



US DEPARTMENT OF VETERANS AFFAIRS **OFFICE OF INSPECTOR GENERAL**

Office of Special Reviews

DENVER LOGISTICS CENTER

Logistics Managers Improperly Allowed Employees to Auction Off Government Property

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Executive Summary

In March 2023, while reviewing documents in connection with an audit at the Denver Logistics Center (DLC), the VA Office of Inspector General (OIG) found that an employee association was auctioning off items received by VA as free offers with supply purchases. The money raised from these auctions—from selling items such as Yeti coolers and a Corkcicle insulated tumbler set—was used to fund holiday parties and other employee engagement activities.¹ Because this information raised the question of possible misconduct by VA senior leaders responsible for maintaining ethical procurement practices, the OIG’s Office of Special Reviews (OSR) initiated this administrative investigation in May 2023. OSR’s review resulted in two findings and six recommendations, which are summarized below.

The DLC, based in Golden, Colorado, provides supply chain management for VA’s National Hearing Aid and Home Telehealth Programs. Through these programs, veterans can order hearing aid batteries and accessories—as well as prosthetics socks and orthotics, among other items—and have them shipped directly to their homes. As of June 2023, the DLC had approximately \$705 million in national sales for fiscal year 2023.

In addition to providing these items to veterans, the DLC spends about \$286,000 per year on office and warehouse supplies. From February 2021 through May 2023, DLC purchasing agents claimed free items in connection with 32 purchases. The free items had a total value of \$7,442, based on the vendor’s advertised retail prices at the time of the purchases. Of the 32 free items claimed, 20 were Yeti coolers. The OIG found that the free merchandise was given to an employee recreation group, which then sold the merchandise through silent auctions. DLC staff placed bids in these auctions, with the winning bidder taking the item for personal use.

Under federal law, the free merchandise was government property because it was part of a purchase made by VA.² Federal ethics regulations state that, “employee[s] ha[ve] a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes.”³

VA records show that the DLC director, associate director, finance manager, analyst, and purchasing agents had all taken VA ethics training annually—and that the DLC director, finance manager, and purchasing agents had taken VA government purchase card training. These trainings covered how to handle government property, the dangers associated with receiving free incentives as a government employee, and standards for using government purchase cards;

¹ Yeti, Corkcicle, and other brands for the items auctioned were provided by the DLC vendor and the DLC had no direct interactions with the companies for these incentives. The brand names are included in this report merely to demonstrate the value of these popular items.

² 5 C.F.R. § 2635.204 (2017). See also, VA Office of General Counsel’s ethics group opinion detailed later in this report.

³ 5 C.F.R. § 2635.704 (2017).

however, no one at the DLC, across a range of years in which these auctions were held, appeared to have questioned the practice.

The OIG also found that the DLC's purchase of supplies and equipment from the vendor constituted waste. Contrary to VA government purchase card policy, which requires every effort be made to locate items on a government-wide or agency contract, the DLC purchased items from the vendor without first considering using a preestablished government contract.⁴ The OIG determined that purchases were not steered to the vendor for the sole purpose of obtaining incentives, however, the incentives were a motivating factor in the decision to use the vendor.

In June 2023, after being notified of issues identified during the early stages of this investigation, the DLC director halted the silent auctions and the acceptance of free merchandise from the vendor. The OIG issued six recommendations to address the improper practices at the DLC.

VA Comments and OIG Response

The principal executive director for VA's Office of Acquisition, Logistics, and Construction and Chief Acquisition Officer concurred with all findings and recommendations. Appendix C provides the full text of the principal executive director's responses. For all six recommendations, the OIG considers VA's planned corrective actions responsive. The OIG notes that in response to recommendations 5 and 6, VA mischaracterized the OIG's draft report. These errors do not materially affect, however, VA's implementation of the recommendations or other related actions and are corrected here simply to ensure precision and accuracy regarding the report statements.

In response to recommendation 5, VA stated, "As noted by the OIG, all proceeds went directly into the Denver Logistics Center Recreation Group engagement activities on an ongoing basis." However, the OIG's draft report did not state that "all proceeds" went into the recreation group's engagement activities. The OIG stated, "The OIG confirmed that the recreation group hosted employee engagement activities and expended funds to support these activities during the period under review, but the scope of this investigation did not include a full audit of the group's expenses."

In response to recommendation 6, VA stated, "OIG has also noted the accuracy of records and the fact that all items were accounted for in the paperwork of the Denver Logistics Center Recreation Group." However, the OIG stated, "The recreation group's auction records did not account for 4 of the 32 free items—three Yeti coolers and a men's grooming kit. The finance manager, analyst, and purchasing agents told the OIG that they did not know where the four missing items were."

⁴ VA Financial Policy, "Government Purchase Card for Micro-Purchases," in vol. 16, *Charge Card Programs* (May 2022), chap. 1B.

The VA response also included general comments that add context relating to the full scope of the DLC's activities and that suggest the COVID-19 pandemic altered employee interest in maintaining the required executive board to govern the DLC recreation group. Neither comment materially alters the findings or recommendations in this report; therefore, the OIG has added footnotes in the text that refer the reader to the VA comments for this additional material.

The OIG will monitor completion of planned actions and will close the recommendations when VA provides sufficient evidence demonstrating resolution of the issues identified.

A handwritten signature in black ink that reads "R. James Mitchell". The signature is written in a cursive, flowing style.

R. JAMES MITCHELL
Assistant Inspector General
for Special Reviews

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Abbreviations

DLC	Denver Logistics Center (previously Denver Acquisitions Logistics Center)
GAO	Government Accountability Office
OGC	Office of General Counsel
OIG	Office of Inspector General
OSR	Office of Special Reviews
VHA	Veterans Health Administration



Introduction

In March 2023, while reviewing documents in connection with an audit at the Denver Logistics Center (DLC), the VA Office of Inspector General (OIG) found that an employee association was auctioning off items—predominantly Yeti coolers—that came as free offers with the DLC’s purchases of office and warehouse supplies.⁵ Because this information raised the question of possible misconduct by VA senior leaders responsible for maintaining ethical procurement practices, the OIG’s Office of Special Reviews (OSR) initiated this administrative investigation in May 2023.

An OSR team examined

- the DLC’s acceptance of free merchandise from the vendor;
- the employee association’s silent auctions, including how the proceeds from the auctions were used;
- the decision-making and awareness among senior leaders who authorized the acceptance of free merchandise and the subsequent auctions;
- whether purchases tied to the free merchandise were wasteful; and
- whether the purchases were improperly steered to a specific vendor in order to obtain free merchandise.⁶

The team interviewed numerous witnesses at the DLC; reviewed over 4,000 documents, including emails, purchase orders, auction records, bank records, and purchase card records; and considered applicable laws, regulations, and VA policy.⁷

⁵ For more on the OIG’s oversight of the Denver Logistics Center’s management of VA-owned goods and inventory controls, see VA OIG, [Significant Deficiencies Found in VA’s Denver Logistics Center Inventory Management Operations and Systems](#), Report No. 22-02739-210, December 13, 2023. Note also that Yeti and other brands for the items auctioned were provided by the DLC vendor and the DLC had no direct interactions with Yeti or the other named companies for these incentives. The brand names are included in this report merely to demonstrate the value of these items.

