UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

Office of the
Inspector General

April 2, 2013

MEMORANDUM FOR JOHN BERRY
Director

FROM: PATRICK E. MCFARLAND
Inspector General

SUBJECT: Interim Investigative Report – Improper Contracting and Procurement Practices Utilized to Circumvent the Competitive Bid Process

EXECUTIVE SUMMARY

On July 21, 2011, the U.S. Department of Labor (DOL) Office of Inspector General (OIG) publicly released an investigative report detailing several allegations, including one involving improper procurement practices by Raymond Jefferson, former DOL Assistant Secretary for Veterans' Employment and Training Service (VETS).[1] These improper practices were associated with obtaining the services of Stewart Liff and his company, Stewart Liff & Associates, Inc.[2]

In statements he made to the DOL-OIG investigators, Mr. Jefferson mentioned that Mr. Liff was working for the U.S. Office of Personnel Management (OPM) Director John Berry. Concerned about the reference to OPM as well as himself, Director Berry requested on July 28, 2011 that the OPM Office of the Inspector General (OPM-OIG) initiate an investigation.

Our investigation disclosed actions by OPM employees that reflected misuse of position, as well as mismanagement within an OPM program, Human Resources Solutions (HRS), which provides human resources services to nearly every Federal agency. Moreover, we believe that there was also a waste of taxpayer dollars because, due to circumvention of the competitive bid process, Mr. Liff never had to demonstrate the quantitative – or qualitative – value of his services. Although we did not perform a cost analysis to determine whether

[1] Memorandum to Seth Harris, Deputy Secretary, DOL, from Daniel R. Petrole, Acting Inspector General, "Investigative Report – Alleged Improper Procurement Activities in VETS," July 21, 2011, *available at:* http://www.oig.dol.gov/public/reports/DOL_OIG_VETS_Investigative_Report.pdf (hereinafter, "DOL OIG Report").

[2] Through his company, Mr. Liff provides consulting and training services related to human resources management, and has written several books on the subject. He had previously worked in the Federal Government for over 30 years.

the amounts paid for Mr. Liff's services were reasonable, we take the position that because the Federal contracting procedures intended to safeguard taxpayer dollars were not followed, these funds were spent wastefully.

Our investigation revealed that HRS employees repeatedly contacted a small business with which OPM already had a contract, Information Experts, Inc., and requested that Information Experts hire Mr. Liff for three specific projects: the consulting work for DOL-VETS that was the subject of the DOL-OIG investigation; a training session for HRS employees; and, organizational assessments for OPM's Office of the Chief Financial Officer, Retirement Services, and OPM's internal Human Resources office. HRS made clear to Information Experts that it would receive these awards if it subcontracted with Mr. Liff for these projects.

We believe that there were two driving causes of this waste.

First, we found that Michael Grant, Counselor to the OPM Director,[3] and Kay Ely, former Associate Director of HRS,[4] utilized their positions to give Mr. Liff preferential treatment. While carrying out the expressed wish of Mr. Grant and Ms. Ely to utilize Mr. Liff as a consultant,[5] Frank Esquivel, former Deputy Associate Director of HRS, and [redacted] former Chief of HRS's Vendor Management Branch (VMB), gave direction to lower level staff that resulted in the favored treatment to Mr. Liff. The actions of all of these individuals resulted in the circumvention of Federal contracting procedures by arranging for Mr. Liff to be hired without competition.

Moreover, we found that in this instance Ms. Ely failed to fulfill her responsibilities as the Associate Director of HRS. It was her duty to ensure that HRS complied with all Federal contracting law and procedures. She had extensive experience in Federal contracting work, including her former position as Deputy Associate Director of what is now OPM's Facilities, Security, and Contracting (FSC). She not only failed to stop the improper practices through which Mr. Liff was placed with HRS contractors, but she took an active role in ensuring that Mr. Liff received this work.

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[3] At the time that these events took place, Mr. Grant's title was Senior Advisor to the Director. Under both titles, he was a member of the Senior Executive Service (SES). Mr. Grant has considerable Executive Branch experience having held positions in the Carter, Clinton, and Obama Administrations. He previously worked at OPM from 1993 to 1997 as Counselor to the Director and Deputy Chief of Staff.

[4] As the Associate Director of HRS, Ms. Ely was a career member of the SES. Prior to assuming this role, she was the OPM Deputy Associate Director of Contracting, Facilities, and Administrative Services (now Facilities, Security, and Contracting). Her past experience in Federal contracting includes holding the positions of Associate Administrator for Acquisition Implementation in the Office of Management and Budget's Office of Federal Procurement Policy, and Director of the Acquisition Resources Service at the U.S. Department of Veterans Affairs. She has held several other Government contracting positions in addition to serving on the Board of Directors for the Federal Acquisition Institute and the Board of Advisors for the National Contract Management Association.

[5] For the sake of simplicity, we use the term "hire" throughout this interim report. To clarify, however, this does not connote an attempt or intent to employ Mr. Liff as a Federal civil servant, but rather to establish some form of contractual relationship between Mr. Liff and the Federal Government (*i.e.*, contract with Mr. Liff directly or indirectly as a subcontractor for a prime contractor such as Information Experts).

Second, mismanagement within HRS created a situation where circumvention of the competitive bid process was considered to be acceptable behavior. The evidence reviewed suggests that the primary concerns with HRS were the speedy issuance of task orders[6] and responsiveness to HRS's customers. Economy, efficiency, and merit were not meaningful factors in the award of these task orders because, as discussed below, the decision to use Mr. Liff was made before OPM even solicited bids for the projects.

Meanwhile, FSC, charged with oversight of HRS contracting procedures, failed to execute meaningful supervision, which may have prevented the inappropriate actions that occurred in this situation.

Further, based upon information obtained from documents subpoenaed from Information Experts, we are concerned that it may be a common practice at HRS to use small businesses as a "pass-through" to hire a preferred vendor, thereby permitting that vendor to avoid competition. This practice increases the likelihood that the Federal Government will be charged an amount that is based upon contractors' profit goals rather than the best value available to the Government.

As a result of actions by Mr. Grant and Ms. Ely and the mismanagement within HRS (including the lack of oversight by FSC), approximately $450,000 in taxpayer dollars was paid to Information Experts so that OPM (as well as DOL-VETS) was guaranteed access to Mr. Liff via a subcontract without competition.

While we identified misuse of position and mismanagement within OPM, we did not identify any evidence that Director Berry engaged in any inappropriate conduct. During our investigation, we learned that Director Berry established an initiative within the agency that directed OPM department heads to proactively address poor performance. OPM personnel later referenced the Director's initiative when communicating about Mr. Liff, which may have contributed to the pressure or time sensitivity perceived by certain individuals.

In conclusion, our investigation has raised serious concerns about the stewardship of taxpayer funds by HRS and FSC. In this instance, Federal contracting procedures designed to promote economy, effectiveness, and efficiency were bypassed. This is consistent with the findings of the DOL-OIG's investigation.

This interim report summarizes the administrative findings of our investigation. We are currently still investigating other aspects of this case.

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[6] A "task order" is an award that is issued under an Indefinite Delivery, Indefinite Quality (IDIQ) contract, which is competed in the same way as other Federal contracts. The IDIQs between HRS and vendors allow the vendors to compete to perform future work for HRS's clients. This work is performed under a task order.

METHODOLOGY

Our investigators interviewed 27 individuals, consisting of current and former OPM employees (including Director Berry) and contractors. We also reviewed several thousand emails from multiple OPM email accounts as well as subpoenaed documents and emails from Information Experts. Additionally, we obtained and examined OPM files related to the contracts and task orders at issue.

The comparison of interviews and documents revealed some significant inconsistencies. It appeared certain individuals we interviewed were not entirely forthcoming, and so we followed up as necessary to obtain more complete information.

BACKGROUND

DOL-OIG Report

The DOL-OIG investigated an allegation that Mr. Jefferson and DOL-VETS Deputy Assistant Secretary John McWilliam abused their authority by coercing DOL employees into manipulating existing Federal contracts in order to hire Mr. Liff without the benefit of competition.

During its investigation, the DOL-OIG learned that Mr. Liff became acquainted with Mr. Jefferson after the 2008 Presidential election. Mr. Jefferson was on the Veterans Benefits Administration (VBA) Transition Team for the Obama-Biden Administration. During Mr. Jefferson's service on the Transition Team, Mr. Liff sent him a 120-page document he had written presenting ideas to improve VBA.

The DOL-OIG found that DOL-VETS employees were instructed to contact certain vendors with which DOL-VETS already had a contract and request that the vendors hire Mr. Liff as a subcontractor for a particular project.

These vendors participated in a program administered by the Small Business Administration (SBA) that permits agencies to use expedited procurement procedures when awarding a contract to small and disadvantaged businesses. These are referred to as "8(a)" firms or companies.

There are situations where 8(a) status may be abused, such as an inappropriate "pass-through." This is an arrangement whereby an 8(a) firm is awarded a contract, but then enters into a subcontract with another company that is unable to qualify as an 8(a) firm to perform a majority of the actual work. Such an arrangement is prohibited by SBA regulations and the Federal Acquisition Regulation (FAR).[7] Such pass-throughs

[7] 13 C.F.R. § 125.6 ("Prime contractor performance requirements (limitations on subcontracting)"); FAR Subpart 52.219-14 ("Limitations on Subcontracting").

circumvent the normal competitive procedures that would be required if the subcontractor were to compete for the contract against other vendors offering the same services.[8]

The DOL-OIG found that DOL-VETS utilized three different 8(a) firms as pass-throughs in order to take advantage of the expedited 8(a) procurement processes while still ensuring it could employ Mr. Liff. When the first firm's contract ended, Mr. Liff was shifted to another 8(a) company. When the contract with the second company likewise ended, DOL-VETS then entered into an interagency agreement with OPM's HRS after one of its 8(a) vendors agreed to hire Mr. Liff.[9]

The DOL-OIG ultimately concluded that Mr. Jefferson and others placed DOL-VETS employees in "untenable positions" and DOL-VETS contractors in "precarious positions" in order to obtain Mr. Liff's services without going through the competitive process.

The DOL-OIG substantiated the allegation that Mr. Jefferson abused his authority with respect to the retention of Mr. Liff. The report noted that Mr. Liff was not known to any of the contractors prior to the request by Mr. Jefferson to hire him. Although the contracts for Mr. Liff were approved by DOL procurement officials, the procurement of Mr. Liff's services should have been executed through open competition, or through an appropriate sole source procurement. Instead, Mr. Jefferson's actions caused DOL-VETS personnel to circumvent the usual and proper procurement rules and regulations. While Mr. Jefferson told the DOL-OIG that he instructed his staff to follow all legal and ethical standards with respect to Mr. Liff's retention, the statements provided to DOL-OIG by DOL staff members and others indicated that they often felt intimidated and pressured to circumvent these standards in order to meet Mr. Jefferson's stated objectives of obtaining and retaining the services of Mr. Liff.

