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Inspector General

United States
Department of Defense



ALLEGED MISCONDUCT:
MR. KEITH E. SEAMAN

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REPORT OF INVESTIGATION:
MR. KEITH E. SEAMAN

I. INTRODUCTION AND SUMMARY

We initiated the investigation to address allegations that Mr. Keith E. Seaman, then-Acting Defense Business Systems Acquisition Executive (DBSAE), Defense Business Transformation Agency (BTA) engaged in misconduct. Based on complaints to this Office and information gathered in the course of the investigation, we focused our investigation on allegations that Mr. Seaman:

- Failed to treat subordinates with dignity and respect;
- Engaged in prohibited personnel practices;
- (b)(6) (b)(7)(C) ;
- (b)(6) (b)(7)(C) ;
- (b)(6) (b)(7)(C) ;
- Improperly used his Government travel charge card (Government travel card) for non-official expenses; and
- Improperly directed a subordinate employee to use official time to perform activities other than those required in the performance of official duties.¹

We substantiated four allegations. We conclude that Mr. Seaman, in making inappropriate remarks about subordinates, failed to treat subordinates with dignity and respect in violation of the Joint Ethics Regulation (JER). We found that Mr. Seaman failed to demonstrate the underlying leadership competencies of the "Leading People" executive core qualification, which requires competence in managing and resolving conflict, as well as in creating a culture that fosters team commitment, spirit, pride, and trust. Additionally, Mr. Seaman failed to exhibit the critical leadership competencies defined in Appendix A of the Office of Personnel Management (OPM) "Guide to Senior Executive Qualifications," (the Guide) dated October 2006, as treating others with courtesy, sensitivity, and respect, showing consistency in words and actions, and modeling high standards of ethics.

We also conclude that Mr. Seaman directed a subordinate not to apply for a position within BTA, and that his actions violated merit system principles as defined in Title 5, United States Code, Section 2301(b)(1) (5 U.S.C. 2301(b)(1)) in that his actions violated the principle of

¹ We received additional allegations that a preliminary inquiry determined did not warrant further investigation. We discuss those allegations in Section III of this report.

“fair and open competition.” We further conclude that his actions constituted a prohibited personnel practice as defined in 5 U.S.C. 2302(b)(4) in that his actions amounted to a “willful obstruction” of the employee’s right to compete for employment.

We further conclude that Mr. Seaman used his Government travel card for personal purposes in violation of DoD Financial Management Regulation, Volume 9, Chapter 3, dated March 2005.

Finally, we conclude that Mr. Seaman used a subordinate’s official time for unauthorized purposes in violation of Title 5, Code of Federal Regulations, Part 2635.705(b) (5 C.F.R. 2635.705(b)).

Following our established practice, by letter dated May 21, 2012, we provided Mr. Seaman the opportunity to comment on our initial conclusions. In his response, dated June 25, 2012, Mr. Seaman asserted our findings were inaccurate, contested testimony of witnesses, and described the changes he advanced during his tenure at DBSAE. Mr. Seaman provided no new evidence for us to consider.²

After carefully considering Mr. Seaman’s response and reevaluating the evidence, we stand by our initial conclusions.

We recommend the Deputy Inspector General for Administrative Investigations notify the Directors of OPM and OSC of the results of this investigation.

This report sets forth our findings and conclusions based on a preponderance of the evidence.

II. BACKGROUND

BTA was formed on October 7, 2005, to “guide the transformation of business operations throughout the Department of Defense and to deliver Enterprise-level capabilities that align to warfighter needs.” BTA was organized into several directorates. DBSAE, which included roughly half of the agency’s employees, was the largest directorate within BTA. As originally organized, a military flag grade officer (two star) would have served as the DBSAE with a DoD civilian senior executive deputy.³ In practice, once Major General Carlos D. Pair, U.S. Army Reserve, DBSAE, departed BTA in 2008, the BTA Director, Mr. David Fisher, made Mr. Seaman, who was the Deputy DBSAE, the Acting DBSAE, the position in which Mr. Seaman served until leaving BTA in May 2011.

² While we have included what we believe is a reasonable synopsis of Mr. Seaman’s response, we recognize that any attempt to summarize risks over simplification and omission. Accordingly, we incorporated comments from the response throughout this report where appropriate and attached a copy of the response to this report.

³ The acronym DBSAE (Defense Business Systems Acquisition Executive) referred both to the directorate within the Business Transformation Agency that dealt with acquisition of DoD business systems and the individual that headed that directorate. Context determines its usage in this report.

On August 16, 2010, the Secretary of Defense announced the elimination of BTA as part of the Secretary's efficiencies initiative. With this announcement, many BTA employees began to seek alternate employment and left the agency in advance of its elimination.


Mr. Seaman left BTA and DoD on May 7, 2011, to accept an acquisition position as a senior executive with the Department of Veterans Affairs.