⁶ To avoid the imputation of wrongdoing on the part of the vendor providing office and warehouse supplies, the OIG is not naming the vendor.

⁷ This investigation focused on the acceptance of free merchandise and subsequent auctions from January 2021 through May 2023, and on the expenditures from February 2020 through May 2023 by the employee recreation group that ran the auctions.

The Denver Logistics Center

The DLC, based in Golden, Colorado, provides supply chain management for VA’s National Hearing Aid and Home Telehealth Programs.⁸ Through these programs, veterans can order hearing aid batteries and accessories—as well as prosthetics socks and orthotics, among other items—and have them shipped directly to their homes. As of June 2023, the DLC had approximately \$705 million in national sales for fiscal year 2023. In addition to providing these items to veterans, the DLC spends about \$286,000 per year on office and warehouse supplies needed to run its own operation.⁹

The DALC Recreation Group

VA policy provides for the formation of employee organizations and “recognizes that voluntary, cooperative activities by employees to meet their mutual needs or interests, to serve their common welfare, or to make their relationships and their employment more pleasant can contribute substantially to a favorable work environment.”¹⁰ VA policy further notes that, “employee associations and their interests are essentially private matters, and their activities are private.”¹¹

The DALC Recreation Group was named at a time when the DLC was known as the Denver Acquisition and Logistics Center (DALC) but refers to the same VA organization. The DALC Recreation Group is an employee organization whose membership is open to all VA employees at the DLC. Incorporated as a nonprofit organization in the State of Colorado in August 2007, the recreation group’s purpose is to promote “good employee morale and welfare” among DLC employees through participation in social activities.¹² The group’s activities have included hosting summer picnics and holiday parties for DLC employees, funded through the recreation group’s fundraising activities, which have included selling breakfast burritos, hot lunches, and

⁸ For a more robust description of the DLC, see VA’s comments in appendix C. The DLC is one of five service elements of the National Acquisition Center in the Office of Procurement, Acquisition and Logistics, all of which are organizationally aligned under the VA Office of Acquisitions, Logistics, and Construction. Under the Federal Supply Schedule and National Contract Programs, the National Acquisition Center awards high-volume multiple award schedule national contracts and blanket purchase agreements for the acquisition and direct delivery of pharmaceuticals and medical equipment.

⁹ The average of \$286,000 per year is based on DLC government purchase card records from January 2021 through May 2023.

¹⁰ VA Handbook 5025/1, *Legal*, in pt. X, “Employee Organizations and Activities,” June 3, 2004, amended March 25, 2022. Part X of this handbook was in place during the creation of the DALC Recreation Group in August 2007. It was rescinded and replaced by VA Handbook 5025, *Legal*, in pt. VIII, “Employee Organizations and Activities,” March 25, 2022. Unless otherwise specified, Part VIII of the 2022 handbook contains the same or similar language regarding employee organizations and activities as the rescinded Part X of the 2004 handbook.

¹¹ VA Handbook 5025.

¹² DALC Recreation Group Articles of Incorporation for a Nonprofit Organization (August 2007), and By-laws of the Department of Veterans Affairs DALC Recreation Group (as amended February 8, 2012.)

various snacks and drinks to DLC staff, as well as holding silent auctions for which DLC staff placed bids on various items.

According to its bylaws, the recreation group is to be governed by an executive board. Each year in January, the members of the recreation group (DLC employees) are to elect a new president, secretary, and treasurer, and each of six departments within the DLC appoints a representative. The three elected officers and the representatives make up the executive board. However, since 2020, a new executive board has not been installed due to lack of employee interest.¹³ In February 2020, in order to keep the recreation group active, its 2019 officers transferred control of the group's bank account to the DLC's finance manager (the finance manager) and a management and program analyst (the analyst) from the DLC director's office.¹⁴ The group's bylaws do not allow such a move, and VA policy requires employee organizations to be "democratically organized and operated" and to "provide full opportunity for all members to elect those who conduct its affairs and that elections are held at sufficiently frequent intervals to permit membership control."¹⁵ While this matter was not central to the investigation, the OIG found that the recreation group should not continue to violate its bylaws and VA policy. See recommendation 1, calling for the DALC Recreation Group's operations to be made compliant with VA policy or to dissolve the group if there is lack of employee interest in its continuation.

¹³ VA noted that the "required social distancing practices during the pandemic were external contributing factors that had a significant impact on employee interest and continuity in maintaining an executive board." See appendix C.

¹⁴ The DLC's finance manager, while stationed at the DLC, was an employee of the Office of Revolving Funds' Supply Fund Fiscal Operations within the Office of Management.

¹⁵ DALC Recreation Group Bylaws; VA Handbook 5025.

Findings and Analysis

Finding 1: DLC Managers Improperly Permitted Staff to Sell VA Property at Auctions to Benefit Employee Recreational Activities

Since at least 2020, DLC purchasing agents had claimed free merchandise from the vendor when purchasing office and warehouse supplies with DLC managers' knowledge.¹⁶ The free merchandise was given to the recreation group, and the recreation group then sold the merchandise through silent auctions to DLC staff, with the winning bidder taking each item for personal use. The money raised from these auctions was used to fund employee engagement activities such as holiday parties. Under federal law, the free merchandise was government property because it was part of a purchase made by VA.¹⁷ Federal ethics regulations state that, "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."¹⁸ In June 2023, after being notified of issues identified during the early stages of this investigation, the DLC director halted the silent auctions and the practice of accepting free merchandise from the vendor.

The DLC Participated in the Vendor's Free Offer Incentive Program

The vendor had an incentive program for which the customer was invited to choose from various categories of free merchandise based on the dollar value of a given order. DLC purchasing agents, with the knowledge and approval of DLC managers, regularly requested the free merchandise when placing orders for office and warehouse supplies. The inclusion of the free merchandise was not automatic. When placing an eligible order, the purchasing agent had to select specific, free items. Figure 1 shows an example of a group of items that the DLC purchasing agent could select from when making a purchase of \$5,000 or more.

¹⁶ Based on witness testimony, the OIG determined that the employee auctions of the free merchandise had taken place since at least 2020 and had occurred multiple times for several years before they were terminated in June 2023. The evidence was sufficient to establish the findings detailed in this report without expanding the review period. The OIG's recommendations, however, include VA's need to ascertain the full magnitude of loss beyond the period covered by this report.