OPM's Human Resources Solutions

The OPM component at the center of our investigation is HRS. HRS provides various human resources management services on a reimbursable basis to approximately 150 Federal agencies and entities and annually obligates on their behalf between $600 million and $800 million of Federal funds.

HRS services its customers using both internal OPM staff and outside contractors. Through its Vendor Management Branch (VMB, previously named Training and Management Assistance or TMA), HRS enters into Indefinite Delivery, Indefinite Quality (IDIQ) contracts with multiple vendors under which vendors may compete to perform future work for HRS's clients. This work is performed under a "task order" that is issued

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[8] Agencies may inappropriately seek pass-throughs when the agency cannot justify entering into a sole source contract with the preferred vendor. Use of a sole source contract generally requires that a vendor's products or services be sufficiently unique that no other vendor is expected to be able to offer comparable products or services.

[9] Mr. Liff's firm, Stewart Liff & Associates was not an 8(a) vendor during the time period at issue. We are not aware of whether it currently holds that status.

against the vendor's original contract with VMB. When a client approaches HRS with a request for services, VMB sends these vendors a statement of objectives[10] and requests that they submit proposals for the work. After the proposals are evaluated, a vendor is chosen to perform the work called for by the task order. As under standard contracting processes, there is an expedited process for 8(a) firms holding IDIQ contracts to compete for certain task orders.

It should be noted that a vendor is permitted to utilize a subcontractor to perform a task order. During interviews with our investigators, OPM employees have repeatedly emphasized that OPM has no contractual relationship with such subcontractors, but only with the prime contractor on VMB's pre-competed list. As will be discussed in this interim report, in this situation, OPM officials had a great deal of contact with the subcontractor, Mr. Liff, on a number of contractual matters, including the payment of invoices.

TASK ORDERS AT ISSUE

Our investigation focused upon three task orders awarded to Information Experts, Inc., under its contract with HRS and on which Mr. Liff performed work as a subcontractor. In all three instances, HRS employees arranged for Information Experts to hire Mr. Liff prior to issuing the solicitation package[11] (which was sent only to Information Experts), thus ensuring that DOL-VETS and/or OPM would have access to Mr. Liff for the projects.

1. DOL-VETS: In September 2010, DOL-VETS began to work with OPM's HRS to obtain various consulting services related to performance management and the redesign of physical work space in order to improve employee performance and morale ("visual management"). The solicitation package requesting proposals for this task order was issued on September 8, 2010.[12] The amount of the award was $110,519.

2. HRS Training: After sending Information Experts a solicitation package on September 22, 2010,[13] HRS hired the company for a one-day training session for HRS leadership on the importance of performance management for Federal employees. This session was held on November 2, 2010, in Kansas City, Missouri. Mr. Liff conducted the training as a subcontractor for Information Experts, which was paid $7,470 for this task order.

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[10] The statement of objectives contains a description of the project to be performed and the requirements that the vendors' proposals must address. It is sometimes referred to as a "statement of work."

[11] We use the term "solicitation package" to refer to the email that transmits the statement of objectives and the official invitation to submit a proposal in response to that statement of objectives. A solicitation package is also sometimes referred to as a "request for proposals."

[12] Email from VMBTOC@opm.gov to opmvmbtoc@informationexperts.com, "Solicitation – DOL VETS Consulting Services. OPM Small Business Set Aside Program", Sept. 8, 2010, 11:30am (hereafter, "DOL-VETS Task Order Solicitation Email").

[13] Email from [redacted] to Levin, "Solicitation – OPM Improving Performance of Government Employees", Sept. 22, 2010, 3:47pm (hereinafter, "HRS Training Task Order Solicitation Email").

3. Organizational Assessment: In response to a February 8, 2011, request for proposals,[14] OPM awarded Information Experts a task order for an organizational assessment (and associated consulting services) of specific program areas at OPM. Originally the focus of this project was on the Office of the Chief Financial Officer (OCFO), but it was subsequently expanded to include Retirement Services and OPM's internal Human Resources office. Mr. Liff worked on-site at OPM over the course of approximately six months and was the primary author of three reports that discussed his evaluation of these program offices. The task order was for $331,248.

ISSUE #1: MISUSE OF POSITION BY MICHAEL GRANT AND KAY ELY

Stewart Liff's Introduction to OPM

Mr. Grant met Mr. Jefferson in 2000, when Mr. Jefferson was a White House Fellow.[15] They appeared to have maintained their acquaintance during the ensuing years.[16]

In May 2009, Mr. Jefferson first brought Mr. Liff to Mr. Grant's attention.[17] Within a month, and continuing through 2011, Mr. Grant began to circulate Mr. Liff's name and background information to other senior OPM officials, usually accompanied by a suggestion that these OPM officials contact and/or meet with Mr. Liff. These officials included Ms. Ely[18] and her deputy Mr. Esquivel,[19] as well as Angela Bailey, at that time Deputy Associate Director of Employee Services;[20] Stephen Agostini, former Chief

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[14] Email from [redacted] to 'Information Experts' [exact email address unknown]; cc [redacted] "Solicitation – OPM Consulting and Assessment Services – Request for a Task Order Proposal", Feb. 8, 2011, 11:53am (hereinafter, "Organizational Assessment Task Order Solicitation Email").

[15] Grant Interview #1.

[16] Email from Grant to Jefferson; cc Grant; "RE: Coffee this evening around 6pm – Yes!", May 27, 2009, 10:29am; Email from Grant to Jefferson, "RE: Inviting you to my Senate Confirmation Hearing on Wed 22 July at 10am", July 16, 2009, 1:32pm; Email from Jefferson to Grant; cc [redacted]; "RE: How about Tuesday night for dinner", April 26, 2010, 7:50pm; Email from Grant to Jefferson, "RE: Free for a Mastermind dinner / get-together tomorrow?", Oct. 14, 2010, 6:09am.

[17] Email from Jefferson to Grant, "Background info on Stewart Liff", May 29, 2009, 11:28am; Email from Jefferson to Grant; cc Liff; "Introducing you to Stewart Liff", May 31, 2009, 9:29am.

[18] Email from Ely to Grant, "POC", June 30, 2010, 2:15pm (Ms. Ely requested Mr. Liff's contact information based upon her discussion the day before with Mr. Grant); Email from Grant to Ely, "Contact info," June 30, 2010, 6:52pm (immediately before sending this email, Mr. Grant wrote to Mr. Liff, "I am going to have Kay Ely contact you. She heads our Human Resources Services [*sic*] revolving fund division that has the approved contractor cadre I was telling you about." Email from Grant to Liff, "RE: RE: Breakfast", June 30, 2010, 6:51pm); Email from Grant to Ely, "Did You", July 14, 2010, 10:02am; Email from Ely to Esquivel, "Fw: Per the previous email", July 14, 2010, 11:00pm (informing Mr. Esquivel that "Michael thinks we should talk to him [Mr. Liff]"); Email from Grant to Ely, "RE: OPM Introduction", Aug. 23, 2010, 5:19pm.

[19] Email from Esquivel to Grant, "Re: Are There", Mar. 12, 2010, 7:33pm (Mr. Esquivel informed Mr. Grant that he was "[w]orking the other items we discussed yesterday", one of which was "checking on role for consultants like Liff"); Email from Ely to Esquivel, "Fw: Per the previous email", July 14, 2010, 11:00pm. *See also*, discussion below regarding the March 2010 project for the U.S. Department of Veterans Affairs.

[20] Email from Grant to Bailey, "RE: How a good federal manager hires and fires", Jan. 1, 2010, 7:17pm; Email from Grant to Bailey, "RE: A conversation", Feb. 11, 2010, 3:49pm.

Financial Officer (CFO);[21] Daniel Marella, Deputy CFO;[22] Justin Johnson, Deputy Chief of Staff;[23] Jennifer Mason, Deputy Chief of Staff;[24] and Elizabeth Montoya, Chief of Staff.[25] Mr. Grant also provided a copy of Mr. Liff's book to Director Berry.[26] In addition, Mr. Grant recommended Mr. Liff to a former OPM Deputy Director, John Sepulveda, who at the time was the Assistant Secretary for Human Resources and Administration, U.S. Department of Veterans Affairs.[27]

Based upon interviews and the review of email exchanges, Mr. Grant spoke of Mr. Liff most often to Ms. Ely and Mr. Esquivel, the two individuals who headed HRS. He suggested multiple times that Ms. Ely and/or Mr. Esquivel not only meet with Mr. Liff, but also consider whether there was a role for him on various HRS projects. Mr. Grant promoted the idea that HRS could market Mr. Liff's services – a concept that Ms. Ely also came to embrace.[28] After meeting Mr. Liff for the first time, Ms. Ely wrote that she needed "to figure out how to get more 'Liff' while he is working" on his application to be on the General Services Administration (GSA) Schedule, and she thanked Mr. Grant for recommending him to her.[29] In an email to Ms. Montoya in the fall of 2010 suggesting that OPM hire Mr. Liff for internal work, Mr. Grant wrote that "[w]ith much persistence, I finally got Kay [Ely] to spend some time with him, as I think he can be a valuable 'product' for her. She is now in love with him & has begun to utilize him in multiple ways going forward."[30]

In March 2010, Mr. Esquivel emailed HRS staff members responsible for a $2 billion project with the U.S. Department of Veterans Affairs (VA) Human Capital Investment Plan (HCIP) and informed them that Mr. Grant wanted Mr. Liff "to serve as an advisor" on the project.[31] After an executive meeting between Mr. Grant and Mr. Esquivel on March 23, 2010, the HRS team working on the project included a section in the daily meeting

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[21] Email from Grant to Agostini, "Triple Checking", Dec. 16, 2010, 2:51pm ("I am moving forward On [*sic*] the two 'folks' we have talked about to help on performance management and employee engagement. I am triple checking with you as the 'buyer'. I know we have discussed this and you already said yes twice after I rough priced it out. I'm at the level with it now where very soon there will be no turning back…thus the triple check.").

[22] Email from Marella to Grant, "Last week's Discussion", Dec. 22, 2010, 10:37am. ("You asked me to remind you 2 of the items we discussed last week…[The second one was] Possibly use Stuart Liff (spelling) as contractor support (issue was statement of work and possible sole source option)"); Marella Interview.

[23] Email from Grant to Johnson; cc Grant; "Interesting Guy", June 14, 2009, 4:45pm; Email from Grant to Grant; cc Johnson and Mason; "Today", Dec. 9, 2010, 9:30am; Johnson Interview. *See also*, Email from Grant to Grant, June 12, 2009, 6:19am (reminding himself to send Mr. Liff's website to Mr. Johnson).

[24] Email from Grant to Grant; cc Johnson and Mason; "Today", Dec. 9, 2010, 9:30am; Email from Grant to Mason, "RE: OPM HRS VA HCIP Daily Status report for 25 Mar", Mar. 26, 2010, 7:59am.

[25] Email from Grant to Montoya, "Stuart Liff", Oct. 15, 2010, 7:44am.