III. SCOPE

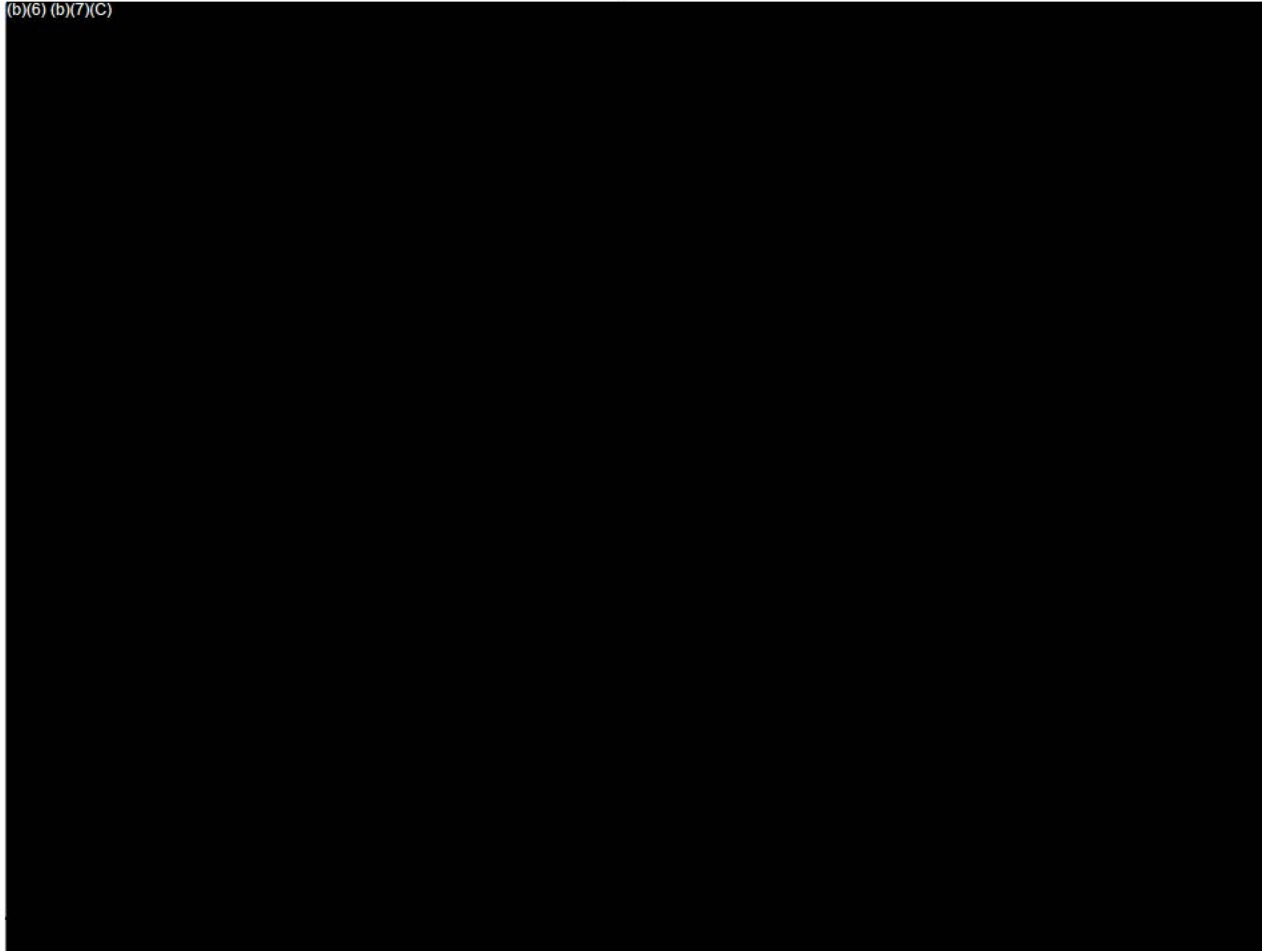
We conducted a total of 36 interviews with 29 witnesses with knowledge of matters at issue, including Mr. Seaman. We reviewed Mr. Seaman's Government emails, Government telephone records, official travel records, and Government travel card records. We also reviewed applicable statutes, regulations, and policies.

During our preliminary inquiry we concluded the following allegations did not warrant further investigation. We consider these allegations not substantiated:

(b)(6) (b)(7)(C)



(b)(6) (b)(7)(C)



IV. FINDINGS AND ANALYSIS

A. Did Mr. Seaman fail to treat subordinates with dignity and respect?

Standards

5 U.S.C. 3131, "The Senior Executive Service"

Title 5 U.S.C. 3131 established the Senior Executive Service "to ensure that the executive management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality."

DoD 5500.7-R, "JER," dated August 30, 1993

The JER contains standards of ethical conduct and ethics guidance for DoD employees. Chapter 2 of the JER, "Standards of Ethical Conduct," incorporates 5 C.F.R. 2635, "Standards of Ethical Conduct for Employees of the Executive Branch," in its entirety.

Title 5 C.F.R. 2635, Section 2635.101, "Basic obligation of government service," states in paragraph (b)(14) that employees will "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.”

JER Chapter 12, “Ethical Conduct,” states that DoD employees should consider ethical values when making decisions as part of official duties. In that regard, the JER sets forth primary ethical values of “fairness,” “caring,” and “respect” as considerations that should guide interactions among DoD employees. It elaborates on those characteristics as follows.

- Fairness involves open-mindedness and impartiality. “Decisions must not be arbitrary, capricious, or biased. Individuals must be treated equally and with tolerance.”
- Caring involves compassion, courtesy, and kindness to “ensure that individuals are not treated solely as a means to an end.”
- Respect requires that employees “treat people with dignity.” Lack of respect leads to a breakdown of loyalty and honesty.

OPM Guide

The Guide sets forth essential leadership qualifications and underlying competencies for members of the Senior Executive Service within the Federal Government. The introduction to the Guide states that leaders must be able to apply “people skills” to motivate their employees, build partnerships, and communicate with their customers. The Guide establishes leadership competencies identifying the personal and professional attributes critical to success by Senior Executive Service employees. Additionally, the Guide identifies the following five Executive Core Qualifications for Senior Executive Service personnel: Leading Change, Leading People, Results Driven, Business Acumen, and Building Coalitions.

Appendix A to the Guide sets forth the underlying leadership competencies that demonstrate each Executive Core Qualification. The “Leading People” qualification requires competence in managing and resolving conflict, as well as in creating a culture that fosters team commitment, spirit, pride, and trust. Additionally, Appendix A expressly defines critical leadership competencies to include treating others with courtesy, sensitivity, and respect, showing consistency in words and actions, and modeling high standards of ethics.

Facts

Mr. Seaman's Treatment of Subordinates

Mr. David Fisher, former Director, Defense Business Transformation Agency, and Mr. Seaman's supervisor during the time in question, testified that based on his personal observation and understanding, he believed Mr. Seaman treated his subordinates with dignity and respect. He noted that he had received two anonymous notes that seemed to imply differently and recalled one incident in which a (b) (6), (b) (7)(C) subordinate reported being uncomfortable around

Mr. Seaman, but added he never witnessed anything other than appropriate behavior by Mr. Seaman with his staff.