¹⁷ 5 C.F.R. § 2635.204. See also, VA Office of General Counsel's ethics group opinion detailed later in this report.

¹⁸ 5 C.F.R. § 2635.704.

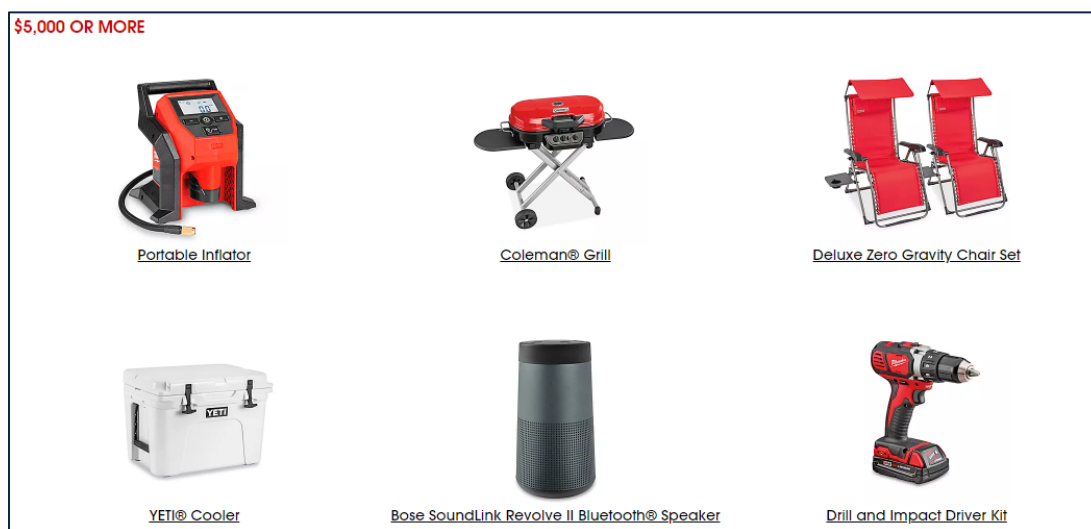


Figure 1. Vendor's free offers for a purchase of \$5,000 or more.

Source: Vendor's "Free Offers" website (Last visited on June 14, 2023).

From February 2021 to May 2023, DLC purchasing agents claimed free items in connection with 32 purchases from the vendor. During that same period, on average, about \$64,620 (23 percent) of the DLC's total annual expenditures for office and warehouse supplies was spent with this particular vendor. Based on the vendor's advertised retail prices at the time of these purchases, the value of the 32 free items totaled \$7,442: 20 were Yeti coolers and the other auctioned items included a Corkcicle insulated tumbler set and a SWISSGEAR backpack.¹⁹

The DLC Gave Merchandise to the Recreation Group to Auction Off

DLC staff gave the free merchandise to the recreation group to sell in order to raise money for the group's activities. A DLC purchasing agent told the OIG that whenever free merchandise was received from the vendor, the items were not placed into inventory or otherwise accounted for as VA property but were instead brought directly to the finance manager's office. The finance manager would periodically send an email message to all DLC employees announcing a silent auction. Figure 2 shows an email message sent by the finance manager to all DLC staff announcing an auction for two Yeti coolers.

¹⁹ In the course of this investigation, records were found that revealed purchasing agents from VA Administrations and staff offices in 169 facilities nationwide (including the DLC) from December 2020 through June 2023 had claimed free merchandise in connection with 1,935 purchases from this same vendor. The information has been shared with VA leaders for possible follow-up action. See Appendix B for more information.

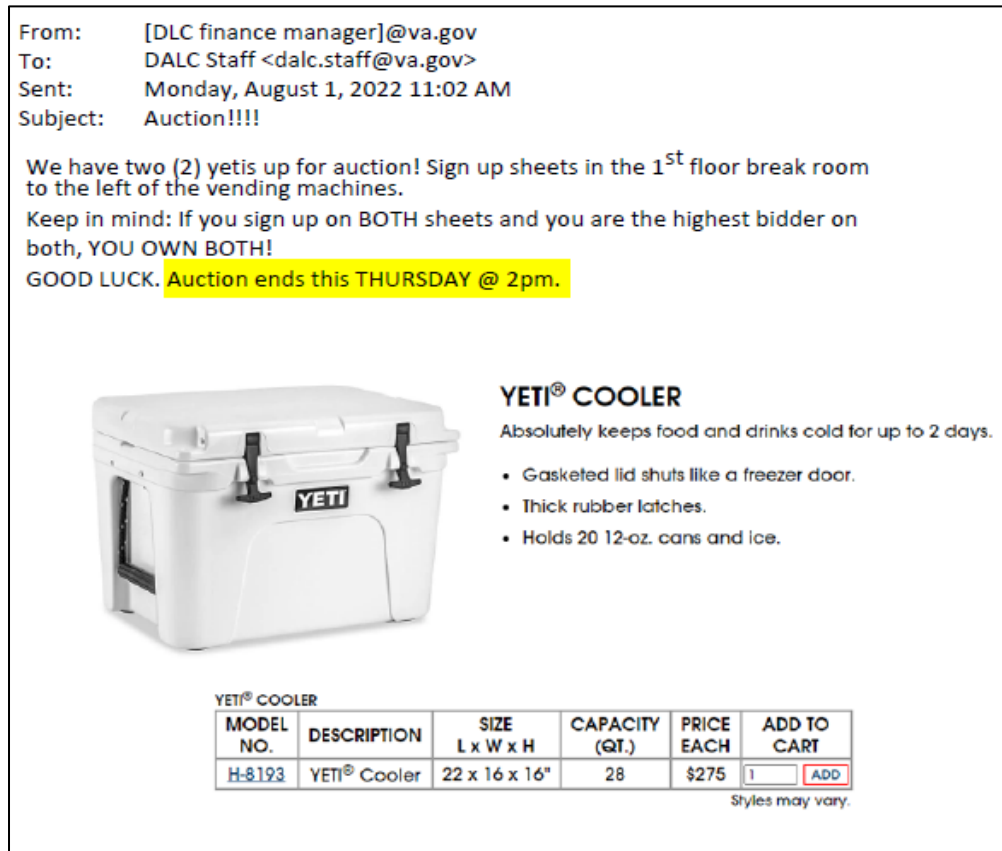


Figure 2. Email dated August 1, 2022, from the finance manager to all DLC employees announcing a silent auction of two Yeti coolers. The OIG redacted the finance manager's name.

Source: VA email.

