

**STATEMENT OF NICHOLAS DAHL
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FOR AUDITS AND EVALUATIONS
OFFICE OF INSPECTOR GENERAL
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
SUBCOMMITTEE ON NATIONAL SECURITY
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
UNITED STATES HOUSE OF REPRESENTATIVES
HEARING ON
“ASSESSING VA’S HUMAN CAPITAL MANAGEMENT RISKS”
MARCH 1, 2017**

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to testify today on the Office of Inspector General’s (OIG) work related to two key VA human capital programs—the Recruitment, Relocation and Retention incentive program; and the Drug Free Workplace program. I am accompanied by Irene Barnett, Ph.D., the Director of the OIG’s Audit Operations Division in Bedford, Massachusetts.

BACKGROUND

Providing health care to our nation’s veterans is one of VA’s key responsibilities. The Veterans Health Administration (VHA) provides inpatient and outpatient health care to about 7 million veterans each year through a network of over 140 medical centers and about 1,200 outpatient clinics in the community. To accomplish this mission, VHA employs over 300,000 employees including physicians, nurses, other healthcare professions, and administrative employees.

VHA uses human capital flexibilities such as recruitment, relocation, and retention (3R) incentives in order to attract and retain top talent for its medical centers and clinics. These incentives provide VA, as well as other federal agencies, with important tools to fill positions that support the agency’s critical mission. In fiscal year (FY) 2015, VA spent more than \$67 million on 3R incentives, with VHA accounting for almost all of this spending. Used prudently and properly, recruitment and relocation incentives help VA attract highly qualified candidates with unique and in-demand skills and competencies that would otherwise not consider working in the Federal government or at locations where positions are difficult to fill. Similarly, retention incentives enable VA to retain employees whose services are essential to its mission and who would otherwise leave Federal service. Effective use of these incentives requires robust workforce development and succession planning to include developing strategies to address current and future staffing needs.

VA’s 3R incentive policies and procedures are the responsibility of VA’s Office of Human Resources Management (OHRM). OHRM administers the program as set in VA Handbook 5007/46, *Pay Administration*. The Corporate Senior Executive Management Office (CSEMO) is responsible for conducting technical reviews of Senior Executive Service (SES) 3R incentives to ensure compliance with VA Handbook 5007/46. The

CSEMO Executive Director makes recommendations to the Secretary, or his designee, to approve or deny these 3R incentive requests for employees occupying positions centralized to that office, including SES employees, Title 38 SES-equivalents, and senior-level or scientific and professional positions. Human Resources Management Officers within each VA Administration are responsible for administering 3R incentives locally. Medical Center Directors are the approving officials for recruitment and relocation incentives of up to 15 percent of salary for VHA employees in non-centralized positions under their jurisdiction.

There are several components to VA's 3R incentives:

- Recruitment incentives may be paid to full or part-time employees newly appointed to Federal service for positions that are likely hard to fill without an incentive.
- Relocation incentives may be paid to full-time Federal employees for positions that are likely hard to fill without an incentive.
- Retention incentives may be paid to full or part-time employees or a group of employees if they possess unusually high or unique qualifications and are likely to leave without an incentive.

VA Handbook 5007/46 requires:

- VA Form 10016, *Justification and Authorization of Recruitment and Relocation Incentives*, be used to document the justification, authorization, and approval of all recruitment and relocation incentives.
- Employees establish a residence in the new geographic area and submit a written self-certification that includes the employee's new address to the Human Resources office in order to generate payment of a relocation incentive.

Whereas 3R incentives are tools VA can use to attract and maintain top talent, its Drug Free Workplace Program is intended to ensure that VA's workforce of physicians, dentists, nurses, police officers, firefighters, motor vehicle operators, and other employees carry out their missions without the influence of illicit drugs that could risk the safety of veterans and VA employees. Over 200,000 VA employees are in occupations that are subject to random drug testing.

The Federal Drug-Free Workplace Program was initiated by Executive Order 12564 in 1986 with the goal of a drug-free Federal workplace and made it a condition of employment for all Federal employees to refrain from using illegal drugs on or off duty. The following year, Congress passed legislation (P.L. 100-71, Supplemental Appropriations 1987) designed to establish uniformity among Federal agencies' drug testing, confidentiality of drug test results, and centralized oversight of the drug testing program.

Within VA, the Deputy Assistant Secretary for Human Resources Management is responsible for the implementation of the Department's Drug-Free Workplace Program.

