel action with respect to any employee or applicant for employment because of any disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences any violation of any law, rule, or regulation, or gross mismanagement, a gross waster of funds, an abuse of authority, or a substantial and specific danger to public health or safety. 5 USC § 2302(b)(8).

In addition to FedBid's purchase of wine for PLO managers in Charleston, SC, in October 2011, email records reflected that after another conference held in Tampa, FL, from February 27 to March 2, 2012, Mr. Doyle investigated rumors that FedBid purchased alcohol for VHA employees at a dinner one evening during the conference. After the conference, on March 7, 2012, at 7:46 p.m., Mr. Doyle sent an email to Ms. Taylor advising her that he was “asked to look into who purchased the alcohol at the reception in Tampa... There's a rumor that FedBid paid for it. The words were that “alcohol was flying.” Ms. Taylor replied, “Absolutely false that FedBid paid for anything. The reception was given to us free by the hotel and everyone was given one drink ticket for the beverage of their choice.” Email records reflected that after replying to Mr. Doyle, Ms. Taylor spoke to Mr. Richardson by telephone and told him about Mr. Doyle's email and about the rumors that FedBid had paid for the alcohol during the Tampa conference. At 9:46 p.m. that evening, after speaking to Ms. Taylor, Mr. Richardson sent an email to Mr. Saadat and Mr. Tupponce and said:

- Rumors flying – at 8pm tonight, Norb sent Susan an email asking if FedBid paid for the alcohol at the Monday night reception in Tampa last week
- The answer: No, FedBid did not pay (and Susan knew this and relayed it to Norb). The alcohol was provided by the hotel in addition to the entire reception as a 'gift' for the mass booking (by VHA) at that property

- Tickets were issued, one per guest, for alcoholic and non-alcoholic drinks (same ticket)
- There were excess tickets, so people could have additional drinks if they desired
- Source of rumor believed to be “Delia” – she is the only person from the Tampa conference who is also at the Denver conference this week, and is known to be negative towards FedBid
- While in Tampa, Delia was also questioning Susan about ours’ and other contractor’s presence in the sessions before/after our presentations – Susan clarified to her (and I knew about this last week) that she had invited ALL contractors to remain for the leadership conference as nothing government- or procurement-sensitive was being discussed
- (Clearly digging for dirt where none exists...)
- Susan hasn’t heard anything else re front office actions in response to cease reverse auctions issue.

Mr. Richardson’s references to “Delia” were referring to Ms. Delia Adams; a subordinate of Ms. Taylor’s who according to personnel records received an SES appointment to the position of Director, SAO West, on March 27, 2011.

The next evening, March 8, 2012, at 9:07 p.m., Mr. Doyle and Ms. Taylor began an email exchange regarding Ms. Adams:

- Mr. Doyle: “What’s the status of Delia’s [Senior Executive Service] probation?”
- Ms. Taylor: “Delia’s probation will expire this month. Do you think we should consider not continuing her in that role? *By the way, I am told that it is Delia who originates rumors like the one that FedBid supplied the alcohol in Tampa. She also objected to their presence at our conference once their presentation was over.* (Italics added.) I told her that all presenters were welcome to hear about our other speakers at the conference and many of them did stay for a day to hear other presenter. Those were not procurement sensitive presentations.”

Mr. Matkovsky told us that Mr. Doyle had told him that Ms. Taylor wanted to remove Ms. Adams from her SES position during her probationary period for “management – personnel issues.” However, Mr. Matkovsky said he was unaware of any protected disclosures made by Ms. Adams. Both Ms. Taylor and Mr. Doyle said that they wanted Ms. Adams removed from the SES because of performance related issues and both denied retaliating against Ms. Adams for any disclosures she may have made regarding FedBid buying alcohol for VHA staff. Ms. Taylor said that both she and Mr. Doyle were concerned about keeping Ms. Adams in her SES position because she (Ms. Adams) received two letters of counseling during her probationary period and her region, SAO West, received the lowest customer satisfaction scores of all three regions. Ms. Taylor

said that they questioned Ms. Adams' leadership ability "both in terms of dealing with personnel as well as the workload there."