At the end of an auction, the analyst or the finance manager would send an email message to all DLC employees announcing the winner. The analyst testified that after an auction concluded, the winning employee would bring payment in the form of cash or check to her in the director's office or to the finance manager. Figure 3 shows an email message from the analyst to all DLC employees, announcing the winning bidders of the two Yeti coolers, including instructions to "Please make your Cash payment to me, upstairs, in the Office of the Director by the end of the week." Reference to the office of the director, and the involvement of staff from the director's office may give the appearance that these auctions are officially sanctioned by VA.

From: [DLC Analyst]@va.gov
Sent: Mon 8/8/2022 5:44 PM
To: DALC.Staff@va.gov
Cc: [DLC finance manager]@va.gov
Subject: RE: Auction!!!! And the Winners Are.....

The winners for this auction are:

- [Name of employee] @ \$175.00
- [Name of employee] @ \$200.00

Please make your Cash payment to me, upstairs, in the Office of the Director by the end of the week.

Respectfully,

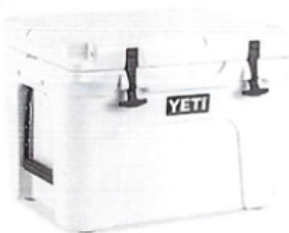
[Analyst]

Figure 3. Example of email announcing auction winners from August 8, 2022. The OIG redacted employees' names.
Source: VA email.

The finance manager told the OIG that after the money was collected, auction winners would sign the auction bid sheets as a form of receipt for the transaction. Both the finance manager and the analyst testified that the money and signed auction bid sheets were maintained in a cash box secured in the DLC director's office until the money would be deposited into the recreation group's bank account.²⁰ Figure 4 shows a bid sheet used in the auction of the two Yeti coolers.

²⁰ As of June 2023, the balance of funds in the DALC Recreation Group's bank account was \$2,389.

#1



YETI® COOLER
Absolutely keeps food and drinks cold for up to 2 days.

- Gasketed lid shuts like a freezer door.
- Thick rubber latches.
- Holds 20 12-oz. cans and ice.

YETI® COOLER					
MODEL NO.	DESCRIPTION	SIZE L x W x H	CAPACITY (QT.)	PRICE EACH	ADD TO CART
H-8193	YETI® Cooler	22 x 16 x 16"	28	\$275	1 <input type="button" value="ADD"/>

Styles may vary.

BID

AMOUNT	NAME	DATE
\$50	[REDACTED]	8/1/22 (email to [REDACTED])
\$51	[REDACTED]	8/4/22
\$60	[REDACTED]	8/4/22
\$75	[REDACTED]	8-5-22
\$79	[REDACTED]	8/8/2022
\$83	[REDACTED]	8-8-22
\$90	[REDACTED]	7-7-22
\$100	[REDACTED]	8-8-22
\$110	[REDACTED]	9/8/22
\$120	[REDACTED]	8/8/22
\$125	[REDACTED]	8/8/22
\$126	[REDACTED]	8/8/22
\$150	[REDACTED]	8/2/22
\$175	[REDACTED]	8/5/22

pd

Figure 4. Bid sheet for auction that started August 1, 2022. The OIG redacted the bidders' names.
Source: VA email attachment.

Between July 2021 and May 2023, the finance manager and the analyst, on behalf of the recreation group, held 15 silent auctions, selling 28 of the 32 free items of merchandise obtained from the vendor and generating at least \$3,353 in revenue. The recreation group's auction records did not account for 4 of the 32 free items—three Yeti coolers and a men's grooming kit. The finance manager, analyst, and purchasing agents told the OIG that they did not know where the four missing items were.

Proceeds from the Auctions Went to Employee Engagement Activities

The finance manager and analyst told the OIG that they deposited the proceeds from the auctions into the recreation group's bank account. They further stated that the funds were used to support employee engagement events such as summer picnics and holiday parties. The OIG confirmed that the recreation group hosted employee engagement activities and expended funds to support these activities during the period under review, but the scope of this investigation did not include a full audit of the group's expenses.

Since taking over the recreation group's finances in February 2020, the finance manager and the analyst collectively made 54 expenditures at various stores and restaurants using the funds from the recreation group's bank account, purchasing items that appeared to be related to fundraising and employee engagement activities. For example, throughout 2020, there were 23 expenditures for breakfast burritos from a local Mexican restaurant. The finance manager and the analyst said that the recreation group purchased the breakfast burritos to resell to DLC staff to raise money for employee engagement purposes. There were also several expenditures to an online retailer in December 2020. Documentation for these expenditures indicated that the purchases were for door prizes given out at a holiday party held in December 2020.

The Vendor-Supplied Free Merchandise Was Government Property and Could Not Legally Be Given to the Recreation Group

After learning of this OIG investigation, the DLC's associate director sought legal advice from the VA's Office of General Counsel (OGC) ethics specialty team concerning the DLC's practice of auctioning the vendor-supplied free merchandise. The VA ethics specialty team advised,

Since the items were secured by the government expending funds to purchase official supplies, they are still part of the government purchase. Any item received as a result of purchasing goods for VA using appropriate funds becomes government property. An employee may not accept for personal use any benefit to which the Government is entitled as the result of an expenditure of Government funds, unless authorized by statute or regulation.

There is no evidence to support that anyone from the DLC had previously sought legal advice on these topics from OGC. However, the OIG determined that DLC managers and staff should have been aware that free merchandise received from the vendor was VA property. When asked what policies govern the DLC's operations, the DLC associate director told OIG interviewers that "we are a distribution center so we typically utilize 7002 handbook, materials handler handbook, logistics." The VA policy he cited governs many topics and has a section specific to "free, donated, or leased personal property," which states that "facilities are permitted to accept free or donated personal property only if there is no obligation on the part of the facility to purchase the

donor's products or services.”²¹ The same policy also prescribes the methods by which the free merchandise must be entered into VA’s inventory as government property, which should have further alerted the DLC staff that the property could not be given to the recreation group.

A provision of the VA policy from handbook 7002 states that “[f]ree or donated personal property given to a facility with the understanding (written or verbal) that the facility must purchase the donor's products is strictly prohibited.” It is unclear whether this provision would apply here to forbid DLC employees from requesting and accepting the items even if they were to do so on behalf of the government. As drafted, the provision describes a situation in which free property is given in exchange for a promise of a future purchase; whereas here the incentive item was offered when the DLC purchased a certain volume of goods from the vendor. For the purposes of this report, it is not necessary for the OIG to resolve whether this VA policy provision applies to the facts and circumstances related to DLC staff actions because VA does not dispute that, having been requested and received, the property belonged to the government and could not be given to the recreation group for personal use. The OIG’s second recommendation is for VA to clarify its policy as to whether this provision prohibits employees from requesting and receiving promotional items, as was done by DLC personnel.