[26] Berry Interview.

[27] Email from Grant to Sepulveda, "Someone you might Find", Aug. 19, 2009, 8:34am.

[28] Email from Ely to Grant, "RE: OPM Introduction", Aug. 23, 2010, 5:23pm.

[29] Email from Ely to Grant, "RE: OPM Introduction", July 28, 2010, 4:38pm.

[30] Email from Grant to Montoya, "Stuart Liff", Oct. 15, 2010, 7:44am. *See also*, email chain contained within Email from Grant to Liff, "RE: Nice to see you", Oct. 6, 2010, 3:23pm (after informing Mr. Liff of the meeting scheduled for him with Ms. Montoya, Mr. Grant informed Mr. Liff that he had "persistently initiated you meeting" Ms. Ely).

[31] Email from Esquivel to [redacted] "FW: Daily Status Report 04-05-10", April 5, 2010, 10:11pm.

notes entitled "What will be the role of Stewart Liff with the VA HCIP project?"[32] According to these daily reports, [redacted] the Chief of HRS's VMB, and other HRS employees received guidance from Mr. Grant to coordinate with Mr. Liff to (1) determine what exactly Mr. Liff could do on the project, (2) draft a statement of work for his services, (3) calculate how much those services would cost, and (4) work with the OPM contracting officers to find a means to hire him as a contractor.[33]

The suggestion of utilizing an 8(a) pass-through was first raised during a long email discussion of Mr. Liff's possible role in the VA-HCIP project. [redacted] wrote:

> I could bring him on through an 8(a) vendor we already have so the costs would be a little more then [*sic*] what he costs. The only reason we would have to do this is due to the short turn around time to get him in the door. If we had to do all the other paper work we would not be able to get them on board prior to the end of May.[34]

This email demonstrates that HRS officials, including Mr. Esquivel[35] and [redacted] knew that it would be more expensive to hire Mr. Liff using an 8(a) pass-through, but considered paying the added expense in order to quickly gain guaranteed access to Mr. Liff. Moreover, it should be noted that no one, including Mr. Esquivel, replied to this email with an expression of surprise at the idea or with a question regarding its propriety.

Ultimately, Mr. Liff was not hired for the VA-HCIP project. After reviewing the VA-HCIP project's budget, HRS staff determined that the budget could not support hiring him.[36] Mr. Grant then instructed them to cease pursuing the idea.[37]

In late July 2010, Mr. Esquivel emailed [redacted] an OPM internal contractor who handled marketing issues for HRS, telling him that he (Mr. Esquivel) and Ms. Ely "spent

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[32] *OPM HRS Daily Status Report for VA HCIP* dated March 23, 2010, contained in Email from Esquivel to Grant; cc [redacted] Ely, and Roman; "HRS Daily status report for VA HCIP 23 Mar 2010", Mar. 23, 2010, 1:46pm. *See also*, *OPM HRS Daily Status Reports for VA HCIP* dated March 24, 25, 26, 29 (mislabeled as 26), and 31, and April 1, 2, 5, 6, 7, 8 (mislabeled as 7), 9, and 12, 2010.

[33] *See, OPM HRS Daily Status Report for VA HCIP* dated March 26, 2010, contained in Email from Roman to Grant; cc Mason, [redacted] Esquivel, and Ely; "OPM VA HCIP Status Report Mar 29, 2010", Mar. 29, 2010, 9:56pm; *OPM HRS Daily Status Report for VA HCIP* dated March 31, 2010, contained in Email from Roman to Grant; cc Ely, Esquivel, [redacted] and Mason; "OPM VA HCIP Status Report Mar 31, 2010", Mar. 31, 2010, 11:18pm; Email from Esquivel to [redacted] "FW: Daily Status Report 04-05-10", April 5, 2010, 10:11pm.

[34] Email from [redacted] to [redacted] [redacted] and [redacted] cc: [redacted] "RE: Stewart Liff", April 06, 2010, 11:36 am. This email chain was forwarded to Mr. Esquivel. Email from [redacted] to Esquivel, "FW: Stewart Liff", April 6, 2010, 12:09pm.

[35] Email from Esquivel to [redacted] "RE: Stewart Liff", April 6, 2010, 12:19pm ("You have answered my questions in that we can't afford him as part of HCIP and if we found alternative sources of funding he could be brought on via an 8a contract.").

[36] Email from Esquivel to Grant; cc Ely, Mason, and [redacted] "RE: HRS Daily Status Report 4-6-10 (VA HCIP)", April 6, 2010, 5:40pm.

[37] Email from Grant to Ely, Esquivel, [redacted] [redacted] Mason, and Montoya; cc Grant; "VA Wed Agenda", April 13, 2010, 5:56pm.

an hour talking to [Mr. Liff] at the request of Michael Grant", and requested that [redacted] "discuss with him how he might sub[contract] with one of the VMB primes on projects." During interviews with our investigators, Ms. Ely and Mr. Esquivel stated that it was not unusual for individuals to come to them to inquire about working for HRS.[39] The difference in Mr. Liff's case, as the email record makes clear, is that he was not just any vendor, but rather a specific person in whom both Mr. Grant and the senior HRS leadership were interested, and who consequently received preferential treatment.

By August 24, 2010, Mr. Liff informed Ms. Ely that he had "hooked up with SRA International," which is a VMB prime contractor.[40] SRA International, Inc., is a large firm and thus does not qualify for the expedited treatment afforded to 8(a) firms. Despite the contractual relationship established with Mr. Liff, SRA International was never given the opportunity to compete for the task orders discussed in this interim report. Instead, HRS arranged for an 8(a) firm, Information Experts, to hire Mr. Liff as a subcontractor. This provided swift and direct access to Mr. Liff, because HRS could award task orders to the 8(a) firm without competition.

DOL-VETS Task Order

On Tuesday, August 31, 2010, Amit Magdieli, the DOL-VETS Chief of Staff and Senior Advisor to Mr. Jefferson, emailed [redacted] because DOL-VETS was "looking to procure the services of a consultant" for a certain project.[41] He emphasized that this was a high priority for Mr. Jefferson and that they were working with a short timeline.

After [redacted] forwarded the email to individuals within HRS, [redacted] at that time a supervisor in VMB, provided Mr. Magdieli with the following response:

> Given the commitment we have at OPM to helping our veterans, we would like to support the requirement you've sent to [redacted] However, there are some real constraints I need to convey to you. First, we cannot provide a direct access to Mr. Liff. He does appear to have a relationship with one of our prime contractors, but we would have to either compete this work among all our prime contractors or possibly assign it to an 8a firm or some other small business that we may be able to award to directly. That would decrease the likelihood of reaching Mr. Liff significantly.
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> Moreover, we have essentially filled our calendar with task order competitions and so find ourselves turning away customers trying to expend

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[38] Email from Esquivel to [redacted] and Smith-Heimbrock; cc [redacted] and [redacted] "Stewart Liff…", dated July 30, 2010, 5:56pm.

[39] Ely Interview #2; Esquivel Interview #2.

[40] Email from Liff to Ely, "Re: Followup", Aug. 24, 2010, 9:45am. *See also*, Email from Esquivel to Grant, "Interesting meeting with Stewart Liff..", Sept. 1, 2010, 9:05pm (Mr. Liff "confirmed he is subbing thru SRA.").

[41] Email from Magdieli to [redacted] "Requesting Consulting Services for DOL VETS", Aug. 31, 2010, 9:55am.

> FY10 funds.
>
> **Are you OK with entering into an interagency agreement even if we are not able to access Mr. Liff?** If you are, we will ask 1. if [redacted] can rework your statement of requirements into a formal Statement of Objectives and 2. if Contracting will support a request to go the route of an 8a or small business award. We're working against a deadline of Friday for a completed agreement (signed on both ends) with a Statement of Objectives. (emphasis in original)[42]

Upon receiving [redacted] email, Mr. Magdieli forwarded the email chain to Mr. Grant, asking whether there was "some creative, legal and ethical solution" to the obstacles related to DOL-VETS obtaining Mr. Liff's services.[43]

That same day, an email from Mr. Esquivel shows that Ms. Ely requested that Dean Hunter, Deputy Director for Facilities, Security, and Contracting (FSC), and [redacted] Director of Contracting, FSC, provide HRS with suggestions about the "contracting flexibilities" available to HRS with regard to Mr. Liff.[44] Mr. Hunter interpreted this email as meaning Mr. Esquivel and Ms. Ely "are looking at what we could do (eg, [*sic*] sole source) to get this company [Mr. Liff and/or Stewart Liff & Associates] in place asap."[45] Ms. Ely subsequently informed Mr. Hunter and [redacted] that Stewart Liff & Associates was not an 8(a) firm and that he was currently not on the GSA Schedule.[46]

Over the next two days, Ms. Ely, Mr. Esquivel, and [redacted] exchanged a flurry of emails discussing how OPM could provide DOL-VETS with access to Mr. Liff.[47] Indeed, Mr. Esquivel described their goal as "getting Mr. Liff to continue working his Dept [*sic*] of Labor efforts, but this time thru OPM".[48]

It appears there was a sense of urgency regarding the request as on September 2, 2010, Mr. Esquivel updated Ms. Ely on his and [redacted] progress[49] and she responded, "Okay – well you know Michael – he wants an immediate response…And of course wouldn't you

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[42] Email from [redacted] to Magdieli; cc [redacted] and [redacted] "FW: Requesting Consulting Services for DOL VETS", Aug 31, 2010, 1:09pm (emphasis in original).

[43] Email from Magdieli to Grant, "Michael - Can you please assist - FW: Requesting Consulting Services for DOL VETS", Aug. 31, 2010, 2:38pm.

[44] Email from Esquivel to [redacted] and Hunter; cc McGuire, Ely, and [redacted]; "Tomorrow's mtg with Stewart Liff…", Aug. 31, 2010, 4:40pm.

[45] Email from Hunter to [redacted] and [redacted] cc [redacted] "RE: Tomorrow's mtg with Stewart Liff…", Aug. 31, 2010, 4:59pm.

[46] Email from Ely to Hunter, Esquivel, and [redacted] "Re: Tomorrow's mtg with Stewart Liff…", Aug. 31, 2010, 10:44pm.

[47] *See, e.g.,* Emails One and Three in Appendix; Email from Esquivel to Grant, "Interesting meeting with Stewart Liff", Sept. 1, 2010, 9:05pm ("What I was unsuccessful in doing today was getting with [redacted] and [redacted] to determine interim steps to work out the Dept of Labor [*sic*] issue.").
Email from Esquivel to [redacted] cc Ely; "Re: Mr. Liff", Sept. 2, 2010, 3:54pm.

