NAVAIR HOTLINE COMPLETION REPORT
As of 23 July 2014

1. Investigator(s) and Identifying Information and Location of Working Papers

a. Investigator(s) and Identifying Information:

(b)(6),(b)(7)(c), Command Investigator, Office of the Inspector General, Naval Air Systems Command (NAVAIR), Tel: (301) 757-(b)(6), or DSN 757-(b)(6), , email: (b)(6),(b)(7)(c) @navy.mil

b. Location of Working Papers.

Naval Air Systems Command (NAVAIR), Office of the Inspector General (IG), Attn: AIR-00G, 22145 Arnold Circle, Unit #7, Bldg 404, Suite 100, Patuxent River, MD 20670-1541.

2. Background and Summary

a. Hotline control #s and Origin of Complaint.

(1) A walk-in complaint was received by the NAVAIR IG on 27 August 2013. It was entered into the Naval Inspector General Hotline Tracking System (NIGHTS) on 10 September and assigned NIGHTS case number 201302675

(2) The Investigating Officer (IO) submitted the complaint and an Investigation Request to the Naval Inspector General (NAVINSGEN) on 11 September 2013. NAVINSGEN approved the request to investigate the complaint on 22 October 2013.

b. Summary of the Complaint.

Technology Security Associates, Incorporated (TSA) had a task order (M801) under contract N00178-06-D-4895 to provide Contractor Support Services (CSS) to NAVAIR 1.1 since December 2009. In August 2013, (b)(6),(b)(7)(c) NAVAIR 1.1, provided TSA, with the resume of (b)(6),(b)(7)(c), a former NAVAIR intern, as a candidate for prospective employment with the company as a Senior Administrative Assistant to provide support to NAVAIR 1.1. After being told by TSA that (b)(6),(b)(7)(c) had not been selected for the position, (b)(6),(b)(7)(c) implied to TSA that (b)(6),(b)(7)(c), NAVAIR 1.1, would likely not implement the position. TSA was subsequently advised that the requirement for the position was cancelled due to funding restrictions. The complaint also contained TSA's concern that (b)(6),(b)(7)(c) might not be impartial when considering a bid submitted by TSA for a follow-on task order because of his displeasure that TSA did not select (b)(6),(b)(7)(c)

c. Additional Information

(1) The complaint stated that the CSS contract was currently under source selection for the follow-on Task Order (under solicitation N00024-13-R-3101) and TSA was competing for that solicitation via their proposal submission on 13 March 2013. The complaint conveyed

concern about impartiality in the source selection process for the follow-on contract due to TSA not selecting (b)(6),(b)(7)(c) .

a) During the course of the investigation, the IO learned that the follow-on Task Order M803 under contract N00178-06-D-4895 was awarded (pursuant to solicitation N00024-13-R-3101) to TSA on 7 December 2013. According to an e-mail dated 31 March 2014 to the IO from (b)(6),(b)(7)(c) , (b)(6),(b)(7)(c) NAVAIR 1.1, (b)(6),(b)(7)(c) stated that due to sequestration and the delayed approval of the budget by Congress, funding for the Task Order was not received until November 2013. As a result of that funding delay, the announcement of the award of the follow-on Task Order to TSA was delayed. No further investigation regarding this issue was necessary.

(2) The IO interviewed the known complainant, (b)(6),(b)(7)(c) , on 22 May 2014. In that interview, (b)(6),(b)(7)(c) expressed concern that the requirement for the Senior Administrative Assistant position might not have been necessary; and that (b)(6),(b)(7)(c) had been willing to spend government money "to fill a particular position or recreate a particular position to provide employment to someone that they liked." (b)(6),(b)(7)(c) based his concern on his belief that: (1) the requirement came about so quickly with the inference that (b)(6),(b)(7)(c) was the preferred choice of (b)(6),(b)(7)(c) and (2) the position was suddenly not implemented after (b)(6),(b)(7)(c) was informed that (b)(6),(b)(7)(c) was not selected.