Dr. Douglas Webster, former Deputy Director, Defense Business Transformation Agency, testified Mr. Seaman's leadership style was "not consistent with what I would like to see in a leader." He stated that he had not personally witnessed Mr. Seaman's interactions with subordinates, but became aware of them through employees who commented on Mr. Seaman's behavior.

Members of Mr. Seaman's staff testified that Mr. Seaman's conduct toward them did not always convey dignity and respect. One of Mr. Seaman's (b)(6) (b)(7)(C) testified that Mr. Seaman is "one of those guys who has a tendency to talk about people in front of other people."

A member of Mr. Seaman's (b)(6) (b)(7)(C) testified that Mr. Seaman "has a communication problem," and that his communication practices can "be perceived as not respecting another individual." She stated that Mr. Seaman asserts that he treats others with dignity and respect, and that "he doesn't perceive what he's doing as being threatening or derogatory even though he knows he's saying negative things."

Another of Mr. Seaman's (b)(6) (b)(7)(C) testified that Mr. Seaman's style is to complain about a person who is not present. (b)(6) (b)(7)(C) stated Mr. Seaman "loves to complain about people that just aren't in the office." He added that Mr. Seaman "very frequently" talks about those who are not in meetings and that, if [the subordinate] is not in the meeting, he becomes the target for something he hasn't done.

A BTA employee (b)(6) (b)(7)(C) for Mr. Seaman testified that Mr. Seaman "would lash out at (b)(6) (b)(7)(C) continually." This employee stated that the (b)(6) (b)(7)(C), were Mr. Seaman's (b)(6) (b)(7)(C) and that he "just never understood" why Mr. Seaman treated them in that manner.

A BTA employee who observed Mr. Seaman's leadership style and his interactions with subordinates testified that while she would not have dealt with her staff in the same way Mr. Seaman did, she learned from his leadership style, noting that sometimes examples "of how not to lead can be the best ones."

This witness testified that Mr. Seaman sometimes criticized subordinates in public. She stated she disagreed with his practice of "completely unload[ing] on somebody" with everybody in the room. She added that she had only seen Mr. Seaman do this in DBSAB (b)(6) (b)(7)(C) meetings, and noted that "if you're on the receiving end of it, it's embarrassing." She speculated that Mr. Seaman believed that in criticizing these subordinates in public, "he's just putting it on the table and being forthright and honest." She questioned the necessity of Mr. Seaman publicly admonishing subordinates in front of their peers, and stated that such public admonishments could leave one feeling "completely exposed ... probably the feeling of, 'I was just kneecapped.'"

The witness added that the part of Mr. Seaman's behavior that she liked the least was that he would talk negatively about people in their absence. When asked if Mr. Seaman treated his employees with dignity and respect, the witness responded, "Most of the time, yes." When asked about the times that he did not, the witness testified, "It's when they're not present and he makes reference to some of the things that they're not meeting expectations on. And I don't know whether it's intentional or unintentional, but I personally don't like that style." She added she found Mr. Seaman's actions embarrassing and damaging to morale.

(b)(6) (b)(7)(C) in BTA testified that he started to distance himself from Mr. Seaman because "I just didn't want to be part of the sharing of raw thoughts and discussions about others." (b)(6) (b)(7)(C) explained that Mr. Seaman would "talk negative things about others and I would always tell him, 'Sir, you really shouldn't do that. You should be talking to them directly. If this is an issue, bring it to them, discuss it with them.'"

(b)(6) (b)(7)(C) gave an example involving Mr. Seaman and one of Mr. Seaman's (b)(6) (b)(7)(C). (b)(6) (b)(7)(C) He testified that Mr. Seaman had been "riding (b)(6) (b)(7)(C) very hard" for several months and that "he would talk to us negatively about (b)(6) (b)(7)(C). And my response to him is consistently, 'Sir, you need to talk to (b)(6) (b)(7)(C). If you're not happy with what he's doing or not doing you need to talk to him about it rather than just talk to all of us.'"

(b)(6) (b)(7)(C) further testified that Mr. Seaman stated he wanted to have an open discussion with DBSAE leadership about this (b)(6) (b)(7)(C) and not present. He stated he privately told Mr. Seaman that discussions about employees while they were not present "wasn't the right thing to do." He continued that another of Mr. Seaman's (b)(6) (b)(7)(C) recommended to Mr. Seaman that they should not have the discussion in the absence of the employee in question because the employee "needs to be part of [the discussion], and it needs to be focused on the mission," and that Mr. Seaman agreed not to hold the meeting in the (b)(6) (b)(7)(C) absence.

(b)(6) (b)(7)(C) testified that when the (b)(6) (b)(7)(C) returned, Mr. Seaman held the meeting, but focused only on progress made by the organization as a whole, not on the (b)(6) (b)(7)(C) or the roles and responsibilities of the (b)(6) (b)(7)(C) organization. (b)(6) (b)(7)(C) stated that during the meeting, Mr. Seaman specifically noted that, "What's going on here isn't all in [the (b)(6) (b)(7)(C) organization]. It's on the rest of the organization, how we're all interacting."

(b)(6) (b)(7)(C) testified that in subsequent meetings, Mr. Seaman rebuked his senior leaders because they did not have the "backbone" to stand up and say anything bad about the (b)(6) (b)(7)(C). (b)(6) (b)(7)(C) recalled that the senior leaders reacted to the rebuke with disbelief as Mr. Seaman had never raised the issue of the (b)(6) (b)(7)(C). He stated, "We just listened to him for about an hour and a half talk about the progress we'd made and what we need to be doing. It was another example where he was, quite frankly, fibbing about the meeting and what those of us in the meeting had done." (b)(6) (b)(7)(C) added Mr. Seaman's behavior left him "very uncomfortable."