Mr. Doyle said he recalled speaking to Mr. Matkovsky about removing Ms. Adams from the SES, but he did not recall discussing anything about alcohol. In his emails with Ms. Taylor about Ms. Adams' probation, he never acknowledged Ms. Taylor's comments about Ms. Adams' purported protected disclosures about FedBid and alcohol. Mr. Doyle further said, "It was not in retaliation for that, at least on my side."

Mr. Matkovsky told us, and email records confirmed, that he, Mr. Doyle and Ms. Taylor met with Ms. Adams in-person prior to the end of her probationary period to discuss Ms. Taylor's concerns. In an email, dated March 20, 2012, coordinating the meeting, Ms. Taylor told Mr. Matkovsky's executive assistant "Confidentially, we came very close to removing Delia from the SES prior to the expiration of her probationary period. Therefore, Philip wants to meet with her ... to inform her of that and to offer guidance to her regarding our expectations of her for the future." Ms. Adams was ultimately retained in her SES position and Mr. Matkovsky told us, "I was personally very uncomfortable with removing Ms. Adams and interceded."

Ms. Taylor Made False Statements to OIG Investigators

Federal regulations state that employees will furnish information and testify freely and honestly in cases respecting employment and disciplinary matters. Refusal to testify, concealment of material facts, or willfully inaccurate testimony in connection with an investigation or hearing may be ground for disciplinary action. 38 CFR § 0.735-12 (b).

On July 19, 2013, we interviewed Ms. Taylor while she was under oath. As referenced above, she told us that about 6 months into her VHA employment, Ms. Kydd contacted her regarding the use of FedBid at VHA. However, email records reflected that Ms. Taylor initiated the first contact with Ms. Kydd on August 16, 2010, after she asked her subordinate employees if they used FedBid. Ms. Taylor then invited FedBid representatives to give a presentation at their upcoming NCM Conference.

Additionally, Ms. Taylor denied any involvement in VHA's task order with FedBid for reverse auction services. She told us that she "did not handle that award." However, in an October 6, 2010, email, Ms. Kydd reported to FedBid executives that Ms. Taylor's goal was to obtain "buy in" from SAO Directors and NCMs before implementing FedBid nationally in VHA, and Ms. Taylor's plan to issue a "First Consideration" policy requiring VHA contracting staff to use FedBid. Ms. Taylor also assigned responsibility for the procurement to Mr. Ryan and told FedBid she wanted to "rollout immediately." Contracting staff told us that Ms. Taylor pushed to use FedBid and no other vendor; she gave Ms. Kydd information about the solicitation a few hours before the RFQ was issued; and she "suggested" through Mr. Ryan that the Contracting Specialist go ahead and issue the RFQ rather than wait to obtain the required approvals from the ISO and PO. Moreover, she told us that she played no role in the contracting process, had no direct or

indirect-line supervisory responsibilities for contract managers or contracting officers, yet all those positions and supervisory responsibilities fall under her direct chain of command.

Ms. Taylor falsely denied advocating for FedBid during a meeting with DLA contracting officials. Email records reflected that she acted as an agent of FedBid, at the request of Mr. Richardson so as to give FedBid a competitive advantage with a DLA contract. She also engaged in a lack of candor when she said that Mr. Richardson “may have” raised some points, but she did not “recall what those were” or “the context of them.” She said that all she told DLA officials was that they were “happy with our provider” and that she did not recall a conversation with Mr. Richardson while commuting back to Washington DC after meeting with DLA officials.

Further, Ms. Taylor falsely denied advocating for FedBid regarding an OIG subpoena issued to FedBid in May 2013. She claimed that Mr. Doyle asked her to contact Ms. Regan regarding the subpoena; however, Mr. Doyle and Ms. Regan refuted Ms. Taylor’s version of events, and email records reflected that Ms. Taylor advocated directly to Ms. Regan on behalf of FedBid, contrary to VA OGC advice.