Despite Training on Ethics and Procurement Requirements, DLC Managers and Staff Did Not Question the Propriety of the Auctions

VA training records show that the DLC director, associate director, finance manager, analyst, and purchasing agents had all taken VA ethics training annually. In addition, the DLC director, finance manager, and purchasing agents had taken VA online purchase card training. These trainings covered issues of how to handle government property, the dangers associated with receiving free incentives as a government employee, and standards for using government purchase cards.²² No one at the DLC, however, appears to have questioned the legitimacy of auctioning off the free merchandise over the multiple years the auctions were held.

The DLC director, associate director, and both purchasing agents told the OIG that they were aware that the free merchandise was being auctioned off by the recreation group. The DLC director said that the auctions had been taking place for several years prior to him becoming the director and that the former (now retired) DLC director had also allowed the auctions to take place. The current director believed that the former director had contacted the OGC to make sure that the auctions were not in violation of policies or procedures but he was unable to produce

²¹ VA Handbook 7002, *Logistics Management Procedures*, July 10, 2009, p. 25.

²² VA Online Training Module: Government Ethics – The Essentials; VA Online Training Module: VA Online Purchase Card Training.

documentation of any such inquiry.²³ The former director confirmed to the OIG that she permitted the recreation group to conduct the auctions and that she knew that they were selling the free merchandise obtained as a result of purchases made from a vendor. All verified that they never sought advice from the OGC about selling the free merchandise. Recommendation 3 addresses the need to reinforce relevant ethics and policy requirements, including distributing OGC’s guidance to staff.

Finding 2: Purchases Made Contrary to VA Policy Constituted Waste

The OIG determined that some of the DLC’s purchases of supplies and equipment from the vendor constituted waste. According to the Government Accountability Office’s (GAO’s) *Government Auditing Standards*,

Waste is the act of using or expending resources carelessly, extravagantly, or to no purpose. Importantly, waste can include activities that do not include abuse and does not necessarily involve a violation of law. *Rather, waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight.*²⁴ (emphasis added)

The standards further note that waste includes “making procurement or vendor selections that are *contrary to existing policies* or are unnecessarily extravagant or expensive.”²⁵ VA’s government purchase card policy requires purchasing agents to use every effort to locate the items on a government-wide or departmental contract prior to selecting a vendor. The testimony of individuals interviewed for this investigation shows that these purchases were made contrary to that policy.

A DLC purchasing agent told the OIG that whenever an order of this type (an open market order) was entered into the VA’s finance system, the order was coded as “item not available by required date” from another vendor.²⁶ However, the purchasing agent provided no documentation justifying the need—based on timing or otherwise—to purchase supplies from the vendor offering incentives. The OIG recognizes that there may have been a need or that the vendor price

²³ At the beginning of this investigation, the OGC ethics specialty team confirmed to the OIG that they had not received an ethics inquiry from anyone at the DLC regarding accepting the free merchandise from the vendor or the subsequent sale of the merchandise at auction.

²⁴ GAO, *Government Auditing Standards*, GAO-21-368G, April 2021, § 8.120, p.187. While the purchases met this definition of waste, VA did receive some value from them.

²⁵ GAO, *Government Auditing Standards*, GAO-21-368G, April 2021, § 8.121 (example b.) (emphasis added), p.187.

²⁶ VA’s government purchase card policy defines the term “Open Market” as “Items for sale which are not available for purchase from a government contract vehicle, including Federal Supply Schedules (FSS), Blanket Purchase Agreements (BPA), Contract Team Arrangement (CTA), Government Wide Acquisition Contract (GWAC), etc.” VA Financial Policy, “Government Purchase Card for Micro-Purchases,” in vol. 16, *Charge Card Program* (May 2022), chap. 1B, sec. 0103.

was the best available, but without any supporting documentation being identified, the OIG cannot validate the claims that the supply purchases were not available by the date that they were purportedly needed.

The vendor offering incentives did not have a contract with the General Services Administration or VA. VA's government purchase card policy states, as noted above, "To ensure that VA receives the best possible pricing for goods and services, prior to selecting a vendor, every effort should be made to locate the items on a Government-wide or Departmental contract. Open market orders are used as a last resort when a cardholder is unable to satisfy requirements for supplies and services using an existing government contract."²⁷

DLC managers did not question whether the purchasing agent had first considered ordering supplies from mandatory government sources before buying them from the vendor on the open market. The purchasing agent told the OIG that when he was first employed at the DLC, there was already a "tradition" of obtaining office and warehouse supplies from the vendor and that he continued that tradition in his role as a purchasing agent. He said that the vendor was preferred because of its reliability and fast shipping. The purchasing agent said that past office and warehouse supply orders he had placed with a different vendor—one that was listed on the Federal Supply Schedule—usually took two weeks or longer to be received.²⁸ In addition, the purchasing agent said he never conducted market research for the supplies he ordered from the vendor, and to his knowledge, none of the warehouse supervisors who made requests for supplies did so either. Because the purchasing agent could not provide supporting documentation evincing the unavailability of the items, the OIG cannot confirm whether the items were obtainable through the Federal Supply Schedule or another preexisting government contract. Moreover, because the items purchased are consumable products (those consumers use and discard) and need to be replenished in order to support warehouse operations, the DLC should be able to plan ahead to ensure that the necessary items are ordered in advance.²⁹

DLC Managers Should Have Questioned Whether Incentives Were Motivating Purchasing Agents' Decisions

The OIG did not find conclusive evidence that purchases were steered to the vendor for the sole purpose of obtaining incentives, however, the purchasing agents failed to articulate or document

²⁷ VA Financial Policy, "Government Purchase Card for Micro-Purchases," in vol. 16, *Charge Card Programs* (May 2022), chap. 1B.

²⁸ The Federal Supply Schedule "is a long-term governmentwide contract with commercial companies that provide access to millions of commercial products and services at fair and reasonable prices to the government." "About GSA Schedule" (web page), General Services Administration, accessed November 21, 2023, <https://www.gsa.gov/buy-through-us/purchasing-programs/multiple-award-schedule/about-gsa-schedule>.

²⁹ Consumable warehouse supplies purchased by the DLC from the vendor included 11 orders of rubber bands, five orders of polyurethane gloves, five orders of inventory labels, 11 orders of nitrile gloves, and 10 orders of stretch wrap.

their reasons for using a source outside of the Federal Supply Schedule for items bought from the vendor. This lack of documentation justifying the decision to purchase from a non-schedule source, coupled with the repeated nature of the purchases of goods that did not appear to require an emergency order, such as commonly used resealable plastic bags, over an extended period of time supports the inference that incentives were a motivating factor in the decision to use the vendor.

As illustrated by a chat thread depicted in figure 5, there were at least instances in which DLC managers knew that purchasing agents were considering the vendor's free offers when making purchases. The OIG found that the managers should have been aware that purchasing agent behavior may have been influenced by the incentives and should have ensured that the analysis supporting the decision to use a non-schedule source was appropriately conducted.