(b)(6) (b)(7)(C) who routinely participated in DBSAE (b)(6), (b)(7)(C) meetings testified that she remembered several instances where she questioned Mr. Seaman's actions. When asked if she had ever been embarrassed by the way Mr. Seaman treated an employee, the witness stated she had felt empathy for both Mr. Seaman and the employee. She noted nobody wants to have their lack of performance pointed out, and added, "it's not something I would find comfortable It's just not good to see conflict or challenging conversations with anybody."

Another (b)(6), (b)(7)(C) of Mr. Seaman's (b)(6), (b)(7)(C) recalled Mr. Seaman's (b)(6), (b)(7)(C) meetings differently. She testified that the atmosphere of the meetings "seemed fine to me." When asked if Mr. Seaman might speak negatively about a person who was not at the meeting, the employee testified, "I thought that was a joke because they would all sit around and laugh. And then the next week ... when the person is there, they'd all laugh about it again." When asked if she saw this as something personal or vindictive on Mr. Seaman's part, the employee stated, "No, they seemed to pick on each other a lot but in a joking [manner]."

One of Mr. Seaman's (b)(6) (b)(7)(C) at BTA remarked on Mr. Seaman's "somewhat bizarre behavior at times," noting that he had been around Mr. Seaman enough "both as a (b)(6) (b)(7)(C) and working in DBSAE for a while to know ... nobody likes to come to work where they don't know what they're going to get that day."

Mr. Seaman testified that he held regular meetings with his direct reporting staff and that in those meetings he discussed "inabilities" and things that "were not right." Mr. Seaman denied speaking about people behind their backs. He stated, "I'm always up front. I just don't talk behind people's backs," but acknowledged that he would discuss shortcomings of subordinate offices with members of other offices when the subject of the discussion was not present.

Inappropriate Comments to Subordinates

(b)(6) (b)(7)(C) for DBSAE testified that Mr. Seaman would knowingly make inappropriate comments about subordinate employees, but would preface them by stating, "Please don't take this the wrong way" or "I know I'm probably not supposed to say this." He added he was "taken aback" and considered it "an affront" to a female employee of DBSAE when during a meeting, Mr. Seaman told her, "You know, for an older lady you're fairly attractive." (b)(6) (b)(7)(C) described the incident as "astounding" given Mr. Seaman's status as a senior executive.

(b)(6) (b)(7)(C) of Mr. Seaman's staff confirmed the (b)(6) (b)(7)(C) recollection. She also testified that Mr. Seaman prefaced his inappropriate remarks with comments such as, "This is going to get out," or "Somebody's going to file a complaint," or, "I know I shouldn't be saying these things," and then making the inappropriate comments. She ascribed his behavior to his "personality" and added she believed Mr. Seaman "couldn't help himself."

When asked if she believed Mr. Seaman's behavior was appropriate for a senior executive, (b)(6) (b)(7)(C) replied, "No," and added there were so many things that he did that were far worse than his comment to her that "for an older lady she was pretty attractive"; especially in terms of comments he would make about people behind their backs and "calling out

what he considered to be inadequate work performance" in the presence of others. She described such behavior as "offensive." She also noted that Mr. Seaman shared "more than others might have" and that he would "talk about himself quite often."

(b)(6) (b)(7)(C) testified that Mr. Seaman made inappropriate comments. She stated that he often (b)(6) (b)(7)(C) that the BTA Director liked them because "You are more like men than women." The witness testified that she found the comment to be "weird, weird and awkward." She interpreted Mr. Seaman's comment to be about "how we talk, that we're logical, we make decisions, and, sort of, how we act and dress." (b)(6) (b)(7)(C) stated that she felt she could "handle" Mr. Seaman because she kept her focus on work, "no matter what awkward comment he made," but stated, "I think other people get embarrassed too."

Mr. Seaman denied making inappropriate comments in the workplace. He testified, "I'm just not that way." He also denied being confronted by anyone in BTA about inappropriate comments.

Mr. Seaman's Truthfulness and Recollection of Events

Multiple witnesses testified regarding Mr. Seaman's truthfulness and ability to recall events accurately. One of Mr. Seaman's (b)(6) (b)(7) testified, "I don't think Keith is a very truthful person. He ... either has a skewed view of what the reality is or he just makes something up to get himself out of trouble when he's confronted." (b)(6) (b)(7) (C) testified that in conversations with their supervisor Mr. Seaman would exaggerate his role in activities to enhance his importance. Conversely, Mr. Seaman would shift responsibility away from himself when things went awry. (b)(6) (b)(7) (C) observed that on occasions when Mr. Seaman gets cornered, rather than just telling the truth and "sticking to his guns" he would change his story.

(b)(6) (b)(7)(C) recalled an occasion when she believed Mr. Seaman deliberately provided inaccurate information to the BTA Director, information that prompted the Director to contact a senior executive in another agency to address the matter. The witness testified that as the director was about to place the call to the senior executive, she advised him, "Please don't make that call, because [Mr. Seaman] is lying to you. He's being less than honest." She added that, although she could not recall what Mr. Seaman had said that was inaccurate, the Director heeded her advice and did not place the telephone call.

(b)(6) (b)(7)(C) testified that Mr. Seaman lied about her in a conversation with (b)(6) (b)(7)(C). She testified that Mr. Seaman asserted she had spoken with (b)(6) (b)(7)(C). She stated, "that was a blatant lie and one that I felt very strongly about, and still feel strongly about," and asserted that she had never spoken with (b)(6) (b)(7)(C).

Another of Mr. Seaman's (b)(6) (b)(7)(C) testified about Mr. Seaman and the events surrounding the reassignment of a (b)(6) (b)(7)(C) in DBSAB. (b)(6) (b)(7)(C) testified that Mr. Seaman "changed his story [about wanting to move this employee to the (b)(6) (b)(7)(C)]

(b)(6) (b)(7)(C) program] by stating, 'She's going there to support because it's our Number 1 program and ... she's volunteered to go do that.'"