Moreover, Ms. Taylor falsely told us that she did not prohibit PLO staff from using the GSA reverse auction tool and that she attempted to contact GSA officials about using their reverse auction platform. However, GSA had no record of Ms. Taylor’s purported communication attempts and VA email records reflected Ms. Taylor continued to advocate for FedBid, actively opposed the use of GSA’s reverse auction platform, and directed her staff to continue using FedBid even though she knew it would cost VA more money to do so.

Ms. Taylor also falsely responded to us when we asked if she had a personal relationship with anyone who interacted with FedBid, and she did not tell us of her relationship with Mr. Dobrzykowski, her fiancé. Further, she falsely told us that she was not involved in the \$80,000 purchase order given to Mr. Dobrzykowski to work in her former Federal office at PBGC; however, PBGC records reflected that Ms. Taylor was involved in the procurement and a PRB cited her for her inappropriate involvement in the contract award and for disobeying her supervisor’s instructions that Mr. Dobrzykowski not be awarded any further contracts. Ms. Taylor again made false statements when she told us that she did not make a false statement in her March 2009 written declaration to PBGC when she denied having an inappropriate relationship with Mr. Dobrzykowski, who at the time was her fiancé and a PBGC contractor working in her office.

Moreover, Ms. Taylor falsely represented to us the true nature of her relationship with Mr. Dobrzykowski, claiming that the relationship had been on again, off again, and that she never believed their relationship was anything more than friends. However, email records reflected that as recent as July 2013, Ms. Taylor considered their relationship to be more than just friends. In a July 11, 2013, email, Ms. Taylor told Mr. Dobrzykowski, “Bill, I have given all that I have to you and devoted myself completely to you for 19

years. You have been first in my life ever since I fell in love with you.... I would ask you to consider again that uncompromising position...otherwise our engagement is over.”

Conclusion

We concluded that Ms. Taylor made a conscious decision to not separate her personal from professional life, at least as far back as her PBGC employment when she allowed Mr. Dobrzykowski, her paramour, to be hired as a contractor in her department. When questioned, she freely made false statements to PBGC officials so as not to disclose the true nature of their relationship. She also said that she was “offended by accusations” that they were anything other than friends, yet when she made that declaration, under penalty of perjury, they had been engaged for over 2 years.

Once employed by VA, Ms. Taylor also made a conscious decision to misuse her position and title as a Senior Executive, as well as violate her oath of office to give allegiance to the United States. She was intimately involved in the decision to award and to administer the FedBid task order, beginning in August 2010 when she pressured contracting staff under her authority to give preference to and award a task order for reverse auction services to FedBid, falsely touting it as “free” to the Government. Ms. Taylor made it known that FedBid was the contractor she wanted for these services, and she wanted the task order expedited so that it was in place prior to OAL implementing its own reverse auction capability at the Department level. To make this happen, she willingly engaged in a conflict of interest and misused her position for FedBid’s private gain. Moreover, to ensure that VHA contracting staff used no other reverse auction services, she conferred with FedBid officials on writing VHA reverse auction policy that instructed her staff to only use VHA’s contractor, which was FedBid.

We also found that the Contracting Specialist failed to comply with FAR provisions as required by warranted contracting officers. He was a willing participant in the scheme to issue a task order to FedBid, and contrary to his steadfast assertions that the contract was properly competed, we found that it was not. Ms. Taylor’s pressure, applied through Mr. Ryan, who was also a willing participant, resulted in the Contracting Specialist allowing less than 2 days, one being a Federal holiday, for vendors to respond to the RFQ, and the former SAO Deputy Director warned him that his actions were unfair when he denied two of the four competing vendors an extension of time to submit their quotes, since FedBid had advanced knowledge of their intent. Before he even issued the RFQ, the Contracting Specialist identified FedBid as being the contractor who would provide VHA’s reverse auction services, and when he did a cost analysis, he completely overlooked their transaction fees, citing a cost to VHA of only \$1 a year. FedBid had advance knowledge, giving them a competitive edge, and by not applying the associated transaction fees in his cost analysis, the Contracting Specialist ensured FedBid had the lowest quote.