[49] Email from Esquivel to Ely, "RE: Voicemail", Sept. 2, 2010, 12:58pm.

know, this is Liff stuff too."[50] Moreover, Ms. Ely informed Mr. Grant that she was personally impressing upon her staff that the DOL-VETS Task Order was a high priority. In her email to Mr. Grant, she wrote, "So how do I keep the fires lit if I am not here or personally involved? I need everyone in my organization to have that same sense of urgency. Good example is this issue with DOL. I know the only reason the progress has been made is because I jumped on it which is okay – I like operations".[51]

Earlier that same day, Mr. Grant emailed Mr. Magdieli to update him that they were "[s]till working" on resolving the matter.[52]

After consulting with [redacted] in FSC, HRS leadership, including Ms. Ely, determined that a sole source contract directly with Mr. Liff was not a procurement strategy that they wanted to use.[53] The fact that he was not an 8(a) firm was a factor contributing to that decision.[54] Despite Mr. Liff's relationship with HRS vendor SRA International, Ms. Ely, Mr. Esquivel, [redacted] and their staff concluded it would be faster, and thus preferable, for HRS to hire Mr. Liff through an 8(a) firm that already had a contract with HRS, which would have the added benefit of providing OPM with credit for using an 8(a) firm.[55]

Emails reflect that nearly a week prior to HRS issuing the solicitation package for this task order, [redacted] called Information Experts and emailed Mr. Liff's contact information to Adam Levin, Executive Vice President of Information Experts. Mr. Levin assured [redacted] that Information Experts would execute a teaming agreement with Mr. Liff, and confirmed the next day that it was done.[56] This is consistent with the DOL-OIG's finding that contractors were not aware of Mr. Liff until agencies specifically requested him.

Internal emails subpoenaed from Information Experts described the arrangement as a "favor" it did for OPM.[57] One employee wrote:

> Basically he [Mr. Liff] has been doing the work [for DOL-VETS] and we were asked by OPM to team with him. It was set aside for him but he had no OPM schedule and they wanted it on that vehicle. He plans on doing all the work with little to no input from us but I think we need to qc [perform a quality control review of] any deliverables.[58]

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[50] Email from Ely to Esquivel, "RE: Voicemail", Sept. 2, 2010, 1:02pm.
[51] Email from Ely to Grant, "Question of the day", Sept. 2, 2010, 3:57pm.
[52] Email from Grant to Magdieli, "RE: Michael – Can you please assist – FW: Requesting Consulting Services for DOL VETS", Sept. 2, 2010, 7:17am.
[53] Email Three in Appendix. *See also,* Email from Esquivel to Grant, "Interesting meeting with Stewart Liff..", Sept. 1, 2010, 9:05pm ("Kay [Ely] is working thru CG [Contracting Group] to determine whether we can sole source with him because of his unique perf mgmt and space integration expertise.").
[54] Email Three in Appendix.
[55] Id.
[56] Email Two in Appendix.
[57] Email from [redacted] to Levin, "RE: Call from Special Agent [redacted] w/ Dept. of Labor", Mar. 29, 2011, 3:02pm.
[58] Email from [redacted] to [redacted] "RE: DOL VETS Pricing.xlsx", Sept. 22, 2010, 6:52am.

Mr. Liff viewed the arrangement as one of simple convenience. He advised Information Experts that he did not expect its employees to have any significant involvement: "I see IE as primarily being a pass through on this other than perhaps occasionally conferring on the deliverables."[59]

Once Ms. Ely was informed that the 8(a) arrangement was in place, she consulted with [redacted] and made the final decision to hire Mr. Liff through Information Experts.[60] Thus, OPM had already chosen and effectively awarded the task order to Information Experts before the solicitation package for the task order was issued on September 8, 2010.[61]

Emails One through Four in the Appendix attached to this interim report are the primary OPM and Information Experts emails arranging and discussing this agreement.

HRS Training Task Order

Shortly after the DOL-VETS task order began to be processed through HRS, Ms. Ely decided that she wanted Mr. Liff to speak at HRS's leadership training conference in Kansas City. Ms. Ely told our investigators that she specifically chose Mr. Liff for this training session because she believed it was appropriate since he was already associated with an 8(a) firm.[62] Consequently, it was openly acknowledged from the very beginning that Mr. Liff would not be required to compete for this work.[63]

Through our email review, we found that Mr. Liff himself wrote the basic proposal that was quoted verbatim in the statement of objectives and that senior HRS leadership was aware of this fact.[64] While this may technically be permissible in some situations under contracting regulations, OPM employees told our investigators that this practice is either not permissible at all or that the practice is disfavored.

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[59] Email from Liff to [redacted] "Re: Copy of Cost Estimator Worksheet DOL VETS 9-10-10.xlsx", Sept. 13, 2010, 12:28pm.

[60] Email Three in Appendix.

[61] DOL-VETS Task Order Solicitation Email.

[62] Ely Interview #2.

[63] Email from [redacted] to [redacted] "FW: Stewart Liff", Sept. 21, 2010, 7:23pm ("This is one that will go to IE for OPM"); Email from [redacted] to [redacted] "RE: Stewart Liff", Sept. 23, 2010, 10:20pm.

[64] Mr. Liff sent a proposal to [redacted] an HRS employee involved in planning the training event. Email from Liff to [redacted], "Re: Possible One Day Presentation to HR Solutions (Kay and Frank's Organization) SES group and Managers. Nov 2, 2010.", Sept. 13, 2010, 6:15pm. [redacted] forwarded Mr. Liff's email and attached proposal to Mr. Esquivel, [redacted] and others, writing "Attached is proposal [*sic*] from Stewart Liff. It looks fine to me. Please review. If you approve, we will move forward on procurement." Email from [redacted] to Esquivel; cc [redacted] [redacted] and [redacted] "FW: Possible One Day Presentation to the HR Solutions SES group and Managers. Nov 2, 2010."; Sept. 14, 2010, 9:37am. Thus, all senior participants were clearly aware that there would be no competition whatsoever and that Mr. Liff, through Information Experts, was effectively chosen for the project before the solicitation package even was issued on September 22, 2010. *See,* HRS Training Task Order Solicitation Email.

Before the solicitation was issued, [redacted] a senior VMB project manager, either at [redacted] direction or with his knowledge, emailed Information Experts to ensure that they would hire Mr. Liff in exchange for being awarded the task order.[66] During this email exchange, [redacted] told Information Experts that this training session "has our Director's attention." We found no other reference, in either interviews or documents, suggesting that Director Berry had a particular interest in this training session or knowledge of Mr. Liff this early in 2010.

Information Experts was well aware of the preferential treatment given to Mr. Liff within OPM. An Information Experts employee expressed concern about doing a second project with Mr. Liff when the company had not yet seen his work product from the first project[68] Despite this, the company accepted the task order award anyway because, in the words of the Information Experts employee, it was clear that OPM "must love him".[69]

Organizational Assessment Task Order

In the fall of 2010, senior OPM staff began discussing the possibility of performing an organization assessment within OPM. Mr. Grant informed our investigators that the organizational assessment was his idea.[70] Director Berry agreed with the concept, and it was decided that the OCFO would be the first assessed because Mr. Agostini, then CFO, was concerned about possible dysfunction within his department.[71]

Mr. Grant stated that it was his idea to utilize Mr. Liff for this organizational assessment.[72] On December 9, 2010, Mr. Grant coordinated a conference call with Mr. Liff and the Deputy Chiefs of Staff, Mr. Johnson, and Ms. Mason.[73] He sent an agenda to Mr. Johnson and Ms. Mason, listing topics to discuss with Mr. Liff, including a pilot program with the OCFO as well as other services Mr. Liff might be able to provide OPM, such as an OPM agency-wide assessment and support for OPM's performance management workgroup.[74]

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[65] Email chain contained in Email from [redacted] to [redacted] "RE: Stewart Liff", Sept. 22, 2010, 8:55am. One email in the chain, from [redacted] to [redacted] "FW: Stewart Liff", Sept. 21, 2010, 7:23pm, stated "This is one that will go to IE for OPM. Can you request a proposal for this so we can get this completed. [*sic*]" *See also*, [redacted] Interview #2.

[66] Email Five in Appendix. The solicitation package was sent directly – and only – to Mr. Levin by [redacted] a few hours after her email inquiring about Mr. Liff. HRS Training Task Order Solicitation Email.

[67] Id.

[68] Email from [redacted] to Levin, "RE: Solicitation – OPM Improving Performance of Government Employees", Sept. 22, 2010, 4:10pm.

[69] Id.

[70] Grant Interview #1.

[71] Agostini Interview.

[72] Grant Interview #2.

[73] Email from Grant to Grant; cc Johnson and Mason; "Today", Dec. 9, 2010, 9:30am.

[74] Id.

The evidence suggests that Mr. Grant already had this project organized and was simply waiting for Mr. Agostini to agree to fund it.[75] For example, although he was the CFO at the time, Mr. Agostini was not included in the above mentioned December 9, 2010, conference call specifically discussing an organization assessment involving the OCFO.

Although Mr. Grant was not directly involved in the drafting of the statement of objectives for the Organizational Assessment Task Order,[76] he did significantly influence it. In mid-December 2010, at Mr. Grant's request, Mr. Liff emailed Mr. Grant a proposal to perform organizational assessments at OPM.[77] Mr. Grant then forwarded this same document to Mr. Agostini in early January 2011, inviting Mr. Agostini to ask questions or make suggestions.[78]

The document prepared by Mr. Liff was then given to an OCFO employee, [redacted] as "guidance" in preparing the draft statement of objectives for an "initial requirement" from Mr. Grant.[79] The language from Mr. Liff's proposal was incorporated into the statement of objectives nearly verbatim.[80] Thus, Mr. Liff again played a significant role in developing the requirements for a project that had already been specifically reserved for him.

When our investigators interviewed Mr. Grant, he portrayed his role as suggesting Mr. Liff as someone who could perform the assessment.[81] He acknowledged that he provided Mr. Agostini with information about Mr. Liff's work.[82] Mr. Grant indicated that Mr. Agostini had input into the decision to hire Mr. Liff for the project and he [Mr. Agostini] was responsible for determining whether it was appropriate to hire Mr. Liff.[83] However, email exchanges show that Mr. Grant appeared to have gone beyond simply suggesting Mr. Liff. For example, when OCFO staff had not yet contacted Mr. Liff regarding his proposal, Mr. Grant sent Mr. Agostini two separate emails on a Friday evening specifically requesting that someone from OCFO contact Mr. Liff on the following Monday to discuss the selection process for the vendor for the task order.[84] Mr. Agostini did eventually reach out to Tina McGuire, Director of FSC and OPM's Senior Procurement Executive, and [redacted] "to discuss a possible procurement action for a Mr. Liff."[85]

Mr. Grant continued to check in with Mr. Agostini with regard to the status of Mr. Liff, even after the solicitation package was sent to Information Experts on February 8, 2011, and the procurement process had begun. In the emails reviewed by our investigators, Mr.