(b) (6), (b) (7)(C) testified that he advised Mr. Seaman that he recalled the matter differently and that Mr. Seaman responded that he was recounting what had occurred at the time. (b) (6), (b) (7)(C) stated he told Mr. Seaman, "Sir, that's not what happened," to which Mr. Seaman replied, "Yes, it is, let it go."

(b) (6), (b) (7)(C) continued that about a month later Mr. Seaman stated to him and another of Mr. Seaman's (b)(6) (b)(7)(C) "If [the reassignment of this employee] ever comes to a complaint, here's what happened that day." (b) (6), (b) (7)(C) recalled that both he and (b) (6), (b) (7)(C) responded, "Sir, that's not what happened," and offered their recollections of the event, which Mr. Seaman rejected.

Mr. Seaman testified that he was told by (b) (6), (b) (7)(C) that she overheard members of his staff coordinating the testimony they would provide to IG investigators concerning the allegations under investigation. We interviewed (b) (6), (b) (7)(C) who testified that she did not overhear these individuals coordinating their testimony and did not tell Mr. Seaman that she did.

One of Mr. Seaman's (b)(6) (b)(7)(C) testified that Mr. Seaman's recollection of events often varied from reality. She recalled "observations from many people" about meetings they had attended with Mr. Seaman, which Mr. Seaman described as fantastic while others who were in the meeting would say, "Not so much," or "Oh, my goodness ... I can't believe he said that." She testified that Mr. Seaman's "telling of the story was always grander than the events," and that Mr. Seaman "says things to solicit sympathies ... wanting people to make him feel more important."

(b)(6) (b)(7)(C) testified that when Mr. Seaman arrived at BTA, Mr. Seaman would say or do anything in order to get his way, "whether it's the truth or not, whether it's in the interest of the organization or not." He added that Mr. Seaman no longer acted that way.

Mr. Fisher testified he was unaware of Mr. Seaman's conversations with subordinates. He stated Mr. Seaman "is in my meetings more than I am in his meetings ... and so I don't see him in direct interaction with his staff very often."

Discussion

We conclude that Mr. Seaman violated the JER by failing to treat his subordinates with dignity and respect when he spoke negatively about subordinates to other subordinates, often in the absence of the subordinate being discussed. We found that such comments created an awkward environment in the workplace and displayed a lack of respect by Mr. Seaman for his subordinates. We also found that Mr. Seaman made inappropriate comments to subordinates that exhibited a lack of awareness of the feelings of his subordinates.

JER, Chapter 12, "Ethical Conduct," states that DoD employees should consider ethical values when making decisions as part of official duties. In that regard, the JER sets forth primary ethical values of "fairness," "caring," and "respect" as considerations that should guide interactions among DoD employees. We determined that by making disparaging comments about subordinates in the presence of other employees and in making inappropriate comments to subordinates, Mr. Seaman failed to treat subordinates with dignity and respect in violation of the JER.

We determined that Mr. Seaman's actions were inconsistent with the standards of SES conduct described in the OPM "Guide to Senior Executive Service Qualifications," specifically Appendix A, "Leading People," which requires competence in creating a culture that fosters team commitment, spirit, pride, and trust. Additionally, Appendix A expressly defines critical leadership competencies to include treating others with courtesy, sensitivity, and respect, showing consistency in words and actions, and modeling high standards of ethics.

We also found Mr. Seaman's testimony to be divergent from that of most other witnesses. Multiple witnesses testified that Mr. Seaman's recollection and description of events were often at odds with that of others who participated in the same events. We found the discrepancies between Mr. Seaman's testimony and that of other witnesses to be troubling and inconsistent with his responsibilities as a member of the SES to foster trust.

Response to initial conclusion

Mr. Seaman's response contained no information that challenged the evidence on which we based our initial conclusion. Based on our thorough review of Mr. Seaman's response and the relevant evidence, we stand by our initial conclusion.

B. Did Mr. Seaman violate merit system principles or engage in prohibited personnel practices?

Standards

5 U.S.C. 2301, "Merit system principles"

Title 5 U.S.C. 2301(b)(1) states recruitment should be from qualified individuals and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

5 U.S.C. 2302, "Prohibited personnel practices"

Title 5 U.S.C. 2302(a)(xi) includes a "significant change in duties, responsibilities" as a "personnel action."

Title 5 U.S.C. 2302(b) states that any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority ...

deceive or willfully obstruct any person with respect to such person's right to compete for employment.

Facts

(b)(6) (b)(7)(C)

(b)(6) (b)(7)(C) testified that Mr. Seaman's anger grew as Dr. Webster communicated directly with her and included her in meetings. She added that Mr. Seaman directed her to tell Dr. Webster that she "was not allowed to talk to him ... that all communication between Dr. Webster and her had to come directly through [Mr. Seaman]," and that she could only accept taskings from Mr. Seaman. (b)(6) (b)(7)(C) testified that it would have been "just wrong" for her to tell the agency's Deputy Director "no" when he asked her to attend a meeting.

(b)(6) (b)(7)(C) testified (b)(6) (b)(7)(C) She added that because Dr. Webster (b)(6) (b)(7)(C)

(b)(6) (b)(7)(C) recalled that in December 2009, Mr. Seaman told her he wanted to reassign her from DBSAE to a (b)(6) (b)(7)(C) to "help (b)(6) (b)(7)(C) get her office together;" and "help them do (b)(6) (b)(7)(C)" She asserted the proposed move was punishment for her interaction with Dr. Webster on the (b)(6) (b)(7)(C) and stated she did not believe she was a good skills match to work in (b)(6) (b)(7)(C) and did not want to go. (b)(6) (b)(7)(C) testified that the (b)(6) (b)(7)(C) of the program to which Mr. Seaman wanted to move her telephoned her and said, "I'm not quite sure why you are coming down here. I don't really have a position for you."