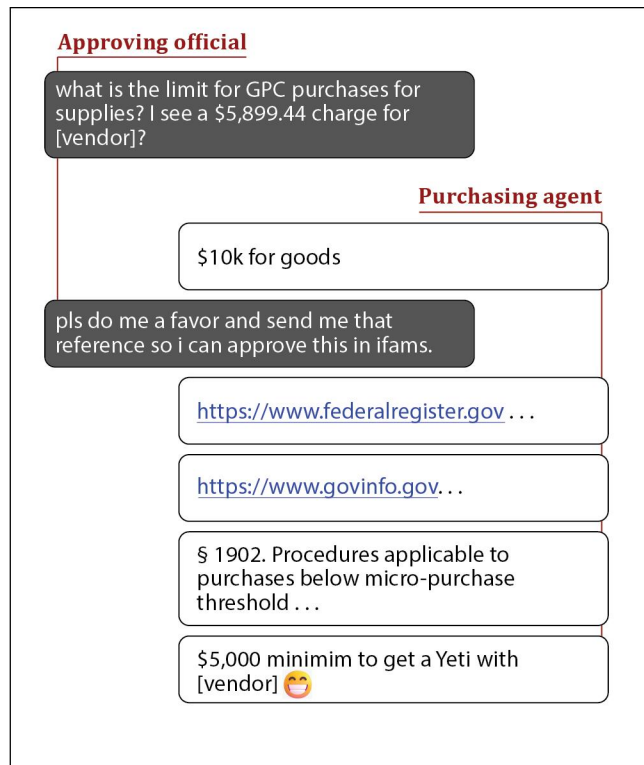


Figure 5. November 3, 2022, chat thread between approving official and subordinate purchasing agent.

Source: VA instant messaging records.

When asked if the purchasing agent intentionally made the purchase from the vendor with the intent of getting the free cooler, the approving official said, “That is not my understanding. No. We order supplies frequently through [the vendor], everything from consumable supplies to tape dispensers and things like that.” When asked if he had any concerns after receiving this text message from the purchasing agent, the approving official stated, “Concern, no, because that’s—

again, I think that's [the vendor's] marketing. I just assumed that was something that they—they appreciate the business. And if you have a minimum order, then they . . . reward you for it.”

The purchasing agent, after being shown these text messages between him and the manager, said, “What I was trying to explain—he was unfamiliar with the micro-purchase threshold, and so I wanted to specify what the micro-purchase threshold was. And he was also aware that the Yeti cooler was popular and that it was obtained through [the vendor], and I was specifying that this order qualified for one of the Yeti coolers.” When asked if he made this purchase from the vendor in order to get the cooler, the purchasing agent said, “Not at all. These were supplies that just accumulate and they are things that are requested and consumed regularly by the warehouse.” The purchase associated with this exchange included 24,000 resealable plastic bags, which were purchased on at least six other occasions from March 2021 to February 2023 on orders that also included free merchandise.³⁰ The plastic bags are readily available from sources on the Federal Supply Schedule as policy directs, and given the regularity with which they are purchased, VA should have been able to plan these purchases so that it could leverage savings from these sources. The OIG used pricing available as of November 30, 2023, to determine that if the same purchase were made on this date, VA would have paid \$4,944 if the purchase was made from the vendor, but it would have paid only \$4,607 using an approved source from the Federal Supply Schedule. The purchasing agent could not provide the OIG with any records documenting the justification for making this purchase from a more expensive vendor.

The purchasing agent acknowledged to the OIG that he did not check if the supplies being purchased were available on a preexisting government contract, but instead purchased directly from the vendor on the open market. This was contrary to VA policy requiring that open market orders were to be used only as a last resort.

The OIG has issued recommendations 4 through 6 to ensure all DLC personnel engaged in purchasing are reeducated on policy requirements, an assessment is made of the full loss to VA and that recoveries are made to the extent possible, and consideration is given to whether any administrative action is warranted for individuals engaged in the improper acquisition and disposition of incentive items.

Conclusion

The OIG substantiated that DLC managers allowed staff to improperly transfer government property to an employee recreation group. The property was sold to employees at silent auctions and the proceeds were used to fund employee engagement activities, such as picnics. Although the OIG recognizes the value of employee engagement and improving morale, the funds to do so were derived using improper means according to VA's own ethics opinion. Further, while training records showed that DLC managers and staff were up to date on ethics and purchase

³⁰ The purchase also included a heavy-duty packing table costing approximately \$1,400.

card training, no one at the DLC questioned whether the auctions were proper or sought legal advice on the practice at the time the incentives were being received and the auctions were being held. As of June 2023, the DLC stopped accepting free merchandise from the vendor and ceased holding the improper auctions. The OIG also found that the DLC's purchase of supplies and equipment from the vendor constituted waste because the purchases were made contrary to purchase card policy requiring purchasing agents to first consider preestablished government contracts and to use vendors on the open market as a last resort if needs could not be met using an existing government contract. The purchasing agent did not check to see if the supplies being procured were available on a government contract, and DLC managers did not question the purchases being made from the vendor rather than from the supply schedule contractors.

Recommendations

The OIG recommends that VA's chief acquisition officer and principal executive director for the Office of Acquisition, Logistics, and Construction take the following actions:

1. Ensure the DALC Recreation Group's operations fully comply with VA Handbook 5025, Part VIII, or dissolve the group if there is insufficient employee interest in its continuation.
2. Update VA Handbook 7002, *Logistics Management Procedures* Part 3, section 7, to clarify under which circumstances, if any, VA employees are permitted to request, accept, and record any incentive items provided by vendors in connection with government purchases.
3. Reinforce ethics and policy requirements on the acceptance and disposition of free or donated property with all Denver Logistics Center managers and staff, including distributing to staff the Office of General Counsel's guidance dated June 30, 2023.
4. Reeducate DLC managers, approving officials, and purchasing agents about VA government purchase card policy requirements that government contracted sources be fully considered and given priority when making purchases.
5. In consultation with the Office of General Counsel, as authorized by 31 U.S.C. § 3711, determine the full magnitude of the loss from the DALC Recreation Group's improper sale of VA property and take appropriate action to recover the losses, including any proceeds of the auctions currently within the custody or control of the DALC Recreation Group.
6. Consider whether any administrative action should be taken with respect to the conduct or performance of the director of the Denver Logistics Center or any other individual involved in the improper acquisition and disposition of the incentive items, and report to the OIG any actions taken involving these individuals.

VA Comments and OIG Response

The principal executive director for VA's Office of Acquisition, Logistics, and Construction and Chief Acquisition Officer concurred with all findings and recommendations. Appendix C provides the full text of the principal executive director's responses.

