



US DEPARTMENT OF VETERANS AFFAIRS OFFICE OF INSPECTOR GENERAL

Office of Special Reviews

DEPARTMENT OF VETERANS AFFAIRS

Supplement to OIG Report, *VA Improperly Awarded \$10.8 Million in Incentives to Central Office Senior Executives*

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The Office of Inspector General (OIG) has released this management advisory memorandum to provide information on matters of concern that the OIG has gathered as part of its oversight mission. The OIG conducted this review in accordance with the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Investigations.



DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF INSPECTOR GENERAL
WASHINGTON, DC 20001



May 28, 2024

MANAGEMENT ADVISORY MEMORANDUM

TO: The Honorable Denis McDonough
Secretary of Veterans Affairs

FROM: R. James Mitchell
Assistant Inspector General for Special Reviews

SUBJECT: Supplement to OIG Report, *VA Improperly Awarded \$10.8 Million in Incentives to Central Office Senior Executives*

The VA Office of Inspector General (OIG) issued the report *VA Improperly Awarded \$10.8 Million in Incentives to Central Office Senior Executives* on May 9, 2024.¹ On the same day, the OIG provided an oral briefing of the findings to staff from the Senate Committee on Veterans' Affairs; House Committee on Veterans' Affairs; and Senate Appropriations Subcommittee on Military Construction, Veterans Affairs, and Related Agencies. Clarifying questions submitted by congressional staff after the briefing prompted the OIG to conduct an additional analysis of the organizational reporting structure related to who approved certain critical skill incentives (CSIs) and whether those approvers had the authority to do so.

As a result of that subsequent analysis, the OIG has determined that the under secretary for health may have had other direct reports recommended for a CSI payment for whom he was not authorized to act as the approving official. Specifically, Dr. Elnahal may have exceeded his authority to approve at least 10 CSI awards made to senior executives in the VA central office (VACO). No such issue was identified for VBA. Dr. Elnahal testified that he relied on guidance from VHA's human resources professionals when approving CSIs. The OIG did not identify any evidence that contradicted his testimony. This error is further evidence of the ineffectiveness of the technical review described in the report. This memorandum is meant to convey the information necessary for the VA Secretary to determine if further actions are warranted.² The OIG is taking no additional steps at this time.

¹ VA OIG, [*VA Improperly Awarded \\$10.8 Million in Incentives to Central Office Senior Executives*](#), Report No. 23-03773-169, May 9, 2024.

² This memorandum summarizes information that has been gleaned from OIG data analyses and provided to the Secretary of Veterans Affairs to further inform what corrective actions should be undertaken in response to the recommendations made in the OIG's corresponding report. The OIG issues management advisory memoranda when areas of concern are identified in the course of its oversight work, particularly when immediate action by VA can help reduce further risk of harm to veterans or significant financial losses. Memoranda are published unless otherwise prohibited from release or to safeguard protected information.

On December 20, 2022, the VA Secretary issued a delegation memorandum (the delegation) conferring under secretaries, assistant secretaries, and other officials with the authority to approve CSIs “for employees occupying positions centralized to that office.”³ However, a subsequent paragraph in the delegation stated that the Secretary’s approval was required with respect to CSIs for “direct reports of Under Secretaries, Assistant Secretaries and Other Key Officials.”⁴ During the OIG investigation, the team identified information showing that Under Secretary for Health Shereef Elnahal and Under Secretary for Benefits Joshua Jacobs recommended CSIs for their respective principal deputies—Dr. Steven Lieberman and Mr. Michael Frueh—who directly reported to the under secretaries. Consistent with the delegation of authority, the required CSI forms prepared for the two principal deputies designated the corresponding under secretary as the “recommending official,” along with an “approving official” signature line for the VA Secretary (which was not completed). The OIG further determined that neither Dr. Lieberman nor Mr. Frueh received CSI payments.

In response to questions arising from the OIG’s congressional staff briefing, the team obtained data from VA’s HR Smart (VA’s human resources information system that supports personnel suitability, payroll, and position management). That data indicated that Dr. Elnahal had 38 direct reports as of May 20, 2024, of whom 13 were VACO senior executives awarded CSIs.⁵

Because of problems with HR Smart data reliability, the OIG could not depend solely on that source to identify reporting relationships.⁶ Accordingly, the team also obtained copies of these 13 individuals’ performance appraisals for fiscal year 2023, which includes the period during which the CSI packages were submitted to the Corporate Senior Executive Management Office

³ VA Secretary, “Incentives for Critical Skills,” memorandum for under secretaries, assistant secretaries, and other key officials, December 20, 2022. A second memorandum issued after the cancellation of the VACO CSI awards in September 2023 rescinded this delegation, requiring that all future CSIs for senior executives be approved by the Secretary. VA Secretary, “Incentives for Critical Skills,” memorandum for the deputy secretary, chief of staff, under secretaries, and other key officials, September 27, 2023.

⁴ VA Secretary, “Incentives for Critical Skills,” memorandum, December 20, 2022.