Further, as the CO for the FedBid contract, the FAR required the Contracting Specialist to “ensure all requirements of law, executive orders, regulations, and all other applicable procedures... have been met” and to “safeguard the interests of the United States in its contractual relationships.” We found that the Contracting Specialist intentionally failed to do this and that he was complicit with Ms. Taylor in allowing FedBid to perform an inherently governmental function, in violation of Subpart 7.5 of the FAR. After drafting responses to a Congressional inquiry regarding VHA’s use of FedBid, the Contracting Specialist sent his responses to Ms. Taylor and recommended that she give them to FedBid to “help frame what I have written.” By doing this, the Contracting Specialist failed to safeguard the interests of the United States, allowed FedBid to improperly influence government action, and prevented the independent judgments made by VA officials designed and intended to protect or benefit the public and ensure the proper use of funds appropriated by Congress.

We found that Ms. Taylor and FedBid executives continually, and falsely, stated that using FedBid’s reverse auction services was free or at no cost to the Government, with the only notification to VHA contracting staff that VHA paid the transaction fees veiled in their website’s Terms of Use. We also found that in the small sample of buy packages we reviewed, 11 of the 14 required the procurement to be completed on GSA or SEWP schedules so that VHA paid two fees, to include over \$14,500 in fees to FedBid. This, along with Mr. Richardson, in his March 3, 2012, email, informing FedBid executives that they planned to receive \$3.6 million from VHA procurements in fiscal year 2012 clearly demonstrates that there is a substantial cost for VHA to use FedBid’s reverse auction services and that it is not “free” or at “no cost” for VA to use.

We further concluded that Ms. Taylor, Mr. Dobrzykowski, Mr. Saadat, Mr. Richardson, and Mr. Tupponce willfully and improperly acted to impair and obstruct a VA official in the performance of his duties for the financial benefit of FedBid. Mr. Frye, who had the authority and the VA Chief Acquisition Officer’s approval, issued a moratorium on the use of reverse auctions in VA until he was able to further assess reports of contracting irregularities stemming directly from the use of FedBid. Within hours, Mr. Tupponce and Mr. Richardson arranged a meeting at FedBid’s headquarters for the following day to “strategize regarding Frye decision to shut down RAs in VA,” along with a suggestion that FedBid discredit Mr. Frye publically and to Congress.

Mr. Saadat furthered the scheme to interfere with Mr. Frye’s oversight responsibilities when he provided Mr. Case a rebuttal document to Mr. Frye’s moratorium order, which was developed by FedBid officials during the March 4 meeting, with the understanding that Mr. Case would use his connection and influence when giving it to Secretary Shinseki. The document contained false statements pertaining to how the use of FedBid was at “no cost” to VA and that VA’s use of FedBid saved taxpayers money. Thus, began a concerted effort by all parties to willfully deprive, obstruct, and discredit Mr. Frye and unduly influence VA decision-makers, to include the Secretary, Deputy

Secretary, and the Chief of Staff, to lift the moratorium. Mr. Gingrich confirmed for us that FedBid reached out in an aggressive manner and used their past contacts and high-profile positions in their repeated attempts to influence the decision-makers to reverse the moratorium. In furtherance of the scheme to interfere with Mr. Frye's oversight responsibilities, Ms. Taylor was a willing participant and FedBid's go-to source for inside, nonpublic information, which Ms. Taylor freely gave.

Had Mr. Frye been allowed to perform his lawful oversight function to transact official business, free from improper and undue influence to review VHA's task order with FedBid, he may have, over 2 years ago, identified improprieties and immediately made the necessary modifications and/or corrections to ensure all efforts adhered to Federal law and regulations as well as VA policy and possibly saved VA an undetermined amount of money. Had he been able to conduct a more comprehensive assessment, free from interference and roadblocks, he may have identified the same information brought to light by the September 2010 OAL analysis, which concluded that FedBid was too cost-prohibitive due to their transaction fees; GAO's December 2013 Report to Congress that FedBid adjusted the bids so that VA paid the transaction fees; the findings outlined in VA OIG OCR's report regarding the grossly inaccurate claims of savings; and our findings in this report, so that VA could make a fully informed decision concerning any future use of reverse auction services through FedBid.