For recommendation 1, the DLC management will be surveyed and employee interest assessed to make a determination by June 30, 2024, regarding the continuation or dissolution of the group.

The VA response to recommendation 2 indicates the Office of Acquisition and Logistics will provide an action plan on VA logistics management procedures updates within 90 days of publication.

The recommendation 3 response states the DLC will enforce compliance with related mandated training and distribute information (including OGC guidance) on free or donated property by April 30, 2024, and repeat at least annually.

Recommendation 4 comments reflect that VA will develop and deliver educational material on sourcing requirements before procurement by April 30, 2024, repeated at least yearly.

As to assessing monetary loss in recommendation 5, VA stated, "The Denver Logistics Center Recreation Group will surrender the current combined total of its bank account balance, or the value of the 32 free/promotional items cited in the Office of Inspector General (OIG) Report, whichever is less." A complete report of VA's loss assessment will be provided by May 31, 2024. The OIG has noted that in response to recommendations 5 and 6, VA mischaracterized the OIG's draft report. These errors do not materially affect, however, VA's implementation of the recommendations or other related actions and are corrected here simply to ensure precision and accuracy regarding the report statements.

In response to recommendation 5, VA stated, "As noted by the OIG, all proceeds went directly into the Denver Logistics Center Recreation Group engagement activities on an ongoing basis." However, the OIG's draft report does not state that "all proceeds" went into the recreation group's engagement activities. The OIG stated, "The OIG confirmed that the recreation group hosted employee engagement activities and expended funds to support these activities during the period under review, but the scope of this investigation did not include a full audit of the group's expenses."

In response to recommendation 6, VA stated, "OIG has also noted the accuracy of records and the fact that all items were accounted for in the paperwork of the Denver Logistics Center Recreation Group." However, the OIG stated, "The recreation group's auction records did not account for 4 of the 32 free items—three Yeti coolers and a men's grooming kit. The finance manager, analyst, and purchasing agents told the OIG that they did not know where the four missing items were." As to actions related to recommendation 6 (with an estimated completion date of March 15, 2024), VA has stated that "the Acting Associate director of the National

Acquisition Center's] intent is to issue letters to all supervisory personnel who were aware of the auction process reminding them of proper handling of promotional items. Cardholder account[s] for the applicable cardholders will be frozen, pending re-training. Applicable approving officials (AOs) will similarly be held accountable to complete ethics and AOs training."

The response also included general comments that add context relating to the full scope of the DLC's activities and that suggest the COVID-19 pandemic altered employee interest in maintaining the required executive board to govern the DLC recreation group. Footnotes have been added within the report directing readers to that supplemental information.

The OIG considers VA's planned corrective actions responsive to all recommendations. The OIG will monitor completion of planned actions and will close the recommendations when VA provides sufficient evidence demonstrating resolution of the issues identified.

Appendix A: Scope and Methodology

Scope

The OIG Office of Special Reviews (OSR) conducted this administrative investigation from May to November 2023 to examine the DLC's acceptance of free merchandise from the vendor; the employee association's silent auctions, including how the proceeds from the auctions were used; the decision-making and awareness among senior leaders who authorized the acceptance of free merchandise and the subsequent auctions; whether purchases tied to the free merchandise were wasteful; and whether the purchases were improperly steered to a specific vendor in order to obtain free merchandise. The team obtained and reviewed documentation regarding the silent auctions held from July 2021 through May 2023.

Methodology

The OSR team interviewed 17 current and former employees, including the current DLC director, associate director, finance manager, analyst, two purchasing agents and other DLC supervisory staff. Additionally, the team interviewed the former DLC director and former associate executive director of the National Acquisition Center (both now retired).³¹ The investigation included a review of over 4,000 documents, which included email messages and attachments; invoices; purchase orders; auction records; receipts; and purchase card, personnel, and training records. The team also reviewed the applicable laws, regulations, and VA policy.

Scope Limitation

The OIG confirmed that the recreation group hosted employee engagement activities and expended funds to support these activities during the period under review, but the scope of this investigation did not include a full audit of the recreation group's expenses, nor did it include a full review of other VA facilities' acceptance of free merchandise from the vendor.

Government Standards

The OIG conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Investigations*.

³¹ The DLC is one of five service elements of the National Acquisition Center in the Office of Procurement, Acquisition and Logistics, all of which are organizationally aligned under the VA Office of Acquisitions, Logistics, and Construction.

Appendix B: Other VA Facilities That Accepted Free Merchandise

During the course of this administrative investigation, the OIG discovered that purchasing agents from 169 VA facilities had claimed free merchandise from December 2020 through June 2023 in connection with 1,935 purchases from the same vendor. The DLC was one of the 169 facilities, which also included medical centers, healthcare centers, clinics, vet centers, veterans benefits offices, national cemetery offices, and staff offices' field facilities. The retail value of the free merchandise claimed ranged from a \$3 bandana to a \$600 Solo stove firepit. The OIG did not conduct a full review of the enterprise-wide acceptance and disposition of the free items. The information collected that was beyond the scope of this investigation was shared with VA leaders for possible follow-up action. Table B1 provides a breakdown by VA administration or staff office, listing the number of purchases that resulted in free items claimed.

Table B1. Number of Facilities and Their Orders Resulting in Free Merchandise by Administration or Staff Office

Administration/Staff Office	Number of Facilities	Number of Orders Resulting in Free Items Claimed
Veterans Health Administration	157	1,830
Veterans Benefits Administration	7	11
National Cemetery Administration	2	3
Office of Management	1	7
Office of Acquisitions, Logistics, and Construction	2	84
Total	169 ³²	1,935

Source: The vendor's records of sales to VA.

³² The team excluded one customer from the analysis because the legitimacy of the customer was not verified. Additionally, the team found notes in the vendor's records that 14 free offers from eight VHA staff offices were returned upon receipt.

Appendix C: VA Management Comments

Department of Veterans Affairs Memorandum

Date: March 8, 2024

From: Principal Executive Director, Office of Acquisition, Logistics, and Construction (003) and Chief Acquisition Officer

Subject: Office of Inspector General (OIG) Draft Report: Denver Logistics Center - Logistics Managers Improperly Allowed Employees to Auction Off Government Property, Project Number 2023-01647-SR-0003 (VIEWS 11390622)

To: Assistant Inspector General, Office of Special Reviews (56)

1. The Office of Acquisition, Logistics, and Construction (OALC) reviewed the subject OIG draft report. OALC concurs with all findings and recommendations and will take the actions referenced in the implementation plan.

<i>The OIG removed point of contact information prior to publication.</i>

(Original signed by)

Michael D. Parrish

Attachment

Finding 1: DLC Managers Improperly Permitted Staff to Sell VA Property at Auctions to Benefit Employee Recreational Activities.

