

Department of Veterans Affairs

Memorandum

Date: January 24, 2013

From: Assistant Inspector General for Investigations (51)

Subj: Administrative Investigations – Federal and VA Acquisition Regulations Violation, VA Office of Information and Technology (OI&T), Veterans Integrated Service Network 5 (2011-02460-IQ-0112)

To: Chief Information Officer, VA OI&T Region 4

1. The VA Office of Inspector General Administrative Investigations Division investigated an allegation that (b) (7)(C) (b) (7)(C) improperly exercised Contracting Officer Representative (COR) duties without a contracting officer delegation letter and without completing the required COR training. To assess this allegation, we interviewed (b) (7)(C) and reviewed email records, (b) (7)(C)'s COR training certificate, and delegation letters, as well as relevant Federal regulations and VA policies. We investigated and did not substantiate other allegations, and they will not be discussed in this memorandum.

2. We found that, from early to mid-2009 until late May 2010, (b) (7)(C) exercised COR duties without a contracting officer delegation of authority letter. We also found that (b) (7)(C) did not complete the required COR training within 6 months after assuming COR duties, as required. We suggest that you ensure that other employees who are appointed as CORs receive delegation letters upon appointment and complete the required COR training within 6 months of their appointment. We also suggest that you confer with the contracting officer to determine whether any actions taken or obligations made by (b) (7)(C) as a COR during this period must be ratified by the contracting officer. We are providing this memorandum to you for your information, official use, and whatever action you deem necessary. **No response is necessary.**

3. Federal Acquisition Regulations (FAR) define a contracting officer's representative (COR), to include a contracting officer's technical representative (COTR), as an individual designated and authorized in writing by the contracting officer to perform specific technical or administrative functions. 48 CFR § 2.101. VA Acquisition Regulations (VAAR) state that, except in certain limited circumstances, the COTR's designation must be in writing and must define the scope and limitation of the COTR's authority. VAAR 801.603-70 and 852.270-1.

4. An Office of Management and Budget (OMB) Memorandum for Chief Acquisition Officers, titled *Federal Acquisition Certification for Contracting Officer Technical Representatives* (FAC-COTR), requires that all COTRs appointed after the effective date, November 26, 2007, to be certified no later than 6 months from the date of their appointment. (The term "COTR" was later changed to "COR" to align with the FAR.) The Chief Acquisition Officer (CAO) of a Federal agency may waive, for a period not to

exceed 12 months all or part of the certification requirements in writing, if granting the waiver is in the best interest of the agency. This authority shall be used only when necessary, and the written justification shall include reasons for and conditions of the waiver. It further states that to be certified CORs must have a minimum of 40 hours of training and must maintain the currency of their skills through continuous learning. VA Office of Acquisition and Logistics Information Letter IL 049-08-02, "Contracting Officer Technical Representatives Training Policy," dated April 10, 2008, states that the training requirements contained in the above OMB Memorandum were mandatory for all CORs within VA.

5. (b) (7)(C) told us that as (b) (7)(C) she was responsible for developing the information technology infrastructure for the Network's Data Warehouse project and that she was the COR for the three Data Warehouse contracts. In a December 24, 2008, email, (b) (7)(C) asked the contracting officers, who are no longer with VA, to transfer the Data Warehouse contract COR responsibilities to her.
6. (b) (7)(C) told us that she took over COR duties for the three Data Warehouse contracts in mid-year 2009, but she did not take COR training until April 2010. She said that no contracting officer issued her a delegation of authority letter when she became the COTR and that it was not until she took COR training in April 2010 that she learned that she needed to have the letter. (b) (7)(C) told us that after she finished COR training, she asked for a delegation of authority letter, and contract records reflected that (b) (7)(C) issued her one on May 27, 2010.
7. (b) (7)(C) told us that between mid-2009 and May 2010, she exercised COR duties without a delegation letter or the required training and that she did not have a waiver to act as a COR during that period of time. (b) (7)(C) told us that (b) (7)(C) may have performed some COR duties without being officially delegated; however, she said that she did not see a problem with it. (b) (7)(C) provided us a certificate of training showing that she completed a 40-hour COR training class in April 2010. Contract records reflected that the contracting officer signed three delegations of authority letters on May 27, 2010, designating (b) (7)(C) as the COR for one and two other VA employees as CORs on the others.
8. We concluded that (b) (7)(C) exercised COR duties without a contracting officer's delegation of authority from early to mid-2009 until late May 2010. We also found that (b) (7)(C) did not complete the required COR training within 6 months after assuming COR duties, as required. We suggest that you ensure that other employees who are appointed as CORs receive delegation letters upon appointment and complete the required COR training within 6 months of their appointment. We also suggest that you confer with the contracting officer to determine whether any actions taken or obligations made by (b) (7)(C) as a COR during this period must be ratified by the contracting officer. We are providing this memorandum to you for your information, official use, and whatever action you deem appropriate.

9. We are providing this memorandum to you for your information and official use and whatever action you deem appropriate. It is subject to the provisions of the Privacy Act of 1974 (5 USC § 552a). You may discuss the contents of this memorandum with those named within it, within the bounds of the Privacy Act; however it may not be released to them. If you have any questions, please contact (b) (7)(C)

(b) (7)(C)

(b) (7)(C)

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

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