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[75] Email from Grant to Agostini, "Triple Checking", Dec. 16, 2010, 2:51pm.
[76] Email from Grant to Agostini and Marella, "FW: Org assessment Statement of Work – update", Feb. 4, 2011, 6:10pm (requesting that he not be sent the various draft statements of objectives).
[77] Email from Liff to Grant, "Proposal", Dec. 15, 2010, 11:51am.
[78] Email from Grant to Agostini, "Outline", Jan. 4, 2011, 7:10pm.
[79] Email from [redacted] i to [redacted] and Esquivel; cc Marella; "Assessment services", Jan. 31, 2011, 4:15pm.
[80] Id.; Organizational Assessment Task Order Solicitation Email.
[81] Grant Interviews #1 and #3.
[82] Grant Interviews #1 and #3.
[83] Grant Interviews #1 and #3.
[84] Email from Grant to Agostini, "Por Favor", Jan. 7, 2011, 6:15pm; Email from Grant to Agostini, "Could", Jan. 7, 2011, 7:10pm.
[85] Email from [redacted] to [redacted]; cc McGuire; "Procurement Discussion", Jan. 25, 2011, 1:13pm.

Grant's inquiries almost always specifically referenced *Mr. Liff*, rather than the organizational assessment project generally.[86]

OPM emails regarding the request for a task order proposal for the organizational assessment indicated that "higher-ups" within OPM asked [redacted] "to turn this around in 24 hours."[87] Emails subpoenaed from Information Experts state that [redacted] contacted them on February 1, 2011 (one week before the solicitation package was issued)[88] to again request assistance in obtaining Mr. Liff's services for the organizational assessment.[89] Information Experts agreed, so long as its own costs were covered in full.[90] Its employees were under the impression that "[t]he directors (John Berry included) at OPM love Stuart [*sic*], so this is a good thing for us to do, although we don't really get any exposure."[91]

We found no indication that Director Berry provided any input on the procurement process that resulted in the hiring of Mr. Liff. Based upon emails and interviews, it appears that at some point in late 2010 or early 2011, OPM senior staff who had interacted with Mr. Liff at Mr. Grant's suggestion, brought Mr. Liff to Director Berry's attention.[92] During our interview with Director Berry, he stated that he had a positive opinion of Mr. Liff's experience and skills based upon the book by Mr. Liff that Mr. Grant provided to him.[93] The Director told our investigators that he thought hiring a consultant was a good idea because of performance issues within various components within OPM.[94] He informed Mr. Grant that if it was appropriate and OPM had the resources, Mr. Liff could be hired. However, Director Berry thought another consultant could perform the work if an arrangement with Mr. Liff was not feasible.

Mr. Grant stated that he normally relies upon the heads of OPM departments to handle daily operations and internal matters and that he was not a micromanager.[95] In contrast, his actions revealed that where Mr. Liff was concerned, Mr. Grant often became involved in relatively minor administrative issues. For example, after a delay finalizing paperwork

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[86] *See, e.g.,* Email from Grant to Agostini, "Re: Pester", Feb. 1, 2011, 8:11pm; Email from Grant to Agostini, "May I", Feb. 21, 2011, 10:26am (May I "get specifics from you on iff [*sic*] status and timeline by 11AM tomorrow?") (emphasis in original); Email from Grant to Agostini, "Por Favor", Mar. 4, 2011, 2:30pm ("PLEASE have people communicating with Liff…as agreed.").

[87] Email from [redacted] to [redacted] and [redacted] "RE: Solicitation – OPM Consulting and Assessment Services – Request for a Task Order Proposal", Feb. 24, 2011, 3:31pm.

[88] Organizational Assessment Task Order Solicitation Email.

[89] Email from [redacted] to Levin and [redacted] cc [redacted] and [redacted] "OPM – Stuart Liff work", Feb. 1, 2011, 8:11am.

[90] Id.

[91] Id.

[92] Berry Interview. *See also,* Email from Montoya to Grant, Johnson, and Mason; cc [redacted]; "RE: Stewart Liff: Visit to DC", Nov. 4, 2010, 11:37am; Email from Johnson to Montoya and Grant, "RE: Stuart Liff", Nov. 15, 2010, 4:49pm.

[93] Berry Interview; Grant Interview #1.

[94] Berry Interview.

[95] Grant Interviews #1 and #3.

affected Mr. Liff's travel plans, Mr. Grant contacted Mr. Agostini multiple times to find out what steps remained and requested that Mr. Agostini help resolve them quickly.[96]

Mr. Grant also expressed concern in March 2011 about how Mr. Liff specifically would be affected if there was a Government shutdown (*i.e.,* how he was paid, whether he would be able to continue working, and how his travel arrangements would be affected).[97] The way Mr. Grant phrased this concern was not about how the project would be affected, but rather the consequences that a shutdown would have upon *Mr. Liff personally*.

Mr. Grant and Mr. Liff also communicated about actions Mr. Grant could take to assist Mr. Liff. For example, when the suggestion was raised that Mr. Liff speak at an upcoming SES retreat, Mr. Grant told Mr. Liff to "[p]lease include that on your list of things for me to do on the Liff front."[98] Moreover, according to the invoices Mr. Liff submitted to Information Experts, he met with Mr. Grant on a daily basis during the majority of the time he spent working at OPM on the organizational assessment.[99]

While Mr. Liff received Mr. Grant's personal attention, [redacted] the *project manager* for the *prime contractor* (Information Experts), worked primarily with lower level HRS program managers and OCFO staff.[100]

Significantly, high-level OPM officials, including Mr. Grant, Mr. Agostini, Ms. Ely, and Mr. Esquivel, were often involved in resolving invoice issues at Mr. Liff's request.[101] Ms. Ely and Mr. Esquivel noted that it was not unusual for HRS contractors to contact them about invoice problems. However, OPM did not have a contractual relationship with Mr. Liff. OPM's contract was with *Information Experts*, and so the invoices in question were those submitted by Information Experts to OPM. When these senior officials intervened to secure information or action in these matters, they referenced *Mr. Liff*, and not Information Experts. These senior officials instructed subordinates to give Mr. Liff's invoices priority treatment[102] even though HRS was struggling with a large backlog of unpaid invoices.[103]

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[96] Email from Grant to Agostini, "RE: Tried calling you", Mar. 16, 2011, 7:11am; Email from Grant to Agostini, "FW: Requested Information", Mar. 16, 2011, 2:16pm; Email from Grant to Agostini, "RE: Update", Mar. 17, 2011, 2:14pm.

[97] Email from Grant to Agostini, "Re", Mar. 31, 2011, 12:45pm.

[98] Email from Grant to Liff, "Update", April 1, 2011, 4:33pm.

[99] Labor invoices submitted by Stewart Liff & Associates to Information Experts dated May 4, 2011; July 1, 2011; and July 28, 2011.

[100] In his interview with the OPM-OIG, [redacted] stated that his OPM contacts for the three task orders at issue were [redacted], VMB project manager; [redacted], Executive Office, Resource Management Office, OCFO; and [redacted] Senior Budget Analyst, OCFO. Email exchanges reviewed by the OPM-OIG support this, and also show [redacted] interacting with [redacted] VMB Project Manager, and [redacted], VMB Project Manager.

[101] Email from Ely to Liff; cc Esquivel; "RE: E-Mail from Stew Liff", Oct. 4, 2010, 5:26pm; Email from Ely to [redacted], "Re: DOL VETS", Nov. 3, 2010, 8:23pm; Email from Ely to Liff, "Re: Payment", Dec. 6, 2010, 3:40pm; Email from Esquivel to [redacted] and [redacted] cc [redacted], [redacted] and [redacted] "Please check on a late invoice…", Jan. 11, 2011 7:26am; Email from Agostini to Grant, "RE: Tried calling you," Mar. 16, 2011, 8:09am; Email from Grant to Liff, "RE: Requested Information", Mar. 16, 2011, 8:13am; Email from Ely to Liff, "Re: Payment", Mar. 29, 2011, 10:45am.

[102] Email from Ely to Smith-Heimbrock, "FW: Check Number 650", Jan. 1, 2011, 6:49pm (requesting Ms. Smith-Heimbrock to inquire into a returned check and a $12 late check fee charged to Mr. Liff); Email from

Information Experts employees joked that it is "[n]ice to have people in high places" because Mr. Liff was receiving more information about when Information Experts would be getting paid than the company itself was.[104]

Findings for Issue #1 - Misuse of Position by Michael Grant and Kay Ely

The evidence revealed that Mr. Grant and Ms. Ely misused their positions to give Mr. Liff preferential treatment. Mr. Liff's connections with these senior Government officials gave him, and Information Experts, an unfair advantage over other vendors who might have offered similar services. Furthermore, while carrying out the expressed wish of Mr. Grant and Ms. Ely to hire Mr. Liff, Mr. Esquivel and [redacted] gave direction to lower level staff, which resulted in the favored treatment to Mr. Liff. Thus, OPM employees and contractors circumvented Federal contracting procedures.

Michael Grant

Our investigators asked Mr. Grant whether he pressured OPM employees to utilize Mr. Liff's services. Mr. Grant responded that he believes that senior career executives (*e.g.,* Associate Directors and other heads of departments) are not pressured or intimidated by political appointees because these career executives are experienced and are used to changes in agency political leadership.[105] He believes that the small size of OPM and the existence of multiple, politically-appointed "advisors/counselors to the Director" contribute to this dynamic.[106]

The evidence developed by our investigators, however, indicates that in this case, a political appointee (Mr. Grant) did indeed exercise influence upon career employees. We believe that Mr. Grant's position within the "Office of the Director" carried additional weight because it implies, whether correctly or incorrectly, that his requests had the backing of the Director.

Mr. Grant explained to our investigators that his involvement occurred primarily because, in the case of the organizational assessments, Mr. Liff's work was in furtherance of Director Berry's agency-wide initiative to address poor performance and other management issues. While that may be true, the evidentiary record shows that Mr. Grant

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Esquivel to [redacted] and [redacted]r; cc [redacted], [redacted] and [redacted] "Please check on a late invoice…", Jan. 11, 2011 7:26am; Email from [redacted] to Esquivel, "RE: Did you talk with Stew Liff re late payment?", Jan. 13, 2011, 10:23pm ("I apologize, it slipped thru…VMB is unbelievable with the amount of work to be done and the amount going on…the way things are now, only the most urgent, most important things can be done. This should have been in this category given the leadership connections.").

[103] *See,* Email from [redacted] to Esquivel, "RE: Did you talk with Stew Liff re late payment?", Jan. 13, 2011, 10:23pm; Email from [redacted] to Ely and Esquivel, "RE: Stew Liff", Mar. 29, 2011, 10:25am; Esquivel Supplemental Statement; [redacted] Interview.

[104] Email from [redacted] to [redacted] "Stewart Liff", Mar. 29, 2011, 12:44pm.

[105] Grant Interview #3.

[106] Id. To clarify, Mr. Grant appeared to be taking the position that the presence of multiple political appointees with the same or similar titles diminishes their ability to intimidate senior career employees.

demonstrated a significant interest in finding various projects on which Mr. Liff could work and monitored Mr. Liff's progress. For example, Mr. Grant forwarded *Mr. Liff's proposal* for the organizational assessment to Mr. Agostini, and then requested that Mr. Agostini have someone contact *Mr. Liff* about the project. Practically from its inception, the organizational assessment task order was viewed as Mr. Liff's particular assignment.