a) In his interview, (b)(6),(b)(7)(c) advised that in July 2013, an employee in the role of Web Developer, providing support under the TSA Task Order, left TSA. On 23 July 2013, the (b)(6),(b)(7)(c) , NAVAIR 1.1, sent an e-mail to (b)(6),(b)(7)(c) , at TSA advising that the Web Developer position would not be funded and requested that TSA not back fill the position. (b)(6),(b)(7)(c) sent another e-mail to (b)(6),(b)(7)(c) on 25 July 2013 advising that NAVAIR 1.1 intended to continue to fund the position, but replace the function with a Senior Administrative Assistant.

1. In an interview with the IO on 28 May 2014, (b)(6),(b)(7)(c) , NAVAIR 1.1, explained that the Web Developer function had been assumed by NAVAIR 7.1 and the requirement was going to be fulfilled under a CSS contract with Precise Systems, Inc. within that organization. Since the Web Developer tasking was no longer a requirement within AIR-1.1's purview, priorities were shifted to other tasks and someone, with a different set of skills, was needed to support (b)(6),(b)(7)(c) , NAVAIR 1.0. It was decided the TSA Task Order would be the vehicle used since the Task Order had ceiling and money available. The 25 July 2013 e-mail communicated to TSA the need for the Senior Administrative Assistant.

b) In his interview, (b)(6),(b)(7)(c) advised that on 20 August 2013 he informed (b)(6),(b)(7)(c) that he had two qualified candidates for the Senior Administrative Assistant position, and that (b)(6),(b)(7)(c) was not one of them. (b)(6),(b)(7)(c) stated that (b)(6),(b)(7)(c) responded by implying that as a result, (b)(6),(b)(7)(c) would not be pleased and would likely not implement the position. (b)(6),(b)(7)(c) indicated to the IO that the comment was not unexpected because he had a clear expectation that they wanted (b)(6),(b)(7)(c) hired. (b)(6),(b)(7)(c) stated that when he did

not select (b)(6),(b)(7)(c), he was not going to be surprised when they pulled the funding. In an e-mail dated 22 August 2013, (b)(6),(b)(7)(c) informed (b)(6),(b)(7)(c) that leadership had made manpower and funding cuts, and as a result the requirement for the position[1] had been eliminated.

1. In his interview, (b)(6),(b)(7)(c) denied that (b)(6),(b)(7)(c) told him that the position would likely not be implemented if (b)(6),(b)(7)(c) was not selected. He stated that the "reduction in personnel came from leadership based on the Command's requirement to keep our full-time equivalent CSS low."

2. The IO interviewed (b)(6),(b)(7)(c) on 29 May 2014. (b)(6),(b)(7)(c) denied saying that the position would likely not be implemented if (b)(6),(b)(7)(c) was not selected; or saying anything that someone could interpret as such. He advised that the Senior Administrative Assistant requirement was not his billet, it was (b)(6),(b)(7)(c). (b)(6),(b)(7)(c) indicated that he was advised by (b)(6),(b)(7)(c), AIR 7.8 who supports AIR 1.0 of a 20% budget cut for CSS personnel. He advised that in a meeting between (b)(6),(b)(7)(c) and (b)(6),(b)(7)(c) it was decided that the position did not need to be filled because they did not have the funding. (b)(6),(b)(7)(c) explained that because the position was vacant, it made sense to make this requirement one of the cuts rather than a position that had funding and had already been filled.

3. The IO interviewed (b)(6),(b)(7)(c), NAWCAD 2.5. (b)(6),(b)(7)(c) stated that there are only three full time equivalent positions on the follow-on Task Order M803. She indicated that the Web Tool Designer and the Administrative Assistant positions that were on the previous Task Order M801 were unfunded on the new Task Order.

c) The information provided by (b)(6),(b)(7)(c) and (b)(6),(b)(7)(c) indicate that there was a plausible explanation for the seemingly sudden commencement and elimination of the position. Further, the position for which (b)(6),(b)(7)(c) was recommended was not re-funded on the new Task Order. Therefore, this issue did not warrant further investigation by the NAVAIR IG.

d. Summary of Outcome of Investigation.