(b)(6) (b)(7)(C) explained that she had to "bargain" with Mr. Seaman to remain as (b)(6) (b)(7)(C) in DBSAE rather than move to the program office and explained that Mr. Seaman made her "promise that I would never submit for the job with Dr. Webster." The (b)(6) (b)(7)(C) testified that she was upset because Mr. Seaman would not talk to her and he was treating her "very poorly." She stated that she went to Mr. Seaman and said, "Sir, I didn't ask for any of this to happen ... I'm just happy being (b)(6) (b)(7)(C), happy working for you, happy ... getting the job done. I don't want to move to (b)(6) (b)(7)(C). I'm not qualified to do that." (b)(6) (b)(7)(C) testified that Mr. Seaman replied:

Well, if you want to stay here and keep your job, then you have to promise me that you are not going to apply for Dr. Webster's position. And you're going to go down and tell Dr. Webster, today, that you're not applying; that you're not interested. And when you come back, if I'm in a meeting, you give me a thumbs-

up. You walk past my office and give me the thumbs-up. And when you do that I'm going to tell [BTA Director] David Fisher that you have volunteered to stay and you want to stay. And I'm going to keep you here just to close the loop on that.

(b)(6) (b)(7)(C) was asked if she followed through on Mr. Seaman's instructions to talk to Dr. Webster and then to come back and give Mr. Seaman a "thumbs-up" indicating that she had told Dr. Webster she was no longer interested in the (b)(6) (b)(7)(C). The (b)(6) (b)(7)(C) replied:

You bet I did. I was scared for my job and I'm still in (b)(6) (b)(7)(C). So I went down and told Dr. Webster and he said, "Okay. I understand." I didn't tell him the whole thing with [Mr. Seaman] behind it.

(b)(6) (b)(7)(C) testified that she felt as if she had no choice but to inform Dr. Webster that she was not interested in the job.

(b)(6) (b)(7)(C) testified that when the (b)(6) (b)(7)(C) job was advertised, Dr. Webster and the (b)(6) (b)(7)(C) both asked if she planned to apply. She testified that she told them:

I would really like to but [Mr. Seaman] had also told me that if I applied, he would find out who was on the cert (certificate of eligibles). And if my name was on that cert and I wasn't chosen, that life would be very hard in the aftermath.

(b) (6), (b) (7)(C)

Dr. Webster testified he sought to hire (b)(6) (b)(7)(C) who would work directly for him. He recalled that the individual he sought was told by Mr. Seaman to not apply for the job. He asserted Mr. Seaman's actions reinforced for him his opinion that Mr. Seaman was not much of a team player. He added that he viewed Mr. Seaman's actions—telling an individual what positions they can and cannot apply for, and that if the individual did apply that she would regret it—as "totally inappropriate."

(b)(6) (b)(7)(C) offered that Mr. Seaman wanted to prevent the employee from applying for the (b)(6) (b)(7)(C) because Mr. Seaman probably did not want things that DBSAE was working on to become known outside of DBSAE "before they were prime time."

(b)(6) (b)(7)(C) stated that Dr. Webster's desire to have (b)(6) (b)(7)(C) work at the BTA level while still assigned to DBSAE caused friction between Dr. Webster and Mr. Seaman. He added that Mr. Seaman told him if we saw Dr. Webster talking to (b)(6) (b)(7)(C) we were supposed to report that to Mr. Seaman. He stated, "We're not to engage her, just not to have contact with her on (b)(6) (b)(7)(C)." (b)(6) (b)(7)(C)

(b)(6) (b)(7)(C) confirmed that Mr. Seaman explicitly told him not to deal with the (b)(6) (b)(7)(C). He stated, "Twice he told me that I was not to have any dealings with her." The second time, (b)(6) (b)(7)(C) had approached to Mr. Seaman because he believed it would be appropriate for the (b)(6) (b)(7)(C) to be part of a team addressing a specific issue in DBSAE. (b)(6) (b)(7)(C) testified, "So I explicitly went to him and asked him if she should be part of the team, and he told me, 'No. No,' [and] that I was not to talk to her."

Another one of Mr. Seaman's (b)(6) (b)(7)(C) testified that when Mr. Seaman directed him "not to interface with" the (b)(6) (b)(7)(C) he responded, "You can't say that kind of thing," and talked Mr. Seaman out of limiting his contact with the (b)(6) (b)(7)(C). He also noted Mr. Seaman's desire to reassign the (b)(6) (b)(7)(C) and advised Mr. Seaman that such a move could be viewed as reprisal and that he should not reassign her. He added Mr. Seaman heeded his advice for "about a week and then, it's like, 'I'm moving her.'"

(b)(6) (b)(7)(C) recalled when he learned that Mr. Seaman told the (b)(6) (b)(7)(C) she could not apply for the (b)(6) (b)(7)(C) he went to Mr. Seaman and told him, "Sir, you cannot do that. That's a prohibited action. You cannot tell somebody that they cannot apply." (b)(6) (b)(7)(C) testified that Mr. Seaman "took that as a personal affront and that each time (b)(6) (b)(7)(C) name came up, he looked at me and said, 'Why do you keep throwing that back in my face?'"

(b)(6) (b)(7)(C) also testified that Mr. Seaman told (b)(6) (b)(7)(C) and him that the (b)(6) (b)(7)(C) would not go to work as the (b)(6) (b)(7)(C). He recalled Mr. Seaman stating the (b)(6) (b)(7)(C) "was going down to work (b)(6) (b)(7)(C) program office if she was trying to leave." (b)(6) (b)(7)(C) testified that Mr. Seaman "later ... changed his story to say the (b)(6) (b)(7)(C) was going to support the program office because it's our Number one program and she's volunteered to go do that."

When asked if he was aware of Mr. Seaman ever taking any improper personnel actions or threatening to withhold a proper personnel action for any employee, a different (b)(6) (b)(7)(C) testified, "Yeah, that's where he struggled a little bit with the (b)(6) (b)(7)(C) situation where he perceived that she was talking to the deputy director and was sharing things that he necessarily didn't want her to share yet."