Drug Program Coordinators at each VHA facility are responsible for scheduling drug tests each month for randomly selected employees. There are several components to VA's Drug-Free Workplace Program, including:

- Pre-employment applicant testing of final selectees for Testing Designated Positions (TDPs).
- Random monthly drug testing of employees in TDPs. Human Resources officials are responsible for properly coding employees in TDPs with the drug test code in VA's personnel information system and to ensure that randomly selected employees are drug tested.
- Drug testing of employees when there is reasonable suspicion of on-the-job drug use or where drug use is suspected following a workplace accident or injury.

VA'S MANAGEMENT OF RECRUITMENT, RETENTION AND RELOCATION INCENTIVES

In January 2017, we reported VA needed to improve controls over its use of 3R incentives to ensure these pay authorities are strategically and prudently used to assist in the recruitment and retention of highly qualified employees in hard-to-fill positions.¹ We determined VA's controls over 3R incentives were inadequate and represented about \$158.7 million in unsupported spending and about \$3.9 million in repayment liabilities projected for FYs 2015 through 2019.

Specifically, we identified the following concerns:

- *Recruitment Incentives* – We found that of the estimated 1,546 recruitment incentives VHA awarded, about 33 percent were not properly authorized, representing about \$6.7 million in unsupported spending in FY 2014, and about \$33.3 million projected for FYs 2015 through 2019. We also found that the only two SES recruitment incentives awarded in FY 2014, totaling about \$97,000, were not properly authorized, representing about \$485,000 in unsupported spending projected for FYs 2015 through 2019. This occurred because VHA and CSEMO most frequently failed to obtain pre-authorization for recruitment incentives before the incentives were advertised on vacancy announcements. Pre-authorization is a necessary control to ensure senior officials support that a position is in fact hard to fill. In the absence of this control, VA has little assurance these incentives were used prudently to strategically recruit qualified candidates for hard-to-fill positions.
- *Relocation Incentive* – Of the estimated 727 relocation incentives VHA awarded in FY 2014, about 64 percent were not properly authorized. We also found that most of the nine relocation incentives awarded to non-SES VA Central Office (VACO) employees and all the relocation incentives awarded to SES employees were not properly authorized. This occurred because VA and CSEMO did not ensure that relocation incentives were properly pre-authorized. We identified

¹ *Audit of Recruitment, Relocation, and Retention Incentives*, January 5, 2017.

instances where relocation incentives were authorized after the final selectee was identified to fill a position, or even after an employee was brought on board. Improperly authorized relocation incentives for VHA, non-SES VACO employees, and SES combined represented about \$8.7 million in FY 2014; and about \$43.7 million in unsupported spending projected for FYs 2015 through 2019.

Human Resources Management Officers did not enforce VA's requirement that employees self-certify they moved to their new position's geographic location before authorizing relocation incentive payments. VHA authorized relocation incentive payments before employees certified they moved to a new geographic location for about 41 percent of the estimated 727 relocation incentives it authorized. We also found that local Human Resource Management Officers improperly authorized relocation incentive payments for almost all SES employees and non-SES VACO employees before ensuring employees certified they moved to the new geographic location.

- *Retention Incentives* – While there are no limits on the number of years an employee can receive retention incentive payments, according to VHA, employees were paid retention incentives an average of almost 4 years. Of the estimated 1,719 retention incentives VHA awarded, about 69 percent did not include adequate workforce and succession plans.

This occurred because approving officials approved retention incentives without ensuring that workforce and succession plans included details on efforts to reduce or eliminate the need for the incentive. The purpose of workforce succession plans is to help VA reduce its long term reliance on retention incentives. We also observed that facilities did not actively pursue and successfully administer workforce and succession plans as required by VA Handbook 5007/46. We estimated VA spent about \$16 million in FY 2014; and an estimated \$80.1 million for FYs 2015 through 2019 on VHA and non-SES VACO retention incentives that lack adequate workforce and succession plans.

Almost all SES retention incentives (10 of 11) were approved without workforce and succession plans that detailed efforts to reduce or eliminate the need for the incentive. SES employees received retention incentives an average of over 5 years. We estimated SES retention incentives awarded without a workforce and succession plan detailing efforts to reduce or eliminate the incentive represented an estimated \$1.1 million projected for FYs 2015 through 2019.

This occurred because CSEMO did not carry out its responsibility to advise management officials on the application of regulations and procedures, as well as conduct technical reviews to ensure the completeness of SES incentives. We found that a former acting executive director of CSEMO and the former deputy director of CSEMO made recommendations in a memo to the former VA Chief of Staff to approve 9 of 11 SES retention incentives despite noting for each incentive that VHA needed to develop workforce and succession plans. While a

former acting executive director and former Deputy Assistant Secretary of CSEMO did not effectively carry out their responsibilities when they advised the former VA Chief of Staff to approve these retention incentives without adequate workforce and succession plans, this former VA Chief of Staff also did not fulfill his responsibilities.