The investigation resulted in 2 allegations being substantiated.

e. List of Allegations.

Allegation 1: That (b)(6),(b)(7)(c), NAVAIR 1.1, created the appearance of violating the ethical standard under 5 CFR 2635.101(b)(8) by providing the resume of a prospective candidate for employment to Technology Security Associates, Inc. for a position to support NAVAIR 1.1 in July 2013, in violation of 5 CFR 2635.101(b)(14).

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[1] The requirement for a second Senior Administrative Assistant position was also eliminated. The requirement for that second position was communicated to TSA in a 31 July 2013 e-mail from (b)(6),(b)(7)(c) to (b)(6),(b)(7)(c). In his interview, (b)(6),(b)(7)(c) advised that because there was still funding on the contract, the second position was a requirement to assist (b)(6),(b)(7)(c), the Branch Head for a new division, (b)(6),(b)(7)(c)

Allegation 2: That (b)(6),(b)(7)(c) (b)(6),(b)(7)(c), NAVAIR 1.1, created the appearance of violating the ethical standard under 5 CFR 2635.101(b)(8) by requesting that a subordinate provide the resume of a prospective candidate for employment to Technology Security Associates, Inc. for a position to support NAVAIR 1.1 in July 2013, in violation of 5 CFR 2635.101(b)(14).

3. **Allegation 1:** That (b)(6),(b)(7)(c), NAVAIR 1.1, created the appearance of violating the ethical standard under 5 CFR 2635.101(b)(8) by providing the resume of a prospective candidate for employment to Technology Security Associates, Inc. for a position to support NAVAIR 1.1 in July 2013, in violation of 5 CFR 2635.101(b)(14). **Substantiated.**

a. Facts.

(1) 5 CFR 2635.101(b)(8) states that "Employees shall act impartially and not give preferential treatment to any private organization or individual."

(2) 5 CFR 2635.101(b)(14) states that "Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts."

(3) The IO interviewed (b)(6),(b)(7)(c), on 22 May 2014. In that interview, (b)(6),(b)(7)(c) testified to the following:

a) In July 2013, (b)(6),(b)(7)(c) provided (b)(6),(b)(7)(c) with two resumes, unsolicited, including (b)(6),(b)(7)(c) but noted it was TSA's decision who to hire. (b)(6),(b)(7)(c) indicated that "it was inferred that the position was connected to a particular person that they would like to see in the job;" however, he did not feel influenced by (b)(6),(b)(7)(c) to hire (b)(6),(b)(7)(c). He further stated that he believes (b)(6),(b)(7)(c) is "an honest guy and he meant that…but he had a suggestion…a person that might work."

b) On 4 August 2013, TSA posted the job requirements they had developed. (b)(6),(b)(6),(b)(7)(c) applied for the position on 5 August 2013.

c) (b)(6),(b)(7)(c) met with (b)(6),(b)(7)(c) on 20 August 2013 and advised him that TSA was not intending to select (b)(6),(b)(7)(c) for the position. (b)(6),(b)(7)(c) indicated that Mr. (b)(6),(b)(7)(c) said he respected (b)(6),(b)(7)(c) choice. However, following the 20 August 2013 meeting (b)(6),(b)(7)(c) decided to seek a third reference for (b)(6),(b)(7)(c) since (b)(6),(b)(7)(c) and (b)(6),(b)(7)(c) seemed so supportive of her. The third reference was even more negative than the previous two references. (b)(6),(b)(7)(c) stated that although he did not feel influenced to hire (b)(6),(b)(7)(c), he felt there was an "inference" that (b)(6),(b)(7)(c) wanted (b)(6),(b)(7)(c) to be given the position due to their friendship.