We also substantiated that Ms. Taylor, acting in her capacity as VHA's DCPO, knowingly and willfully engaged in a conflict of interest when she acted as an agent of FedBid in matters before the DLA and VA, both being agencies of the Executive Branch of the U.S. Government. Ms. Taylor and Mr. Richardson communicated several times prior to her visit with DLA officials, and he armed her with questions and coached her on what information to obtain to give FedBid a competitive advantage. Mr. Richardson's motives were clear when he told Mr. Crossett and others about Ms. Taylor's planned meeting and said, "Susan is in a position to 'advertise' FedBid success stories with DLA. And she'll do it (because I asked)." Ms. Taylor's willingness to act as an agent of FedBid was apparent by her repeated communications with Mr. Richardson, including the day before her meeting when she asked Mr. Richardson for the questions, which were designed to solicit information about DLA's reverse auction contractor. After Ms. Taylor met with DLA officials, Mr. Richardson memorialized in an email to Mr. Saadat, Mr. Crossett, Mr. Green, and others the detailed information Ms. Taylor provided him in a telephone call after the meeting, noting that Ms. Taylor "continues to advocate for us."

Ms. Taylor also acted as an agent of FedBid before the VA OIG when she advocated for FedBid after VA OIG issued them a subpoena. After FedBid sent her a letter complaining about the subpoena, and acting contrary to OGC's advice, Ms. Taylor intervened directly in the matter of the subpoena and solicited help from a VA OIG official to provide relief to FedBid from the requirements of the subpoena. In addition,

records reflected that she kept Mr. Richardson informed in near real-time of her actions on behalf of FedBid and the information she received from the VA OIG official.

We found that Ms. Taylor and Mr. Dobrzykowski worked together as a team, along with Mr. Saadat, Mr. Richardson, Mr. Tupponce, General Casey, Mr. Edwards, and RG executives to obstruct a legitimate function of VA. However, we could not determine why Ms. Taylor or Mr. Dobrzykowski went to such extreme measures to act as agents of FedBid or Ms. Taylor to misuse her position for FedBid's financial gain. We found that Mr. Dobrzykowski sought FedBid employment, prior to working at USITC as their CFO, and that 2 months later, USITC awarded a contract to FedBid. We also found that Ms. Taylor was overheard on a telephone call making a statement about FedBid employment for herself; however, we found no evidence that Ms. Taylor or Mr. Dobrzykowski were actually employed by FedBid in any capacity.

Ms. Taylor had complete disregard for the laws, regulations, and VA policies which governed her ethical conduct. We found that Ms. Taylor continually misused her position as follows:

- She knowingly and willfully made improper disclosures of nonpublic information to FedBid representatives, knowing that the disclosures were improper and asking Mr. Richardson to protect her as their source, and to Mr. Dobrzykowski, seeing nothing wrong in sharing this information with him.
- She knowingly and willfully misled not only her chain of command but her subordinates concerning the potential cost savings they could achieve by using GSA's reverse auction versus FedBid's reverse auction services for the private gain of FedBid. She schemed with Mr. Crossett to hide the potential savings that GSA reverse auction would have over the use of FedBid by telling Mr. Crossett to find a way to show a value added by using FedBid.
- Ms. Taylor knowingly allowed Mr. Green to purchase wine for PLO managers at a dinner she hosted. Both Ms. Taylor and FedBid violated the FAR's Gratuity Clause 52.203-3, as Mr. Green, with Ms. Taylor's knowledge and consent, gave a gratuity to VHA employees with the intent to obtain favorable treatment and a "greater utilization of the FedBid process" by VHA contracting staff, which would provide more revenue for FedBid from transaction fees.
- Ms. Taylor knowingly misused her public office for private gain when she used her official position title in VA emails negotiating a contract with a tree removal service, obtaining a partial refund from a vacation resort for a private stay, and correspondence with her church leadership.