VA Response: Concur.

Finding 2: Purchases Made Contrary to VA Policy Constituted Waste.

VA Response: Concur.

Recommendation 1: Ensure the DALC Recreation Group's operations fully comply with VA Handbook 5025, Part VIII, or dissolve the group if there is insufficient employee interest in its continuation.

VA Response: Concur. The Denver Logistics Center believes the Recreation Group, at its height, successfully and honorably accomplished objectives in promoting employee engagement and maintaining employee morale at a high level. For that reason, continuation of the Recreation Group in compliance with VA Handbook 5025, Part VIII, and with the Recreation Group's own by-laws may hold future benefits. However, the Denver Logistics Center management will be surveyed, and employee interest will be assessed in order to make a determination regarding continuation or dissolution of the group. A decision will be made by June 30, 2024.

Target Completion Date: June 30, 2024

Recommendation 2: Update VA Handbook 7002, Logistics Management Procedures part 3, section 7, to clarify under which circumstances, if any, VA employees are permitted to request, accept, and record any incentive items provided by vendors in connection with government purchases.

VA Response: Concur. The Office of Acquisition and Logistics (OAL) will provide an action plan and a target completion date at the time of the initial 90-day update following publication of the Final Report.

Recommendation 3: Reinforce ethics and policy requirements on the acceptance and disposition of free or donated property with all Denver Logistics Center managers and staff, including distributing to staff the Office of General Counsel's guidance dated June 30, 2023.

VA Response: Concur. In addition to continuing enforcement of completion of mandatory ethics and purchase card training, the Denver Logistics Center will distribute and reinforce information pertaining specifically to procurement and ethics considerations regarding free or donated property, including the specified General Counsel guidance. This material will be distributed by April 30, 2024, and repeated at periodic intervals (at least annually).

Target Completion Date: April 30, 2024

Recommendation 4: Reeducate DLC managers, approving officials, and purchasing agents about VA government purchase card policy requirements that government contracted sources be fully considered and given priority when making purchases.

VA Response: Concur. The Denver Logistics Center will coordinate with the Office of Acquisition, Logistics, and Construction's purchase card policy subject experts to develop and deliver educational material reinforcing sourcing requirements when making purchases. This material will be delivered by April 30, 2024, and repeated at periodic intervals (at least annually).

Target Completion Date: April 30, 2024

Recommendation 5: In consultation with the Office of General Counsel, as authorized by 31 U.S.C. 3711, determine the full magnitude of the loss from the DALC Recreation Group's improper sale of VA property and take appropriate action to recover the losses, including any proceeds of the auctions currently within the custody or control of the DALC Recreation Group.

VA Response: Concur with comments. The Denver Logistics Center Recreation Group will surrender the current combined total of its bank account balance, or the value of the 32 free/promotional items cited in the Office of Inspector General (OIG) Report, whichever is less. Also, the Denver Logistics Center Recreation Group will provide a detailed report of all auctioned items and the amount collected for each, along with estimated value of the auction item at time of auction to assess full magnitude of the loss to VA. As noted by the OIG, all proceeds went directly into the Denver Logistics Center Recreation Group engagement activities on an ongoing basis. As such, it will not be feasible to recover any losses beyond the Denver Logistics Center Recreation Group's current balance. A complete report on the Denver Logistics Center Recreation Group's finances will be conducted and findings presented by May 31, 2024. Direction will be required for how to properly collect these funds on behalf of VA.

Target Completion Date: May 31, 2024

Recommendation 6: Consider whether any administrative action should be taken with respect to the conduct or performance of the director of the Denver Logistics Center or any other individual involved in the improper acquisition and disposition of the incentive items, and report to the OIG any actions taken involving these individuals.

VA Response: Concur. The Acting Associate Executive Director (AED) of the National Acquisition Center (NAC) has reviewed the draft OIG report and has noted that all personnel associated with the acceptance and raffle of promotional items obtained through open market Government purchase card purchases were extremely open and transparent with OIG during their investigation. They provided all documentation, which encompassed the entire span of all promotion items received and did not benefit personally from this lapse in proper handling of the items. In fact, OIG also noted the accuracy of records and the fact that all items were accounted for in the paperwork of the Denver Logistics Center Recreation Group. As such, the AED's intent is to issue letters to all supervisory personnel who were aware of the auction process

reminding them of proper handling of promotional items. Cardholder account for the applicable cardholders will be frozen, pending re-training. Applicable approving officials (AOs) will similarly be held accountable to complete ethics and AOs training.

While clear to most professional acquisition personnel, guidance surrounding proper accounting for promotional items must be clarified by management. The AED has verified with all management personnel at NAC locations in Denver and Chicago, that this process ceased in May 2023 and will not be repeated. Estimated completion date of all letters to supervisors and training of Government purchase card cardholders and AOs is March 15, 2024.

Target Completion Date: March 15, 2024

General Comments

The introduction to the Denver Logistics Center (DLC) on page 2 does not do justice to the DLC operational scope. One would easily be misled to believe DLC's role is limited to fulfilling Veteran requests for hearing aid batteries, accessories, and prosthetic/orthotic items. Information presented to the Office of Inspector General (OIG) was sufficient for OIG to convey a more complete understanding of the role of DLC to include in the report, such as:

“The DLC, based in Golden, Colorado, provides supply chain management for multiple VHA programs and clinical disciplines, including Prosthetic & Sensory Aids, Audiology & Speech Pathology, Remote Patient Monitoring-Home Telehealth, VA Video Connect, Orthotic & Prosthetic Labs, Sleep Medicine, and others. The DLC works in partnership with these programs to provide efficient supply solutions allowing clinical providers to obtain medically prescribed – and in some cases customized – products to be issued to patients for rehabilitative and health monitoring purposes. Among the most notable prescribed items are hearing aids, auditory implants, home telehealth monitoring systems, equipment for patient-provider video encounters, lower extremity artificial limbs, and various types of positive airway pressure (PAP) machines. In addition, Veterans who use these items are able to directly request resupply of associated items – such as hearing aid batteries, accessories, prosthetic socks, PAP supplies, and others – through the DLC, for shipment directly to their homes. As of June 2023, the DLC had approximately \$705 million in national sales for fiscal year 2023. In addition to providing these items to Veterans, the DLC spends about \$286,000 per year on office and warehouse supplies needed to run its own operation.”

Regarding the DALC Recreation Group, a statement on page 3 says that “...a new executive board has not been installed due to lack of employee interest.” It is also important to note that the content of the report should include the fact that the COVID pandemic and required social distancing practices during the pandemic were external contributing factors that had a significant impact on employee interest and continuity in maintaining an executive board.

OIG Contact and Staff Acknowledgments

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