(b)(6) (b)(7)(C) testified Mr. Seaman never said, "Hey, I want to screw this person," and, "Move them over there," but he observed it was "odd timing" that Mr. Seaman wanted to move the (b)(6) (b)(7)(C) during the "Dr. Webster thing." (b)(6) (b)(7)(C) testified that, "I tried to talk [Mr. Seaman] out of it, just the perception. I said, 'This is not the right time.'" He stated that Mr. Seaman's desire to move the (b)(6) (b)(7)(C) "felt a little punitive," but acknowledged that she would have been helpful in the program office.

Another of Mr. Seaman's (b)(6) (b)(7)(C) testified that because the program office was in a different building, it "became a way of getting you out of sight ... so there was a lot of shifting people down the street under the cover of 'the program needs help.'" (b)(6) (b)(7)(C) acknowledged that the program "had a lot to accomplish," and that employees could get acquisition experience there.

(b)(6) (b)(7)(C) where Mr. Seaman wished to send the (b)(6) (b)(7)(C), said that he thought the program was a great opportunity, but laughed as he noted the program office "could be viewed as being put out to 'the North 40.'"

(b)(6) (b)(7)(C) testified he was aware of Mr. Seaman's actions with regard to the potential reassignment of the (b)(6) (b)(7)(C). He testified that the (b)(6) (b)(7)(C) told him that Mr. Seaman told her, "Do not volunteer for that position. Point blank. Do not. I do not want you to volunteer for that position." (b)(6) (b)(7)(C) added he considered that to be an inappropriate personnel action," and noted that [one of Mr. Seaman's (b)(6) (b)(7)(C)] tried to tell Mr. Seaman, "Don't go down this road. Be very careful."

Mr. Seaman testified that he desired to move the (b)(6) (b)(7)(C) to work in the subordinate program office, which he described as a DBSAE-managed program that would benefit from her organizational abilities. Mr. Seaman stated that the (b)(6) (b)(7)(C) did not want to move, so Dr. Webster, (b)(6) (b)(7)(C) and a member of Mr. Seaman's staff, worked behind his back to have her assigned to work for Dr. Webster on the (b)(6) (b)(7)(C).

Mr. Seaman explained he selected the (b)(6) (b)(7)(C) because she "has impeccable abilities to organize a front office." Mr. Seaman stated that the (b)(6) (b)(7)(C) informed him that she did not want to move to the program office. He asserted that "Doug Webster, behind my back, with [a member of Mr. Seaman's staff] and (b)(6) (b)(7)(C) created the paperwork to transfer the (b)(6) (b)(7)(C) to Doug Webster."

Mr. Seaman testified that "about 2 days later," (b)(6) (b)(7)(C) came to see him and told him, "I want to work for you, but I don't want to go down to the program office." Mr. Seaman added that he asked the (b)(6) (b)(7)(C) if she wanted to work for Dr. Webster and that she replied, "No, I just wanted to work for Dr. Webster if I have to go to the program office." Mr. Seaman testified:

I said, 'Well, you guys have created this storm. I knew nothing about what's going on here. So it's going to be you that goes down and cleans up the storm. You have to go down and talk to Doug Webster, and you have to tell Doug Webster that it was okay, that you want to work for me. And then I want Doug Webster to come down and tell me that it's okay with him so that this is all clear.'

When investigators sought to clarify his statements, Mr. Seaman confirmed that the issue he had with the (b)(6) (b)(7)(C) desiring to leave DBSAE to do (b)(6) (b)(7)(C) for BTA was with the process used to arrange the move, which he described as behind the scenes maneuvering. Mr. Seaman denied telling the (b)(6) (b)(7)(C) that if she applied for the (b)(6) (b)(7)(C) position and he found out about it, then life would be difficult for her.

Mr. Seaman testified that he did not instruct his employees to limit contact with the

(b)(6) (b)(7)(C). He explained that information about her project was "coming in, not through proper channels," so he instructed his subordinates to "let me know what's going on."

Discussion

We conclude that Mr. Seaman engaged in prohibited personnel practices when he directed a subordinate employee not to apply for the (b)(6) (b)(7)(C) position, and by coercing her to tell Dr. Webster that she was not interested in the position.

Title 5 U.S.C. 2301 requires fair and open competition which assures that all receive equal opportunity. Although Mr. Seaman denied taking the actions alleged, we found his testimony to be less credible than the testimony of the other witnesses with knowledge of the matter. We found that by directing the (b)(6) (b)(7)(C) not to apply for the (b)(6) (b)(7)(C) position and by coercing her to disavow interest in the position, Mr. Seaman attempted to restrict fair and open competition. Mr. Seaman's actions violated provisions of 5 U.S.C. 2302 that prohibit an employee with authority to take, recommend, or approve any personnel action from willfully obstructing any person with respect to such person's right to compete for employment.

Response to initial conclusion

Mr. Seaman asserted "On the issue of the (b)(6) (b)(7)(C) the facts are not captured." He placed responsibility for the events in question on Dr. Webster, whom he asserted "failed to follow the chain of command." Mr. Seaman denied telling the (b)(6) (b)(7)(C) she could not apply for the position in question. He wrote, "I never told her she could not apply and statements by others are untrue." Based on our thorough review of Mr. Seaman's response and the relevant evidence, we stand by our initial conclusion.

C. Did Mr. Seaman improperly use his Government travel card?

Standards

DoD Financial Management Regulation, Volume 9, Chapter 3, March 2005⁴

0301 POLICY AND PURPOSE

030101. General. "The Travel and Transportation Reform Act of 1998" (TTRA) (Public Law 105-264) stipulates that the Government-sponsored, contractor-issued travel card (travel card) shall be used by all U.S. Government personnel (civilian and military) to pay for costs incident to official business travel. Provisions governing this mandatory use requirement within the DoD are set forth in section 0303 of this chapter.