- Ms. Taylor knowingly misused Government property when in July 2013 she used VANTS to conduct a personal 70-minute counseling session between her, a psychologist, and Mr. Dobrzykowski.
- Ms. Taylor knowingly misused her transit benefits on more than 20 occasions when she used subsidies for trips outside of her authorized daily commute and when she received more benefits than she was entitled to receive.
- Ms. Taylor willingly and knowingly improperly endorsed FedBid when she dispersed a copy of FedBid's October 2012 newsletter to over 2,000 of her subordinates. OGC concluded that the endorsement by VHA staff as well as Ms. Taylor's action of disseminating the newsletter was a violation of the Standards of Ethical Conduct for Employees of the Executive Branch.

We substantiated that Ms. Taylor abused her authority in March 2012 when she improperly recommended that Ms. Adams be removed from the SES during her 1-year probationary period. We concluded that a contributing factor in her recommendation was that she suspected Ms. Adams was responsible for rumors that FedBid supplied alcohol to PLO staff during a supervisor's conference held in February/March 2012, in Tampa, FL. In her email discussion with Mr. Doyle concerning Ms. Adams SES probation ending and whether Ms. Adams should remain in that position, Ms. Taylor told Mr. Doyle that Ms. Adams was the individual "who originates rumors like the one that FedBid supplied the alcohol in Tampa." Ms. Taylor and Mr. Doyle recommended that Ms. Adams be removed from SES for performance related issues; however, Mr. Matkovsky did not approve the removal, as he did not believe the reported issues merited that action.

We found that Ms. Taylor continually made false statements to us while under oath.

- Ms. Taylor told us that about 6 months into her VHA employment, Ms. Kydd contacted her regarding the use of FedBid at VHA; however, Ms. Taylor initiated the first contact with Ms. Kydd.
- Ms. Taylor falsely denied any involvement in VHA's task order with FedBid for reverse auction services; yet she was intimately involved, pushed no other vendor, provided FedBid information about the solicitation, and "suggested" through Mr. Ryan that the Contracting Specialist go ahead and issue the RFQ rather than wait for required approvals. She said that she played no role in the contracting process, had no direct or indirect-line supervisory responsibilities for contract managers or contracting officers, yet all those positions and supervisory responsibilities fall under her direct chain of command.
- Ms. Taylor falsely denied advocating for FedBid during a meeting with DLA contracting officials. Email records reflected that she acted as an agent of FedBid, at the request of Mr. Richardson so as to give FedBid a competitive advantage.

She said that Mr. Richardson “may have” raised some points, but she did not “recall what those were” or “the context of them.” She said that all she told DLA officials was that we were “happy with our provider” and that she did not recall providing detailed information to Mr. Richardson while commuting back to Washington DC after meeting with DLA officials.

- Ms. Taylor falsely denied advocating for FedBid regarding an OIG subpoena issued to FedBid in May 2013. She claimed that Mr. Doyle asked her to contact Ms. Regan regarding the subpoena; however, Mr. Doyle and Ms. Regan refuted her version of events, and email records reflected that Ms. Taylor advocated directly to Ms. Regan on behalf of FedBid, contrary to VA OGC advice.
- Ms. Taylor falsely denied she prohibited PLO staff from using the GSA reverse auction tool and falsely claimed that she attempted to contact GSA officials about using their reverse auction platform. GSA had no record of her purported communication attempts. VA email records reflected she advocated for FedBid, opposed the use of GSA’s reverse auction platform, and directed her staff to continue using FedBid even though she knew it would cost VA more money.
- Ms. Taylor falsely denied a personal relationship with anyone who interacted with FedBid, and she did not tell us of her relationship with Mr. Dobrzykowski, her fiancé. She also falsely told us that she was not involved in the \$80,000 purchase order given to Mr. Dobrzykowski; however, PBGC records reflected that she was involved in it. She also denied making false statements in her March 2009 written declaration when she denied a personal relationship with Mr. Dobrzykowski, who at the time was her fiancé and a PBGC contractor working in her office.
- Ms. Taylor falsely represented to us the true nature of her relationship with Mr. Dobrzykowski, claiming that the relationship was nothing more than friends; however, as recent as July 2013, she made reference to them still being engaged.