(4) The IO interviewed (b)(6),(b)(7)(c) on 28 May 2014. (b)(6),(b)(7)(c) testified that he provided several resumes to TSA, including (b)(6),(b)(7)(c) . He indicated that (b)(6),(b)(7)(c) resume was passed to him from (b)(6),(b)(7)(c) (b)(6),(b)(7)(c) stated that he did not remember whether or not the resumes were solicited by TSA. He further stated that he provided the resumes to TSA as recommendations because (b)(6),(b)(7)(c) indicated that TSA was having trouble identifying people that were qualified.

b. Analysis/Discussion/Conclusion.

1. 5 CFR 2635.101(b)(8) requires that employees act impartially and not give preferential treatment to any private organization or individual.

2. 5 CFR 2635.101(b)(14) requires employees to avoid any actions creating the appearance that they are violating the ethical standards. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

3. According to (b)(6),(b)(7)(c) , (b)(6),(b)(7)(c) provided (b)(6),(b)(7)(c) resume to TSA, unsolicited, prior to the job requirement being posted. (b)(6),(b)(7)(c) did not dispute that claim. Although (b)(6),(b)(7)(c) expressed that it was TSA's decision who to hire for the position, (b)(6),(b)(7)(c) stated that he believed the requirement was intended for (b)(6),(b)(7)(c) to fill. By providing (b)(6),(b)(7)(c) resume to TSA, unsolicited, it could appear to a reasonable person that (b)(6),(b)(7)(c) was trying to give her preferential treatment.

4. Based on the evidence obtained and statements provided, the IO concluded that the allegation that (b)(6),(b)(7)(c) , NAVAIR 1.1, created the appearance of violating the ethical standard under 5 CFR 2635.101(b)(8) by providing the resume of a prospective candidate for employment to Technology Security Associates, Inc. for a position to support NAVAIR 1.1 in July 2013, in violation of 5 CFR 2635.101(b)(14) was substantiated.

c. Recommendations. Management should take appropriate action.

d. Disposition. Disposition will be determined by management. Documentation of management's decision will be located in the case file.

4. **Allegation 2:** That (b)(6),(b)(7)(c) , NAVAIR 1.1, created the appearance of violating the ethical standard under 5 CFR 2635.101(b)(8) by requesting that a subordinate provide the resume of a prospective candidate for employment to Technology Security Associates, Inc. for a position to support NAVAIR 1.1 in July 2013, in violation of 5 CFR 2635.101(b)(14). **Substantiated.**

a. Facts.

(1) 5 CFR 2635.101(b)(8) states that "Employees shall act impartially and not give preferential treatment to any private organization or individual."

(2) 5 CFR 2635.101(b)(14) states that "Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts."

(3) 5 USC 2635.702 states that "An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations."

(4) In his 29 May 2014 interview, (b)(6),(b)(7)(c) testified that he provided (b)(6),(b)(7)(c) resume to (b)(6),(b)(7)(c) and asked him to provide it to TSA. He stated that the resume was provided unsolicited and it was normal to recommend people for jobs. (b)(6),(b)(7)(c) advised that (b)(6),(b)(7)(c) had been a summer hire working at AIR 1.1 for four years and he felt she was qualified for the position based on the experience she gained in the program as an intern.

(5) (b)(6),(b)(7)(c) stated that (b)(6),(b)(7)(c) had a personal relationship with (b)(6),(b)(7)(c). He indicated that he had been advised by TSA employees and subcontractor employees that (b)(6),(b)(7)(c) was a member of a high school athletic team coached by (b)(6),(b)(7)(c) that (b)(6),(b)(7)(c) was friendly with (b)(6),(b)(7)(c) family; and that (b)(6),(b)(7)(c) spent a significant period of time in (b)(6),(b)(7)(c) office discussing non-work related matters.

a) (b)(6),(b)(7)(c) testified that he had coached (b)(6),(b)(7)(c) high school lacrosse team and she worked for him as a summer hire, but stated that he did not have any connection to her outside of those instances.

b. Analysis/Discussion/Conclusion.