⁵ Excluding Dr. Lieberman and the 13 other senior executives, the remaining 24 were not included on the VHA listing of proposed CSI recipients approved by Dr. Elnahal. The focus of the OIG’s supplemental analysis was to identify potential direct reports for whom Dr. Elnahal served as the CSI approving official. Accordingly, the OIG did not examine the circumstances explaining why none of the remaining 24 positions reporting to him received CSIs. Nonetheless, the OIG observed that nine of these positions were vacant as of May 16, 2024, and the remaining positions may be occupied by nonexecutives, individuals who were not employed at VA when the CSIs were awarded, as well as executives serving in a political or noncareer appointment who were not eligible to receive a CSI (as previously stated in the OIG’s report). VA OIG, *VA Improperly Awarded \$10.8 Million in Incentives to Central Office Senior Executives*, p. 8. The OIG also did not examine whether there are CSI recipients who were reporting to Dr. Elnahal at the time of the award, but no longer report to him. The OIG views any further analysis of these questions to be within the purview of VA, with the results to be provided to the OIG.

⁶ The OIG has previously issued publications on data integrity issues that render HR Smart information unreliable. See, e.g., VA OIG, [Inconsistent Human Resources Practices Inhibit Staffing and Vacancy Transparency](#), Report No. 20-00541-133, June 10, 2021.

(CSEMO) for review and their subsequent award in August 2023.⁷ Dr. Elnahal served as the rating official who assigned the “summary rating” to the performance plan for 10 of these individuals. The summary rating is “an appraisal of all critical and non-critical elements, with appropriate justification if applicable and the assignment of a summary level based on an employee’s performance to date.”⁸ The remaining three individuals had summary ratings assigned by officials other than Dr. Elnahal. As rating official, Dr. Elnahal was the “employee responsible for preparing a proficiency rating on an employee under [his] supervision.” Although “direct reports” is not defined in the Secretary’s delegation of authority, it appears from VA policy that an employee for whom Dr. Elnahal completed a performance appraisal as the rating official would be considered his direct report.⁹

The OIG also compared this information to other readily available sources, including VA’s global online address directory (which includes reporting lines drawn from an organizational chart maintained on a VA SharePoint site) as well as VA’s *Functional Organizational Manual*.¹⁰ Because the information available from these sources was not always clear or consistent, the OIG could not definitively establish the reporting relationships of all individuals identified by HR Smart as being direct reports to Dr. Elnahal. Given the inconsistency in readily available VA data and in the interest of promptly supplementing the findings and recommendations of its May 2024 report, the OIG is providing VA with this information for further analysis.

Requested Action

As the OIG addressed in its May 2024 report, the delegation of authority further states that CSEMO “conducts a technical review and makes recommendations for all incentives for SES, title 38 SES-equivalents and senior level positions submitted to the Secretary, or designee, for approval.”¹¹ Accordingly, the OIG is supplementing finding 2 (“VA’s Internal Controls Were Ineffective in Preventing Improper Awards of CSIs to Central Office Senior Executives”) with a determination that CSEMO failed to adequately assess in its technical review whether Dr. Elnahal was authorized to serve as the approving official for each individual senior executive in the central office who was awarded a CSI.

⁷ CSEMO is the human resources services office for all senior executives at VA. Because the HR Smart system did not identify potential direct reports for whom Under Secretary for Benefits Joshua Jacobs served as approving official, the OIG has not examined other sources (such as the performance appraisals of VBA executives) to confirm whether any such individuals may have been under his direct supervision. The OIG views any further analysis of this question to be within the purview of VA, with the results of its analysis to be provided to the OIG.

⁸ VA Handbook 5013/19, *Performance Management Systems*, February 22, 2024, p. 8.

⁹ VA policy states that the rater is “usually the immediate supervisor.” VA Handbook 5013/19, *Performance Management Systems*, February 22, 2024, p. 7.

¹⁰ VA, “Administrations,” vol. 1 in *Functional Organizational Manual*, September 30, 2021.

¹¹ See VA OIG, *VA Improperly Awarded \$10.8 Million in Incentives to Central Office Senior Executives*, p. 36, for a general discussion of CSEMO’s technical review.

The OIG requests that VA conduct an analysis to confirm which of the 182 CSIs may have been signed beyond the approving officials' authority and factor the results of that analysis into its action plan in response to the report's standing recommendations. The OIG has determined that this supplemental information is relevant to two of the report's recommendations:

Recommendation 5. The Secretary of Veterans Affairs directs the Assistant Secretary for Human Resources and Administration/Operations, Security, and Preparedness to revise policies regarding critical skill incentives to ensure that recommending and approving officials are accountable for their determinations that each CSI recipient meets all established criteria, and that the roles and responsibilities of a technical reviewer and human resources reviewer are clearly established.

Recommendation 8. The Secretary of Veterans Affairs takes whatever administrative actions, if any, he deems appropriate related to personnel involved in the process for granting critical skill incentives for VA central office executives based on the findings in this report.

With respect to recommendation 5, the OIG expects the implementation of VA's follow-up action plan to include an accountability mechanism to confirm that the recommending and approving officials are acting within their authority.

For recommendation 8, VA should consider the information in this memorandum when assessing whether administrative action is warranted to address the performance (or conduct) of any individual responsible for ensuring that the CSI awards complied with applicable VA policies and law, including any instance that a VA official exceeded his or her authority to recommend or approve a CSI.

VA Secretary Response

The OIG provided the VA Secretary with a draft of this memorandum for review (comments were not required).

OIG Contact

Contact

For more information about this management advisory memorandum, please contact the Office of Inspector General at (202) 461-4720.

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