- *Repayment Liabilities* – VHA also did not enforce repayment requirements for about 55 percent of the estimated 238 incentives for which employees did not fulfill their recruitment or relocation service obligations. We estimated VHA's inaction resulted in an employee repayment liability of about \$800,000 in FY 2014; and \$3.9 million projected for FYs 2015 through 2019. This occurred because VA's previous personnel system, Personnel and Accounting Integrated Data (PAID) system, lacked capabilities to issue alerts when employees receiving incentives change jobs, locations, resign, or their employment was terminated. VA's PAID system was replaced by HR Smart in June 2016. However, we observed during a demonstration of the HR Smart system that the system lacks alerts specific to a 3R incentive. As a result, Human Resources personnel must manually review an employee's HR Smart record to determine what kind of service obligation prompted the alert. Furthermore, Human Resources personnel can override these alerts without supervisory approval.

We made ten recommendations to the Assistant Secretary for Human Resources and Administration. They are summarized below:

- Reviewing and updating procedures for Administrations to ensure recruitment and relocation incentives are justified and properly authorized
- Reviewing and updating procedures for Administrations to add internal controls to ensure that the employee self-certification requirement is fulfilled before relocation incentive payments are authorized
- Developing internal controls for Administrations and the CSEMO to monitor compliance with developing succession plans to reduce VA's reliance on retention incentives
- Developing internal controls for Administrations to monitor facilities' compliance with initiating debt collection when employees do not fulfill their incentive service agreement
- Reassessing the capacities of the HR Smart system to reduce VA's incentive repayment liability risks.

The Assistant Secretary for Human Resources and Administration concurred with our recommendations and provided corrective actions plans that were responsive to our recommendations. We consider three recommendations related to: (i) improving CSEMO's internal controls and procedures over the advertisement of SES recruitment and relocation incentives; (ii) the payment of SES relocation incentives; and (iii) the feasibility of limiting the consecutive number of years retention incentives are paid to employees or groups of employees in certain occupations closed due to actions the

Assistant Secretary took at the time we published our report. VA continues to work on implementing the remaining seven recommendations.

VA'S MANAGEMENT OF THE DRUG FREE WORKPLACE PROGRAM

In March 2015, we reported VA needed to improve the management of its Drug-Free Workplace Program to ensure the program was effective in maintaining a workplace that is free from illegal drug use.² We identified program weaknesses and determined VA's Program was not meeting its primary goal of ensuring that illegal drug use was eliminated to the extent feasible and VA's workplace was safe.

Pre-Employment Applicant Drug Test

We reported that VA's OHRM did not ensure facility Human Resource Management Officers complied with VA's policy to drug test all applicants selected for a TDP prior to appointment. Instead, VA tested about 3 of every 10 applicants selected for a TDP for pre-employment drug testing. If a tested applicant has a verified positive test result, VA should decline extending a final offer of employment. While VA's Drug-Free Workplace Program Handbook states every individual tentatively selected for employment in a TDP is subject to a drug test before appointment, OHRM officials interpreted this language as meaning only some finalists for TDPs needed to be drug tested before being appointed. Because of this interpretation, we estimated approximately 15,800 (70 percent) of the nearly 22,600 individuals VA reported appointing into TDPs during FY 2013 were not drug tested before being hired.

Employee Random Drug Testing

We estimated VA achieved a national employee random drug testing rate of 68 percent of the 3,420 employees selected for random drug testing in FY 2013. Of 22 randomly selected facilities we reviewed, 4 did not test any randomly selected employees, 10 had compliance rates ranging from 31 to 89 percent, and 8 tested at least 90 percent of their randomly selected employees. Facility Coordinators could not explain why the majority of the 32 percent of employees were not tested.

We also estimated at least 19,100 (9 percent) of about 206,000 employees in TDPs were not subject to the possibility of random drug testing because they were not coded with a Drug Test code, as required, in VA's personnel information system. Those not subjected to random drug testing included physicians, nurses, and addiction therapists. In addition, VA may have incorrectly identified as many as 13,200 employees with the Drug Test code—meaning, employees in positions that do not usually require random drug testing were subject to testing. We found VA did test non-TDP employees, which has the unintended consequence of reducing the probability that employees in high-risk, safety sensitive TDPs were selected for drug testing.