(1) 5 USC 2635.702 regulates the proper use of a Government employee's position. It prohibits the use of that position for the private gain of a friend, relative, or other person with whom the employee is associated in a non-Governmental capacity. The complainant stated that he believed that (b)(6),(b)(7)(c) had a personal friendship with (b)(6),(b)(7)(c). (b)(6),(b)(7)(c) admitted that he was affiliated with (b)(6),(b)(7)(c) in a non-governmental capacity. He also stated that he knew (b)(6),(b)(7)(c) because she supported NAVAIR 1.1 as an intern and that he requested that her resume be provided to TSA because he thought she would be a good fit based on that experience. Because (b)(6),(b)(7)(c) was familiar with (b)(6),(b)(7)(c) in both a governmental and non-governmental capacity, the IO determined that using the regulation 5 CFR 2635.702 misuse of position, was too restrictive to use in evaluating the facts in determining the propriety of (b)(6),(b)(7)(c) actions.

(2) (b)(6),(b)(7)(c) admitted that he requested that (b)(6),(b)(7)(c) provide TSA with (b)(6),(b)(7)(c) resume. (b)(6),(b)(7)(c) might have had good intentions about ensuring that TSA hire a candidate he believed was qualified to support NAVAIR. However, by directing his employee to

provide (b)(6),(b)(7)(c) resume to TSA, it could appear to a reasonable person that (b)(6),(b)(7)(c) was trying to give her preferential treatment.

(3) Based on the evidence obtained and statements provided, the IO concluded that the allegation that (b)(6),(b)(7)(c) , NAVAIR 1.1, created the appearance of violating the ethical standard under 5 CFR 2635.101(b)(8) by requesting that a subordinate provide the resume of a prospective candidate for employment to Technology Security Associates, Inc. for a position to support NAVAIR 1.1 in July 2013, in violation of 5 CFR 2635.101(b)(14) is substantiated.

c. Recommendations. Management should take appropriate action.

d. Disposition. Disposition will be determined by management. Documentation of management's decision will be located in the case file.

5. **Interviews:**

a. (b)(6),(b)(7)(c) (witness), (b)(6),(b)(7)(c) , NAVAIR 1.1

b. (b)(6),(b)(7)(c) (complainant/witness), (b)(6),(b)(7)(c)

c. (b)(6),(b)(7)(c) (witness), (b)(6),(b)(7)(c) , NAWCAD 2.5

d. (b)(6),(b)(7)(c) (subject), (b)(6),(b)(7)(c) , NAVAIR 1.1

e. (b)(6),(b)(7)(c) (subject), (b)(6),(b)(7)(c) , AIR 1.1

6. **Documents:**

5 CFR 2635.101(b)(8)

5 CFR 2635.101(b)(14)

5 USC 2635.702(b)

E-mail dated 23 July 2013 from (b)(6),(b)(7)(c) to (b)(6),(b)(7)(c)

E-mail dated 25 July 2013 from (b)(6),(b)(7)(c) to (b)(6),(b)(7)(c)

E-mail dated 31 July 2013 from (b)(6),(b)(7)(c) to (b)(6),(b)(7)(c)

E-mail dated 22 August 2013 from (b)(6),(b)(7)(c) to (b)(6),(b)(7)(c)

E-mail dated 31 March 2014 from (b)(6),(b)(7)(c) to the IO

Sequence of Events Regarding Personnel Decisions to Meet the Requirements of Contract N00178-06-D-2895 M801

Transcript of Interview, (b)(6),(b)(7)(c), 29 May 2014

Transcript of Interview, (b)(6),(b)(7)(c), 22 May 2014

Transcript of Interview, (b)(6),(b)(7)(c), 27 May 2013

Transcript of Interview, (b)(6),(b)(7)(c), 29 May 2014

Transcript of Interview, (b)(6),(b)(7)(c), 28 May 2014