Mr. Grant also stated to our investigators that he was not advocating for Mr. Liff as an individual, but rather for the concepts about which Mr. Liff wrote, and that he believed Mr. Liff's services would greatly benefit OPM.[107] We found no evidence, however, that Mr. Grant was interested in determining whether there were other contractors who could perform this type of work. Instead, Mr. Grant's focus was always upon Mr. Liff personally. Indeed, when inquiring about the status of the DOL-VETS and Organizational Assessment Task Orders, Mr. Grant would specifically refer to Mr. Liff – *not* to the actual projects themselves.

Mr. Grant did not directly participate in the procurement process, and does not appear to have personally violated a specific procurement rule or regulation. For example, he would ask for advice as to the point in the procurement process at which he was allowed to start meeting with Mr. Liff.[108] However, Mr. Grant made obvious his strong desire to hire Mr. Liff for OPM projects. For example, during his second interview with our investigators, Mr. Esquivel reported that Mr. Grant's persistent focus on Mr. Liff was inappropriate and made him (Mr. Esquivel) feel significantly pressured and as if he was a "pawn in the process".[109] This continued at lower levels of HRS, where [redacted] said that he felt pressured by Ms. Ely[110] and [redacted] in turn felt pressured by [redacted][111]

The information we obtained supports the conclusion that if Mr. Grant had not personally become involved in promoting Mr. Liff's advancement at OPM, it is unlikely that he (Mr. Liff) would have been placed on OPM projects. Absent preferential treatment, the task orders would have been properly competed among HRS contractors. These HRS contractors should have had an opportunity to be considered for the projects, but were not because of the unfair advantage provided to Mr. Liff, by way of Information Experts. Moreover, taxpayer funds would not have been deprived of legal safeguards (*i.e.*, competition) in place to prevent the waste that occurred in this situation.

<u>*Kay Ely*</u>

Ms. Ely also utilized her position to provide preferential treatment to Mr. Liff. In emails to her staff, she often invoked Mr. Grant and Director Berry's names, as well as using phrases

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[107] Grant Interview #3; Email from Grant to Mason, "RE: OPM HRS VA HCIP Daily Status report for 25 Mar", Mar. 26, 2010, 7:59am.

[108] *See, e.g.,* Email from Grant to Esquivel; cc Mason; "RE: Flocharts", Mar. 26, 2010, 1:53pm; Email from Grant to Esquivel; cc Ely and Mason; "RE: HRS Daily Status Report 4-6-10 (VA HCIP)", April 6, 2010, 5:35pm; Email from Grant to Johnson, "RE: I believe", Feb. 27, 2011, 2:58pm; Email from Ely to Grant, "Green Light", Mar. 1, 2011, 11:52am.

[109] Esquivel Interview #2. *See also,* Esquivel Interview #1.

[110] [redacted] Interview #2.

[111] [redacted] Interviews #1 and #2.

such as "the fifth floor" (the location of the Director's suite of offices) and "Director's initiative," to ensure that Mr. Liff's projects and needs were given high priority. While she did not specifically request that laws or regulations be circumvented, email correspondence indicates that Ms. Ely, who had considerable professional expertise in Federal contracting, knew what actions her employees were taking, and yet did not object.[112] In fact, she specifically approved [redacted] suggestion of utilizing an 8(a) pass-through vehicle in order to obtain Mr. Liff's services for the DOL-VETS Task Order, which is how Mr. Liff first became involved with OPM.[113]

Furthermore, Ms. Ely failed to promote and enforce compliance with Federal contracting rules and regulations within HRS. *Nearly every Federal agency interacts with HRS.* Therefore, any mismanagement within HRS has a Government-wide effect. Consequently, a critical responsibility of the HRS Associate Director is to ensure that procedures are in place - and followed - to safeguard the vast amounts of Federal funds that flow through HRS. It was Ms. Ely's responsibility to properly *oversee* this program, not simply to grow its revenue base.

Moreover, it was also Ms. Ely's responsibility to inform senior OPM officials who lack contracting expertise, such as Mr. Grant, as to whether the results they sought could be achieved in accordance with proper contracting procedures or whether their actions would otherwise adversely affect the procurement process. In this situation, however, she failed to do so.

Other OPM Employees

The failure to ensure compliance with Federal contracting law and to safeguard taxpayer dollars continued down the HRS leadership chain. Mr. Esquivel carried out Mr. Grant and Ms. Ely's requests without objection, adding his weight to the pressure placed upon subordinates. [redacted] stated that he attempted to push back against leadership, but ultimately passed the same message to "get Mr. Liff" to his subordinates.[114]

This eventually resulted in lower level employees carrying out instructions which compromised the procurement process. Because of Mr. Grant and Ms. Ely's actions, HRS representatives, specifically [redacted] and [redacted] circumvented the competitive bid procedures in order to guarantee access to Mr. Liff, after Mr. Liff was specifically identified as the desired contractor by senior OPM officials. No meaningful effort was made to determine whether there were more economical and efficient options available to meet the needs of OPM or DOL-VETS.

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[112] *See, e.g.,* Email from [redacted] to Ely; cc Esquivel; "RE: Voicemail", Sept. 2, 2010, 2:48pm ("The easy answer is yes we can help them with Mr. Liff if we go through an 8(a) vendor on our contract."), contained in Email One in Appendix; Email from [redacted] to Esquivel; cc Ely; "Mr. Liff", Sept. 2, 2010, 3:15pm, contained in Email Three in Appendix; Email from [redacted] to Ely; cc Esquivel; "RE: New issue," Mar. 15, 2011, 2:02pm.

[113] Email Three in Appendix.

[114] In addition to emails cited throughout this interim report, see also [redacted]e and [redacted] Interviews; [redacted] Interviews #1 and #2. *See also,* [redacted] Interview.

Moreover, Ms. McGuire likewise failed to fulfill her responsibility as Director of FSC to ensure compliance with Federal contracting rules and regulations at OPM, which will be discussed in the next section of this report.

ISSUE #2: MISMANAGEMENT WITHIN HRS

Junior HRS and FSC employees informed us that the pressure they felt focused primarily upon executing task orders quickly.[115] In this particular case, it appears that closing deals and pleasing customers were considered more important than observing the contracting regulations and procedures in place to ensure transparent and careful use of taxpayer funds. This pressure escalated dramatically when senior OPM officials expressed strong interest in particular task orders.

Failure of FSC to Oversee HRS Contracts

In the summer of 2010, HRS and FSC reorganized to ensure that HRS's VMB had sufficient support from FSC's contracting experts. In response to an OPM-OIG September 2011 Final Audit Report related to HRS compliance with Federal contracting law,[116] Ms. McGuire stated that structural changes were made within both HRS and FSC. Specifically, she informed our auditors that "[s]ince July 2010 VMB has not had an internal contracting operation".[117] Instead, VMB "has been working collaboratively and with the guidance of FSC acquisition staff comply [*sic*] with all FAR requirements to meet the operational needs of VMB in the area of acquisition."[118] However, all FSC employees to whom our investigators spoke denied exercising any meaningful oversight of these particular task orders.[119] Instead, the contracting officers appear to have simply processed the paperwork generated by HRS.

The evidentiary record compiled by our investigators reveals that both Ms. McGuire and [redacted] knew that there were problems related to the Organizational Assessment Task Order and simply passed off responsibility for those problems to HRS, despite FSC's earlier insistence that it had begun to play a greater role in HRS's affairs.

In early February 2011, Ms. Ely raised a concern with [redacted] and Ms. McGuire about the statement of objectives issued for the Organizational Assessment Task Order because it mentioned Mr. Liff's books. She wondered in an email, "Maybe a very direct

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[115] [redacted], [redacted], and [redacted] Interviews; [redacted] Interviews #1 and #2.

[116] OPM-OIG Final Audit Report: Audit of the U.S. Office of Personnel Management's Human Resources Solutions' Vendor Management Branch, Report Number 4A-HR-00-11-012, Sept. 30, 2011, *available at*: http://www.opm.gov/our-inspector-general/reports/2011/audit-of-the-us-office-of-personnel-managements-human-resources-solutions-vendor-management-branch.pdf (hereinafter, "OPM-OIG VMB Audit Report").

[117] Memorandum from Ms. McGuire to [redacted], "Draft Report on the U.S. Office of Personnel Management's Vendor Management Branch, Report No. 4A-HR-00-11-012", June 15, 2011, contained in Appendix B of the OPM-OIG VMB Audit Report.

[118] Id.

[119] [redacted], [redacted], McGuire, and [redacted] Interviews.

question to Michael [Grant] or CFO is a good next step? I will help in any way I can – just let me know."[120] [redacted] responded "Will do."[121]

Apparently [redacted] thought that this issue was important enough that he informed Ms. McGuire of it, asking, "Hey, have you taken a look at the SOW [statement of work] for the 'Stewart Liff' requirement? They have a reference to his books in the 'Contractor furnished Material' section. Are they crazy or is it just me?"[122] Ms. McGuire responded that she had not seen it, but had heard about it from Ms. Ely.[123]

Despite the concerns expressed by HRS and FSC leadership, nothing was done to correct the statement of objectives, either before or after the solicitation package was issued. In interviews with our investigators, Ms. Ely and [redacted] each explained that the quality of the statement of objectives for this project was not their responsibility and each assumed that someone else had corrected the problem or approved the document as it was.[124]

We are concerned that HRS and FSC leadership may have been more concerned about the *appearance* of following proper contracting procedures rather than *actual compliance*. As mentioned earlier, Ms. McGuire and [redacted] had been approached in late January 2011 by Mr. Agostini about hiring Mr. Liff specifically,[125] while Ms. Ely knew that Information Experts had been explicitly asked to subcontract work to Mr. Liff on the two prior task orders. These facts suggest that they likely knew that the Organizational Assessment Task Order was intended to go to Mr. Liff without competition. While Ms. Ely, Ms. McGuire, and [redacted] expressed concern over the paperwork, we did not find any emails or other evidence showing a similar concern about the preferential treatment that Mr. Liff was in fact receiving and which severely compromised the procurement process.

Later that same month, when there were disputes over the funding and the documentation for the Organizational Assessment Task Order, Ms. McGuire passed off all responsibility for the contract to Ms. Ely in an email that simply stated "Tag, you're it."[126]

These actions by senior HRS and FSC officials show that despite the reorganization's goal of improving HRS's compliance with the FAR, FSC's increased involvement still failed to provide adequate oversight of the HRS task order award process when Mr. Liff was involved.

