

## POST FOR OVERSIGHT.GOV

### **2018-0022-INVI-P - Violation of Government Ethics (Abuse of Authority and Preferential Treatment) and Use of Selective Placement Factors Unique to One Individual for Hiring and Promotion**

The Architect of the Capitol (AOC) Office of Inspector General (OIG) initiated an investigation in August 2017 based on information received from an AOC mid-level supervisor (W1) and a confidential source (W2) that another mid-level supervisor (SUBJECT) was shown favoritism and benefitted from having their current and prior positions created specifically for them by their former managers (**substantiated**). W1 also alleged SUBJECT was having a romantic relationship with their former managers and benefited from those relationships (**not substantiated**). W2 claimed that AOC leaders circumvented the hiring and promotion eligibility required of others at the AOC for SUBJECT, and SUBJECT had received a disproportionate number of cash awards and bonuses compared to others in the jurisdiction (**substantiated**). Both complainants alleged SUBJECT had been a GS-13/step 8 but was now being paid as a GS-14/5 and treated as a supervisor while placed in an Administratively Determined (AD-00) pay grade. They claimed this was intentionally done in circumvention of the hiring and promotion process since SUBJECT did not qualify for a promotion to GS-14 due to an AOC criterion that GS-14s have an undergraduate degree (**substantiated**).

The investigation determined that, based upon the preponderance of evidence and the timeline of events, SUBJECT was pre-selected for the position, and the job announcement was written purposefully with SUBJECT in mind using selective placement factors unique to their resume. The job opportunities announcement (JOA) and certification of candidates were mere formalities in the circumvention of the hiring and promotion process. The investigation determined that the certification of eligible applicants to this branch-level position contained two additional candidates' names in addition to SUBJECT and both candidates held degrees and similar qualifications to SUBJECT; neither candidate was interviewed. Further investigation determined that one senior AOC manager, two former AOC executive leaders, and a senior manager within HCMD discussed using hiring flexibilities to allow for the selection of SUBJECT for the branch manager position (although the person lacked the required educational qualifications for promotion) 36 days before the JOA was posted. Additionally, HCMD recommended three increases in pay via Quality Step Increases (QSIs) before advertising the position such that SUBJECT would be paid at the GS-14/5 pay level once selected and placed in an AD position.

The investigation also substantiated that a current AOC executive leader was aware of the lack of educational requirements for this hire and required HCMD and AOC managers to add the stipulation that SUBJECT would be required to complete their undergraduate degree in order to be promoted to GS-14. Until full promotion, SUBJECT would be placed in an AD-00 position with the pay and responsibilities of a GS-14. The investigation revealed SUBJECT made no attempt to complete their degree after receiving the reassignment to AD-00. The investigation also substantiated that in 2017 the SUBJECT'S senior AOC manager and the current senior AOC executive authorized the SUBJECT two individual cash awards (one for \$3,500 and one for \$3,350) in which the type of award was not listed in the remarks section of the Notification of Personnel Action standard form (SF)-50. According to the policy memorandum, jurisdiction heads can approve Special Contribution Awards up to \$2,500 per award. Other awards in higher amounts required approval from the Architect, which was also not listed in the SF-50 and is a

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violation of AOC policy. As a result of SUBJECT's "reassignment" from GS-13 to AD-00 in June 2013, SUBJECT had accrued \$45,959 in additional salary without promotion and \$27,469 in cash awards, totaling \$73,428.

Although there was no expiration date for the reassignment, due diligence to ensure the educational requirement was being fulfilled during the employee's one year probationary period was ignored by their supervisor. This is evidenced by the fact that HCMD approved of SUBJECT's continued employment at the AD-00, GS-14 equivalent pay grade after one year vice full promotion to GS-14.

Title 2 U.S.C, Human Resources Program, Section 1831, (c) (2) (A) requires the AOC to establish a personnel management system which ensures applicants for employment and employees of the AOC are appointed, promoted, assigned on the basis of merit and fitness after fair and equitable considerations of all applicants and employed through open competition. One senior AOC manager, two former AOC executive leaders, and a senior manager within HCMD abused their hiring authority and circumvented the hiring process specifically for SUBJECT's benefit and did not make this hiring practice and reassignment category available to other qualified applicants. Thirteen months following SUBJECT's reassignment to AD-00 at GS-14/5 equivalent pay from GS-13, a policy requiring an undergraduate degree was made official in policy making it impossible for others in that situation to achieve the pay, and level of success SUBJECT was given.

**Final Management Action:** The two AOC executive leaders no longer work at the AOC and were the primary decision makers. The senior AOC manager was carrying out the directives from their supervisors (two former AOC executive leaders). The senior AOC manager from within HCMD was acting in an advisory role and was not a decision maker in the matter. No administrative actions were taken on the two senior AOC managers, however employees were verbally advised to include risk considerations in future recommendations provided to decision makers.

The previously substantiated finding that the current senior AOC executive and senior AOC manager violated AOC Policy Memorandum 451-1, AOC's Award Program will now be changed to "not substantiated" as additional documents were provided after the conclusion of the investigation that determined the award policy was followed.

Note: In accordance with (IAW) AOC Order 752-1, Discipline, dated March 31, 2014, regarding:

- Employees who participate in unethical conduct by violating ethics regulations, statutes applicable to federal employees and/or AOC policies will receive for the: First Offense = Reprimand – Removal; Second Offense = Suspension – Removal; and Subsequent Offenses = Removal as a typical penalty for the infraction.
- Regarding prohibited personnel practice in any aspect of employment or application for employment will receive for the: First Offense = Suspension – Removal; Second Offense = Suspension – Removal; and Subsequent Offenses = Removal as a typical penalty for the infraction.

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- Misconduct, whether or not in violation of a criminal statute, which impairs job performance or trustworthiness of the employee or otherwise affects the ability of AOC to perform its mission will receive for the: First Offense = Reprimand – Removal; Second Offense = Removal; as a typical penalty for the infraction.
- Regarding misrepresentation or providing false information on an application for employment or other personal history record by omission or by making false entry will receive for the: First Offense = Suspension – Removal; Second Offense = Suspension – Removal; and Subsequent Offenses = Removal as a typical penalty for the infraction.
- Failure, through negligence, to account properly for government funds will receive for the: First Offense = Reprimand; Second Offense = Suspension; and Subsequent Offenses = Removal as a typical penalty for the infraction.