Reasonable Suspicion Drug Testing

OHRM lacked sufficient oversight practices to monitor whether facilities referred all employees with a positive drug test result to the Employee Assistance Program (EAP). VA's Drug-Free Workplace Program Handbook requires facilities to refer all employees

² *Audit of VA's Drug-Free Workplace Program*, March 30, 2015.

with a positive drug test result to its EAP for assessment, counseling, and referral for treatment or rehabilitation. However, facility Coordinators reported that only 17 of 51 employees who tested positive for drugs as a result of reasonable suspicion or after a workplace accident or injury were referred to their facility's EAP.

We made five recommendations to the Deputy Assistant Secretary for Human Resources Management. These recommendations included:

- Ensuring all final selectees for TDPs complete pre-employment drug testing prior to appointment
- Increasing accountability to ensure all employees selected for random drug testing are tested
- Improving the accuracy of Drug Test coding in VA's personnel information system
- Implementing procedures to ensure Custody and Control forms are accurately completed
- Ensuring compliance with Program requirements, such as referring employees who test positive to the EAP.

The then Acting Deputy Assistant Secretary concurred with our recommendations and provided action plans that were responsive to our recommendations. This included a plan to require mandatory pre-employment drug testing of all candidates selected for a TDP. Action in response to four of the five recommendations has been completed. VA continues to work on actions to ensure the accuracy of Drug Test coding in its personnel information system. Recently, VA notified us that they continue to work with their personnel information system business partner to implement this recommendation. We will continue to track their progress until we receive documentation that action is complete.

Human Resources Delays

In January 2017, we reported on delays in the processing of certain human resources functions at the Atlanta VA Medical Center (VAMC).³ We conducted our work to assess allegations that there was a backlog of unadjudicated background investigations⁴ and mandatory drug testing for new hires in TDPs⁵ did not occur for a period of at least 6 months between 2014 and 2015. We substantiated both allegations. Regarding the allegation that the Atlanta VAMC did not administer the Drug-Free Workplace Program for 6 months, we found no drug testing was completed at the VAMC from November 2014 through May 2015. This lapse occurred because the facility Coordinator left the position in September 2014 and the alternate Coordinator did not assume the collateral duties required of this position. Further, other VAMC Human Resources personnel were unaware of the Drug-Free Workplace Program responsibilities. Despite the lack of drug testing for 6 months, we found no indications VA management was aware of the lapse. Because no drug testing occurred, the Atlanta VAMC lacked assurance that

³ *Review of Alleged Human Resources Delays at the Atlanta VAMC*, January 30, 2017.

⁴ An adjudication is considered backlogged after 90 days without a determination.

⁵ There were also no monthly random drug tests for current employees in TDPs.

employees who should have been subject to drug testing remained suitable for employment. We made five recommendations in the report:

- Develop an action plan to ensure staff have appropriate background investigations and determinations are accurately recorded
- Ensure all suitability adjudicators receive the mandatory training and background investigation required for the position
- Provide training to all human resources staff on the requirements of the personnel suitability program
- Ensure human resources staff are trained on the requirements of the Drug-Free Workplace Program and the responsibilities of their positions
- Review the Drug-Free Workplace Program on a regular basis to ensure compliance with regulations and that employees hired during gaps are subject to corrective testing.

The Atlanta VAMC Director concurred with our recommendations and reported that action has been taken with regards to the Drug-Free Workplace Program. When we receive documentation of action related to those recommendations, we anticipate closing them.

CONCLUSION

Over the past several years, VA has faced significant challenges in recruiting staff into key positions such as physicians and nurses.⁶ VA recognizes the importance of using the 3R incentives to meet future challenges to place high quality candidates into key positions. The results of our audits demonstrate that VA needs to take action to improve the management of its 3R Incentive Program and its Drug-Free Workplace Program. While 3R incentives can help VA strategically manage its workforce, VA needs to improve its controls to address the weaknesses we identified in its oversight of 3R incentives. Improved succession planning can strengthen VA's current and future organizational capacity and align its use of 3R incentives to address its workforce needs strategically. Furthermore, in the absence of effective oversight over its Drug-Free Workplace Program, VA may not be adequately reducing the risks to the safety and well-being of veterans and other VA employees. To that end, we concluded VA lacked reasonable assurance that it is achieving a drug-free workplace.

Mr. Chairman, this concludes my statement and we would be happy to answer any questions that you or Members of the Subcommittee may have.

⁶ *OIG Determination of Veterans Health Administration's Occupational Staffing Shortages*, September 1, 2015; *OIG Determination of Veterans Health Administration's Occupational Staffing Shortages*, January 30, 2015; *OIG Determination of VHA Occupational Staffing Shortages*, September 28, 2016.