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[120] Email from Ely to [redacted] cc McGuire; "Re: Assessment services", Feb. 8, 2011, 10:12am.
[121] Email from [redacted] to Ely; cc McGuire; "Re: Assessment services", Feb. 8, 2011, 10:15am.
[122] Email from [redacted] to McGuire, "RE: 8(a) STARS II Update", Feb. 9, 2011, 9:58am.
[123] Email from McGuire to [redacted] "RE: 8(a) STARS II Update", Feb. 9, 2011, 10:00am.
[124] [redacted] Interview; Ely Interview #1.
[125] Email from [redacted] to [redacted]; cc McGuire; "Procurement Discussion", Jan. 25, 2011, 1:13pm (Mr. Agostini had wanted "to discuss a possible procurement action for a Mr. Liff.").
[126] Email from McGuire to [redacted] Ely, Esquivel, and Roman, "Re: Solicitation – OPM Consulting and Assessment Services – Request for a Task Order Proposal", Feb. 24, 2011, 2:03pm.

Disregard of Fair and Open Competition

One of the most basic tenets in Federal contracting is that all "Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none."[127] The evidence developed by our investigators suggests that the principles of fair and open competition were not adequately applied to any of the task orders on which Mr. Liff worked. When the question of placing Mr. Liff on an OPM contract was first raised, HRS and FSC managers recognized that he might not secure a contract through the competitive process or qualify for a sole-source contract, and so instead focused solely on identifying and applying the means by which to award him the work noncompetitively. OPM circumvented the competitive process in order to direct work to a single individual.

One Information Experts employee captured the importance of open and fair competition with his comments about the DOL-VETS Task Order. When he first read the solicitation, he noted that the company did not have anyone with the skills specific to the DOL-VETS statement of objectives. He then wrote, "It appears a lot of this is contingent on the consultant having a wealth of knowledge in VETS? [*sic*] Wouldn't new 'fresh' eyes be the better choise [*sic*] since it appears they are looking for total direction [*sic*] and a near 100% change in process or paradigm?"[128]

Failure to Safeguard Taxpayer Money

We believe that this situation involved a waste of taxpayer money because the evidence suggests that merit and cost were not meaningful factors in the award of these task orders. It appears that Information Experts and Mr. Liff did not base the price estimates for these task orders upon the work to be performed, but rather the amount of money that they wanted to earn from the projects. For example:

- *DOL-VETS Task Order*: When preparing his cost estimate, Mr. Liff was informed that the highest hourly amount that Information Experts could charge for him under its contract with OPM was $205. Consequently, Information Experts instructed Mr. Liff to reduce his rate of [redacted] to $205, and increase his hours in order to arrive at the same price.[129]

- *HRS Training Task Order*: Initially, Mr. Liff told OPM that he would perform the presentation for $6,000 plus travel costs.[130] Information Experts and Mr. Liff negotiated an agreement whereby Mr. Liff would accept approximately $6,000

[127] 48 C.F.R § 3.101-1.
[128] Email from [redacted] to [redacted] and [redacted], "RE: Solicitation - DOL VETS Consulting Services. OPM Small Business Set Aside Program", Sept. 9, 2010, 4:09pm.
[129] Email from [redacted] to Liff, "costs", Sept. 14, 2010, 1:56pm.
[130] Proposal attached to Email from Liff to Fredrick, "Re: Possible One Day Presentation to the HRS Solutions (Kay and Frank's Organization) SES group and Managers. Nov 2, 2010.", Sept. 13, 2010, 6:15pm; Email from [redacted] to [redacted] "RE: Solicitation – OPM Improving Performance of Government Employees", Sept. 22, 2010, 5:24pm; Email from [redacted] to [redacted] "RE: IPGE", Oct. 14, 2010, 1:57pm.

(inclusive of travel) and Information Experts would retain the remainder charged to OPM.[131] In discussing the pricing arrangement for that project, an Information Experts employee wrote "I don't want to burn ANY real time on this…It's basically a gimmee…I am hoping we won't even need to attend a kickoff meeting."[132]

- *Organizational Assessment Task Order*: When working with Information Experts to develop the cost estimate, Mr. Liff suggested that "[i]f we need to make the price more palatable, we could add another say 200 hours or so to the estimate, and then reduce the hourly rate by 10% to get the same final number."[133]

The amount of these three task orders was $449,237. The following table reflects how these amounts were to be divided between Information Experts and Mr. Liff, based upon our review of documents subpoenaed from Information Experts.

[131] Email from [redacted] to [redacted] cc [redacted]; "FW: Solicitation – OPM Improving Performance of Government Employees", Sept. 24, 2010, 8:41am.
[132] Id.
[133] Email from Liff to Liff and [redacted] cc [redacted] and [redacted]; "Re: OPM consulting project", Feb. 10, 2011, 1:36pm.

Task Order	Total Amount of Contract between OPM and Information Experts	Amount of Subcontract between Mr. Liff and Information Experts	Difference Between Total Contract and Subcontract Amounts
DOL-VETS	$110,519	$93,732 (85%)	$16,787 (15%)
HRS Training	$7,470	$5,985 (80%)	$1,485 (20%)
Organizational Assessment *	$331,248	$176,799 (53%)[134]	$154,449 (47%)
Total	**$449,237**	**$276,516 (62%)**	**$172,721 (38%)**

** The original period of performance for the organizational assessment project was February 2011 to March 2013. Under the original proposal submitted by Information Experts, the company was to be paid $808,592 and Mr. Liff was to receive $626,027. However, OPM entered into a contract with Information Experts for $331,248 for it to perform only the initial phases of project. OPM exercised its right to terminate the contract in August 2011. The figures listed in the table for the Organizational Assessment Task Order are based upon that contract, the subcontracts between Mr. Liff and Information Experts, and invoices submitted by Mr. Liff to Information Experts.*

***The DOL-OIG found that DOL-VETS paid almost $710,000 to obtain Mr. Liff's services for a period of 16 months. This amount includes the DOL-VETS Task Order listed in this table.* [135]

When OPM requested information as to the percentages of work performed by Mr. Liff and Information Experts employees respectively on the DOL-VETS and Organizational Assessment Task Orders, one Information Experts employee asked Information Experts executives, "[S]hould I just be honest with them? I mean Liff was the sub[contractor] and we were the prime, but as the SME [subject matter expert] he did a brunt of the work. I proofread and did his invoices, that was it."[136] Information Experts subsequently reported

[134] Labor invoices submitted by Stewart Liff & Associates to Information Experts dated April 2, 2011, May 4, 2011, July 1, 2011, July 28, 2011, and August 19, 2011; Travel invoices submitted by Stewart Liff & Associates to Information Experts dated May 5, 2011, July 3, 2011, and August 7, 2011; Email from [redacted] to Maktabi, "FW: Stewart Liff Payments – OPM Consulting and Assessment", Dec. 9, 2011, 11:56am.

[135] DOL-OIG Report at pages 21 and 26. The DOL-OIG concluded that DOL-VETS had paid approximately $230,000 for the services performed by Mr. Liff through Information Experts. This figure, however, also includes the amounts charged by HRS for the work it performed and expenses it incurred related to this project, in accordance with the interagency agreement between DOL and HRS. In contrast, this chart contains only those amounts related to the work performed by Information Experts (and Mr. Liff).

[136] Email from [redacted] to Maktabi, "FW: HRM Report Deliverable", Sept. 7, 2011, 12:43pm.

to OPM that Mr. Liff performed approximately 80 percent of the work on each of these task orders and Information Experts employees performed the remaining 20 percent.[137]

Our review of emails from Information Expert revealed other disturbing statements. When reviewing a list of projects on which Information Experts worked, one Information Experts employee commented that "we did a lot of OPM pass throughs and those just are not much of anything."[138] The company even faced the problem of determining how to factor in profits from pass-throughs when calculating an Information Experts employee's annual bonus and Mr. Liff's work was cited as an example of such a pass-through.[139]

Findings for Issue #2 - Mismanagement within HRS

The evidence developed by our investigators revealed that the mismanagement within HRS significantly contributed to a situation where taxpayer funds were directed to a specific individual without the protection afforded by the competitive bid process. Speedy award of the task orders and satisfying these customers appeared to be the primary operational concerns.[140] Moreover, to the extent FSC employees paid attention to these HRS task orders, we did not find that they attempted to enforce compliance with contracting law or to stop the unfair and inappropriate practices that occurred. We are concerned that a culture may develop within these departments where the type of improper behavior uncovered in this investigation is deemed to be acceptable.

Given the information obtained from documents subpoenaed from Information Experts, we are concerned that the use of 8(a) companies as pass-throughs to hire a preferred vendor may be common practice within HRS. Use of pass-throughs increases the risk that the Federal Government will be charged an amount that is based upon contractors' profit goals rather than the best value available to the Government.

We are seriously concerned by the lack of stewardship of taxpayer funds revealed in this case. No one appeared to have considered whether the Government was receiving the best value for its money: Mr. Grant and Ms. Ely focused upon hiring Mr. Liff; Mr. Esquivel and [redacted] provided the necessary directions to their subordinates to accomplish this; and lower level employees carried out those instructions in an effort to please their supervisors. As a result, economy, efficiency, and merit were not meaningful factors in the award of these task orders. The unfortunate outcome was that taxpayer dollars were directed to a specific, favored vendor without the justification required under Federal procurement rules and regulations.

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[137] Email from Maktabi to [redacted]; cc Levin and [redacted] "Re: HRM Report Deliverable – Please review.", Sept. 9, 2011, at 2:24pm.

[138] Email from [redacted] to [redacted] "RE: PPS and Core Services.xslx", July 10, 2012, 7:38pm. It should be noted that in the attached list, there were multiple projects (in addition to those on which Mr. Liff worked) that were labeled either "pass throughs" or "OPM pass throughs."

[139] Email from Levin to Maktabi, "Please review", July 18, 2011, 3:28pm.

[140] Ely Interview #2. *See also,* [redacted], [redacted] and [redacted] Interviews.

RECOMMENDATIONS

As the result of our investigation, we make the following recommendations:

Recommendation #1

We recommend that OPM consider appropriate administrative action to address the employee misconduct identified in this report. If OPM requires copies of referenced evidence concerning specific employees in order to take administrative action, please contact our office.

Recommendation #2

OPM should ensure that the current and future HRS Associate Directors, FSC Directors, and senior staff in those organizations fully understand their responsibilities with regard to OPM's compliance with Federal contracting law, including their obligation to advise OPM officials who are not contracting experts and to report violations of which they become aware.

Recommendation #3

We found that the restructuring of responsibilities between HRS and FSC failed to achieve the stated goal of bringing HRS into compliance with Federal procurement procedures. We understand that additional controls and procedures have been instituted since the 2010 reorganization. In light of the findings of this report, however, OPM should revisit the current procedures and processes used by HRS and FSC to ensure that they are fully compliant with the FAR.

Recommendation #4

Given that OPM utilized an 8(a) firm to circumvent proper contracting procedures, OPM should conduct a review to determine if there are additional instances where 8(a) firms are being used as pass-throughs in a similarly inappropriate manner. Moreover, OPM should consult with SBA to ensure that HRS's interactions with 8(a) firms are conducted in accordance with SBA's regulations and the FAR.