⁴ Chapter 3, Volume 9, of the DoD Financial Management Regulation has been updated since March 2005, but the version cited above was in force for most of the period that Mr. Seaman misused his Government travel charge card and the provisions of the regulation relative to this violation remain essentially unchanged.

030102. Purpose. This chapter sets forth the policy and procedures with respect to mandatory use of the travel card under the TTRA. It also establishes procedures for travel card issuance and use. Within the Department, the travel card program is intended to facilitate and standardize the use by DoD travelers of a safe, effective, convenient, commercially available method to pay for expenses incident to official travel, including local travel.⁵

030104. Compliance. This regulation establishes command, supervisory, and personal responsibility for use of the Government travel card and operation of the DoD travel card program. Civilian personnel who misuse or abuse the Government travel card may be subject to appropriate administrative or disciplinary action up to, and including, removal from federal service. Additionally, willful misuse of the Government travel card by either military personnel or civilian employees may constitute a crime punishable under federal or state law.

030211. Travel Cardholders. Cardholders for individually billed accounts are personnel to whom travel cards have been issued for use while performing official Government travel. These personnel shall adhere to the procedures set forth in this Regulation and applicable DoD Component guidance.

Facts

Mr. Seaman's Government travel card statements for the period January 2009 to May 2010 revealed charges to "PMI," a local parking management company. Mr. Seaman testified that he used his Government travel card to track his daily "Government" parking expenses when he did not ride his motorcycle to work.

In an attempt to clarify what Mr. Seaman meant by "Government" parking expenses, investigators asked Mr. Seaman if his "Government" parking expenses were incurred as part of his normal commute to work. Mr. Seaman explained that he used his Government travel card to track parking charges on occasions when he could not park for free.

Mr. Seaman described these expenses as "questionable," and noted he did not request reimbursement for them. Mr. Seaman stated that he discontinued his practice of using his Government travel card to pay for local parking after Human Resources personnel advised him that he should not use the card for that purpose.

Discussion

We conclude that Mr. Seaman misused his Government travel card. Mr. Seaman's Government travel card records disclosed that he improperly used his Government travel card to pay for local parking during his daily commute to his primary place of duty. The records disclosed that the majority of Mr. Seaman's PMI charges were for parking at 1750 Crystal Drive,

⁵ Local travel is official travel within the local area. Commuting from one's residence to one's primary place of duty is not considered local travel.

Arlington, Virginia -- a parking garage a block from Mr. Seaman's office. We note that Mr. Seaman testified that he considered these charges "questionable" and did not submit them for reimbursement.

We find credible Mr. Seaman's testimony that he used the Government charge card to "track" his parking expense and that he discontinued this practice once he was made aware that it was improper, but we also note that, as part of the issuing process, Mr. Seaman should have received training in the proper use of the card and that as a long-time user of the Government travel card he was responsible for knowing the regulations pertaining to its use.

Response to initial conclusion

Mr. Seaman's response contained no information with regard to this allegation. We stand by our initial conclusion.

D. Did Mr. Seaman misuse a subordinate's official time?

Standards

5 C.F.R. 2635, "Standards of ethical conduct for employees of the Executive Branch"

Title 5 C.F.R. 2635.705(b), "Use of a subordinate's time," states that an employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

Facts

Mr. Seaman testified that he and (b)(6) (b)(7)(C) regularly played racquetball on Tuesdays and Thursdays, and that "we give it to (b)(6) (b)(7)(C)] to schedule it." A (b)(6) (b)(7)(C) to Mr. Seaman confirmed that she performed this service for Mr. Seaman. Further, an email dated March 30, 2010, disclosed that Mr. Seaman's (b)(6) (b)(7)(C) reserved a racquetball court for Mr. Seaman and one of his (b)(6) (b)(7)(C).

An email dated April 5, 2010, reflected that Mr. Seaman asked a (b)(6) (b)(7)(C) (b)(6) (b)(7)(C) to inquire of the (b)(6) (b)(7)(C) about Mr. Seaman's gym membership.⁶ Mr. Seaman testified that this gym offered special reduced membership fees for BTA employees. He stated:

I don't know the whole details behind it. I just know that my membership cost me a certain amount. I gave them my credit card, and (b)(6) (b)(7)(C)]

⁶ The Defense Business Transformation Agency (DBTA) provided subsidized gym memberships for civilian and military personnel assigned to the Agency. Employees paid 25% of the membership fee directly to the gym. DBTA paid the remaining 75%.

would get that. She'd go down to human resources, get my stuff, and I'd fill out the form. She'd turn it in to human resources, and -- just what an (b)(6) (b)(7)(C) would do.

Discussion

We conclude that Mr. Seaman requested and allowed his (b)(6) (b)(7)(C) to use official time to schedule personal racquetball games and obtain a gym membership for Mr. Seaman in violation of 5 C.F.R. 2635.705(b), "Use of a subordinate's time."

Title 5 C.F.R. 2635.705(b), states that an employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

We determined that Mr. Seaman directed his (b)(6) (b)(7)(C) to schedule his regular racquetball games and assist in processing his application for a gym membership. Both Mr. Seaman's racquetball games and his application for a gym membership were personal activities without a connection to his or his (b)(6) (b)(7)(C) official duties. His use of his (b)(6) (b)(7)(C) to assist in these activities violated the provisions of 5 C.F.R. 2635.705(b).

Response to initial conclusion

Mr. Seaman's response contained no information with regard to this allegation. We stand by our initial conclusion.

V. CONCLUSIONS

- A. Mr. Seaman failed to treat subordinates with dignity and respect.
- B. Mr. Seaman engaged in prohibited personnel practices.
- C. Mr. Seaman misused his Government travel card.
- D. Mr. Seaman misused a subordinate's official time.

VI. RECOMMENDATIONS

We recommend the Deputy Inspector General for Administrative Investigations notify the Directors of OPM and OSC of the results of this investigation.

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Inspector General
Department of Defense

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