



Memorandum from the Office of the Inspector General

March 31, 2020

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CONTRACT MISCONDUCT - MISCELLANEOUS
OIG FILE NO. 18-0206

This investigation was initiated after the Office of the Inspector General (OIG) received an allegation that former Tennessee Valley Authority (TVA) employee, ██████████, may have a conflict of interest by working at TVA as a managed task contractor through ██████████. ██████████ also has contracts with TVA through his own company, ██████████, and is heavily involved with the business that TVA has with other engineering contractors who perform the same type of work that ██████████ performs. This allegation raises concerns that ██████████ could be influencing TVA's decisions to forego contracts with other engineering firms so the work will be directed to his company.

During the course of our investigation we reviewed federal conflict of interest statutes, to include Title 18, United States Code § 207 (18 USC §207) which restricts the activities of former federal government employees. More specifically, 18 USC §207 prohibits a former federal employee from "personally and substantially" participating in the same "particular matter" the employee worked on as a government employee. This statute also provides additional restrictions for former senior government employees.

We also reviewed contracts awarded to ██████████ and found all contracts contain an Organization Conflict of Interest section which states in part, "An organizational conflict of interest arises when Contractor is unable or potentially unable to render impartial advice or assistance to TVA, or the Contractor's objectivity in performing work under a TVA contract is or might be otherwise impaired, or the Contractor has an unfair competitive advantage.

Our investigation determined that while ██████████ is listed in PLUS as being employed through ██████████, he has not worked with that company since 2015. ██████████ entered into a consultant agreement with ██████████ in September 2015, and from December 2015 through December 2018, ██████████ was under contract with TVA through contracts with both ██████████ and ██████████ for the same work. ██████████ billed TVA for work performed by ██████████ on one occasion for the period of September 13, 2015 through September 16, 2015. All other billing for ██████████ was under one of his contracts with TVA through his company, ██████████.

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Our investigation did not uncover evidence supporting the allegation that [REDACTED] is directing work to his company. However, it was found that [REDACTED] is involved in identifying vendors, evaluating and awarding engineering contracts, and has inside knowledge of competitor rates and proposals. This could provide [REDACTED] with an unfair competitive advantage which would be in violation of the Organizational Conflict of Interest terms of the contract. In addition, there is nothing preventing [REDACTED] from bidding on engineering contracts now or in the future. Further, [REDACTED], as well as other contractors acting in contract manager roles and/or involved with contracting decisions, are not required to file financial disclosures which may reveal a conflict of interest.

Our investigation revealed the provisions of 18 USC §207 do not apply in this case. Our investigation found nothing to suggest [REDACTED] worked personally and substantially on a particular matter both as a TVA employee and later as a contract employee. Because [REDACTED] was not a senior government employee while employed at TVA, blanket prohibitions on post-employment placed on senior employees do not apply.

Based on our investigation we recommend TVA review [REDACTED] duties and responsibilities and ensure compliance with the Organizational Conflict of Interest terms of the contract. In addition, we recommend contractors acting in contract manager roles and/or involved with contracting decisions be required to disclose any actual or potential conflict of interest, similar to OGE Form 450, "Confidential Financial Disclosure Report". Finally, [REDACTED] should not review or have access to information that could provide him with an unfair competitive advantage.

We would appreciate being informed within 30 days of your determination of any action deemed appropriate as a result of this memorandum. In addition, if you decide to take documented action in this matter, we would appreciate your sending a copy of the relevant information to this office for our file.

This memorandum is designated "TVA Restricted" in accordance with TVA-SPP-12.002, TVA Information Management Policy. Accordingly, it should not be disclosed further without the prior approval of the Inspector General or his designee. In addition, no redacted version of this report should be distributed without notification to the Inspector General of the redactions that have been made.



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