APPENDIX

EMAIL ONE

From: Ely, Kay
To: [redacted] [redacted]
Cc: Esquivel, Frank O.
Subject: Voicemail
Sent: Thursday, September 02, 2010 12:50 PM

Did you get my voicemail from earlier today? I am trying to follow up on the letter (from [redacted]) that the Department of Labor received regarding the use of the TMA [now VMB] contracts for what I am guessing is end of the year services and includes a subcontractor they are interested in and have used already.

I need the details and soonest. Thanks, Kay

From: [redacted] [redacted]
To: Ely, Kay
Cc: Esquivel, Frank O.
Subject: RE: Voicemail
Sent: Thursday, September 02, 2010 2:48 PM

Sorry as I was working a VA issue and I am just now sitting down. My apologizes. [*sic*]

The easy answer is yes we can help them with Mr. Liff if we go through an 8(a) vendor on our contract. We had sent an email to Amit Magdieli on Tuesday letting them know we should be able to support them with our only concern being the SOW [statement of work] that was sent to us sounds an awful lot like a personal services contract. We offered to help evaluate the SOW if they would like so we could move forward.

[redacted] had already sent another email to follow up with Mr. Magdieli this morning before I got to work as we had not heard back yet from Tuesdays [*sic*] email.

What I really found funny though is I had not even thought about my voicemail still having me as a [redacted] …….You can tell I am on the stick!

If you have any questions please feel free to call

[redacted]

[redacted]
Office of Personnel Management
Chief, Vendor Management Branch
1900 E St. NW, Room 1453
Washington, DC 20415-0001

(O) [redacted]

From: Ely, Kay
To: [redacted]
Cc: Esquivel, Frank O.
Subject: RE: Voicemail
Sent: Thursday, September 02, 2010 3:20 PM

Yes, things do change and although it was great having you as the [redacted] I like it even better in your new VMB role! Since this is an important customer (Labor) to Mr. Grant just make sure we stay on top of it and assist in any way we can.

Kay

From: [redacted]
To: Ely, Kay
Cc: Esquivel, Frank O.
Subject: RE: Voicemail
Sent: Thursday, September 02, 2010 3:36 PM

Will do as we believe we have this taken care of as [redacted] came in just a few minutes ago to let me know all is good. Now I have to figure out how to change my voicemail…….gotta love it!

If you have any questions please feel free to call

[redacted]

[redacted]
Office of Personnel Management
Chief, Vendor Management Branch
1900 E St. NW, Room 1453
Washington, DC 20415-0001
[redacted]opm.gov

From: Ely, Kay
To: [redacted]
Cc: Esquivel, Frank O.
Subject: RE: Voicemail
Sent: Thursday, September 02, 2010 3:43 PM

Also let me know when it is truly good to go, signed on the dotted line and the customer has the contractor back on board, etc. Then I can pass it along.

[End of Email One]

EMAIL TWO

From: Adam Levin
To: [redacted]
Subject: [*sic*]
Sent: Thursday, September 02, 2010 2:08 PM

My calls are being dropped. Can I call you after 2:30?

Sent using BlackBerry

From: [redacted]
To: Adam Levin
Subject: RE:
Sent: Thursday, September 02, 2010 2:56 PM

His name is Stewart Liff. Home office is [redacted] and cell is [redacted]. He's in California and he has a website. Thanks. [redacted]

From: Adam Levin
To: [redacted]
Subject: RE:
Sent: Thursday, September 02, 2010 5:14 PM

I have spoken with Stewart and will have a Teaming Agreement to him shortly.

Adam Levin
Executive Vice President
[redacted]
Information Experts, Inc.
[redacted]
www.informationexperts.com
A member of the 2009, 2010 Inc. 5000: the fastest growing privately held companies in America

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From: [redacted]
To: Adam Levin
Subject: RE:
Sent: Friday, September 03, 2010 8:32 AM

Great. I'll set things in motion here. [redacted]

From: Adam Levin
To: [redacted]
Subject: RE:
Sent: Friday, September 03, 2010 9:27 AM

The TA [Teaming Agreement] has been fully executed.

Adam Levin
Executive Vice President
[redacted]
Information Experts, Inc.
[redacted]
www.informationexperts.com
A member of the 2009, 2010 Inc. 5000: the fastest growing privately held companies in America

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From: [redacted]
To: Adam Levin
Subject: RE:
Sent: Friday, September 03, 2010 9:46 AM

Great. Thanks.

[End of Email Two]

EMAIL THREE

From: [redacted]
To: Esquivel, Frank O.
Cc: Ely, Kay
Subject: Mr. Liff
Sent: Thursday, September 02, 2010 3:15 PM

[redacted] just stopped by and we have Mr. Liff under the 8(a) vendor Information Experts and will have this completed either tomorrow or Tuesday at the latest. Just FYI as I know Mr. Grant was looking into this also.

[redacted]

From: Ely, Kay
To: [redacted]
Cc: [redacted]; Esquivel, Frank O.; [redacted]
Subject: RE: Mr. Liff
Sent: Thursday, September 02, 2010 4:23 PM

I just talked with [redacted] and it makes sense to rethink our procurement strategy. Based on this new information instead of a sole source we should use our own vehicle and this will also help with OPM's 8a credit.

I need someone to start working this on behalf of HRS to bring the IE/Liff team on board. This is separate and apart from the task for DOL. There are a variety of things we need assistance in and the work is very similar to what is being done at Labor.

So [redacted] at least that lets you off the hook for writing up the sole source justification.

From: [redacted]
To: Ely, Kay
Cc: [redacted] Esquivel, Frank O.; [redacted]
Subject: RE: Mr. Liff
Sent: Thursday, September 02, 2010 4:59 PM

All,

Agreed as we are bringing Mr. Liff on through one of our OPM 8(a) contractors (formerly under TMA and now under VMB) so we will get the credit. Is this what you are asking? If not I am truly sorry for being slow.

If you have any questions please feel free to call

[redacted]

[redacted]
Office of Personnel Management
Chief, Vendor Management Branch
1900 E St. NW, Room 1453
Washington, DC 20415-0001
[redacted]

From: Ely, Kay
To: [redacted]
Cc: [redacted], Esquivel, Frank O.; [redacted]
Subject: RE: Mr. Liff
Sent: Thursday, September 02, 2010 9:55 PM

Yes that is what I mean. Although not my first preference it is probably the most efficient. Just a note too - although we renamed the branch as vendor management keep in mind the contracts are still an IDIQ known as TMA. A reorganizaiton cannot change the way these contracts were competed and what title. I only mention it now because I have heard it before and we need as a group to keep that in mind. Until we recompete these contracts they are "TMA" even though they are housed under VMB. Make sense? Thanks all, Kay

[End of Email Three]

EMAIL FOUR

From: VMBTOC
To: 'opmvmbtoc@informationexperts.com'
Subject: Solicitation - DOL VETS Consulting Services. OPM Small Business Set Aside Program
Sent: Wednesday, September 08, 2010 11:30 AM

Greetings, Information Experts:

This is a small business set aside program. Please let us know if you are interested. You can also contact [redacted] directly at [redacted] or [redacted]

TOC Schedule of Events

Event	Schedule	Responsible Party
RSVP to VMBTOC@opm.gov by 3:00 p.m.	September 9	Vendors
Questions submitted to VMBTOC@opm.gov by Noon.	September 9	Vendors
Responses to questions returned to contractors.	September 10	OPM
Written Proposals submitted to VMBTOC@opm.gov.	September 15 by 3:00 p.m.	Vendors
Technical Evaluation Panel	September 16 -17	Client and OPM
Down select and Oral TOC Invitation emailed to 3 to 5 contractors selected to compete. *The Government reserves the right to make an award based on your initial offer.*	TBD	OPM
Oral Task Order Competition, *if required by the Government.*	TBD	Client, OPM, Selected Vendors
Award Made	September 21	OPM

Project Kick-Off Meeting	TBD	Client, OPM, Selected Vendor

Thank you,

Center of Excellence (CoE)
U.S. Office of Personnel Management
1900 E Street, NW, Room 1453
Washington, D.C. 20415
Email: VMBTOC@opm.gov

From: [redacted]
To: Adam Levin
Subject: FW: Solicitation - DOL VETS Consulting Services. OPM Small Business Set Aside Program
Sent: Wednesday, September 08, 2010 6:28 PM

From: Adam Levin
To: [redacted]; Moe Baker Maktabi; [redacted]
Subject: Fw: Solicitation - DOL VETS Consulting Services. OPM Small Business Set Aside Program
Sent: Wednesday, September 08, 2010 6:34 PM

This is a GO. This is set up for us and was only sent to us.

Sent using BlackBerry

[Continued on Next Page]

From: Adam Levin
To: [redacted] Moe Baker Maktabi; [redacted]
Subject: Fw: Solicitation - DOL VETS Consulting Services. OPM Small Business Set Aside Program
Sent: Wednesday, September 08, 2010 6:38 PM
Importance: High

I have the partner lined up for this.

Sent using BlackBerry

From: [redacted]
To: [redacted]
Subject: FW: Solicitation - DOL VETS Consulting Services. OPM Small Business Set Aside Program
Sent: Thursday, September 09, 2010 9:46 AM
Importance: High

Good morning,

This is one we are going after that has apparently been set up for us.. It has HC [human capital], dev [development] and a whole host of other elements. Our sub[contractor] is Stewart Liff who is mentioned in the SOO [statement of objectives] in the paragraph I copied below. He is based in California.

[redacted] will be the PM [project manager] for this proposal. Its due very quickly and questions are due today

Using a Visual Management approach, as described in the management book co-authored by Stewart Liff and Pamela A. Posey, the Consultant will guide the redesign of the National Office physical plant, working where necessary with VETS and DOL personnel, contractors, Veterans and stakeholders

[End of Email Four]

EMAIL FIVE

From: [redacted]
To: Adam Levin
Subject: Another Liff request
Sent: Wednesday, September 22, 2010 10:09 AM

Adam,

I will be sending another "pass-through" for Mr. Liff. This time OPM needs him for a one day presentation. I'll get the SOO [statement of objectives] and formal solicitation out to you this week. Just wanted to give you a heads up. You okay with this???? I want to be sure before we send it to only IE.

Thank you,

[redacted]

[redacted]
Sr. Project Manager
U.S. Office of Personnel Management
VMB's Center of Excellence (CoE)
1900 E Street, NW, Suite 1453
Washington, D.C. 20415
[redacted]

From: Adam Levin
To: [redacted]
Subject: Re: Another Liff request
Sent: Wednesday, September 22, 2010 10:28 AM

We are good. Send to my attention.

Sent using BlackBerry

From: [redacted]
To: Adam Levin
Subject: Re: Another Liff request
Sent: Wednesday, September 22, 2010 10:37 AM

Great! My SME [subject matter expert] is working the SOO [statement of objectives] now and I should have it by morning. What a relief. This has our Director's attention. THANK YOU!

Thank you,

[redacted]

[End of Email Five]