The VAAR states that any individual may submit a recommendation to debar a contractor to the Deputy Senior Procurement Executive (DSPE) and that the DPSE will refer the matter to the VA Debarment and Suspension Committee. We referred FedBid, Mr. Saadat, Mr. Richardson, Mr. Tupponce, Mr. Dobrzykowski, and Ms. Taylor to VA’s Suspension and Debarment Committee for possible action in accordance with FAR Subpart 9.4 and VAAR Subpart 809.406.

Recommendation 1. We recommend that the Principal Deputy Under Secretary of Health (PDUSH) confer with the Offices of Human Resources (OHR) and General Counsel (OGC) to determine the appropriate administrative action to take, if any, against Ms. Taylor.

Recommendation 2. We recommend that the PDUSH confer with OHR and OGC to determine the appropriate administrative action to take, if any, against Mr. Ryan.

Recommendation 3. We recommend that the PDUSH confer with OHR and OGC to determine the appropriate administrative action to take, if any, against the VHA Lead Contracting Specialist.

Comments

The Acting Principal Deputy Under Secretary of Health was responsive, and his comments are in Appendix A. We will follow up to ensure that the recommendations are implemented.



JAMES J. O'NEILL
Assistant Inspector General for
Investigations

PDUSH Comments

**Department of
Veterans Affairs**

Memorandum

Date: September 25, 2014

From: Acting Principal Deputy Under Secretary of Health (10A)

Subject: **Administrative Investigation, Conduct Prejudicial to the Government and Interference of a VA Official for the Financial Benefit of a Contractor, Veterans Health Administration, Procurement & Logistics Office, Washington, DC**

To: Office of Inspector General, Office of Contract Review (55)

1. I have reviewed the draft report and concur with the report's recommendations. Attached is the Veterans Health Administration's corrective action plan for recommendations 1-3.

2. If you have any questions, please contact Karen Rasmussen, M.D., Director, Management Review Service (10AR) at VHA10ARMRS2@va.gov.


James Tuchs Schmidt, M.D.
Attachment

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

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

OIG Recommendation(s)

Recommendation 1. We recommend that the PDUSH confer with the Offices of Human Resources (OHR) and General Counsel (OGC) to determine the appropriate administrative action to take, if any, against Ms. Taylor.

Comments: Following receipt and review of the evidence, the Office of the Principal Deputy Under Secretary for Health (PDUSH) will confer with OHR and OGC to determine the appropriate administrative action.

Target Completion Date: 90 days from the publication of the OIG Report. Following receipt and review of the evidence, an appropriate administrative action will be initiated.

Recommendation 2. We recommend that the PDUSH confer with OHR and OGC to determine the appropriate administrative action to take, if any, against Mr. Ryan.

Comments: Following receipt and review of the evidence, the Office of the PDUSH will confer with OHR and OGC to determine the appropriate administrative action.

Target Completion Date: 90 days from the publication of the OIG Report. Following receipt and review of the evidence, an appropriate administrative action will be initiated.

Recommendation 3. We recommend that the PDUSH confer with OHR and OGC to determine the appropriate administrative action to take, if any, against the VHA Lead Contracting Specialist.

Comments: Following receipt and review of the evidence, the Office of the PDUSH will confer with OHR and OGC to determine the appropriate administrative action.

Target Completion Date: 90 days from the publication of the OIG Report. Following receipt and review of the evidence, an appropriate administrative action will be initiated.

OIG Contact and Staff Acknowledgments

OIG Contact	For more information about this report, please contact the Office of Inspector General at (202) 461-4720.
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Acknowledgments	Charles Millard Matthew Baker William Tully Domingo Alvarez Leanne Shelly Robert Warren Michael Smith
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