



San Francisco Regional Office

301 Howard Street, Suite 1200
San Francisco, CA 94105-2241

B-255424

October 15, 1993

The Honorable Vic Fazio
U.S. House of Representatives
722B Main Street
Woodland, CA 95695

Dear Mr. Fazio:

In letters dated June 2, September 7, and September 20, 1993, you asked us to investigate allegations by dozens of Vietnam veterans that the Defense Logistics Agency (DLA) has withheld certain rights and entitlements due them as recipients of Veterans Readjustment Appointments (VRAs).¹ Specifically, the veterans charged that (1) their VRA appointments should have resulted in permanent full-time employment; (2) separate funds were provided for VRAs and were improperly manipulated; (3) DLA was retaliating against the veterans for complaining about their treatment when it advertised for temporary positions at McClellan Air Force Base, instead of using the veterans; and (4) DLA should have filled 10 positions at McClellan Air Force Base by calling the veterans, instead of transferring employees from Sacramento Army Depot. As agreed with your office, we specifically reviewed the cases of two individual complainants. However, our conclusions regarding their situation applies to all the veterans who were hired under the same circumstances.

Although, we did not substantiate these allegations, we did note, and will discuss later, three administrative irregularities where the Air Force and/or DLA failed to take appropriate administrative actions in regard to the veterans. However, these inappropriate administrative actions have had no effect on their current employment status since the actions have now been corrected.

¹Veterans Readjustment Appointments are authorized under section 403 (a) of Public Law 93-508, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, codified at 38 U.S.C. 4214 (Supp. III 1991).

The individuals whose cases we examined remain on DLA's roles, but have been in a nonpay status since May 1993. DLA is currently in the process of assessing its employment needs. As part of this process, the agency is offering separation pay incentives and early retirements to all permanent employees including on-call employees, before it makes a final determination of its workforce requirements. DLA expects to complete the assessment and take appropriate actions by early next year.

BACKGROUND

A VRA is a noncompetitive appointment available to veterans which at the end of 3 years and assuming satisfactory completion of service and education or training, is expected to lead to competitive status and career (permanent) or career-conditional (provisional) tenure. It is intended to provide improved employment opportunities for veterans because the appointments are noncompetitive, and provide training opportunities leading to career positions.

The Pacer Share project, under which the veterans were hired, was an experimental personnel system which the Directorate of Distribution at McClellan Air Force Base operated from February 1988 through February 1993. The Office of Personnel Management (OPM) approved this project under 5 U.S.C. Chapter 47, the demonstration project authority enacted in the Civil Service Reform Act of 1978. The Pacer Share project included, for example, a modified compensation system that allowed employees a broader range of salary growth without formal promotion procedures, and a productivity gain sharing component that was designed to equitably distribute the benefits earned by the employees and the organization. The veterans in question were hired under the "Demonstration On-Call Employment Program" portion of this project. Demonstration on-call (DOC) employees, like traditional on-call (TOC) employees, worked only when needed. But unlike TOCs, DOCs were not guaranteed career status and could be terminated without an official reduction-in-force. The use of DOC employees, instead of traditional on-call employees, permitted the managers to adjust the size of the workforce quickly in response to workload and budgetary changes without resorting to costly reductions-in-force.

FINDINGS

Concerning the four allegations, we found that the veterans' rights and entitlements provided by their VRA and DOC/TOC appointments were not denied. Our findings on each allegation are discussed below.

Permanent Full-time Work

Concerning the first allegation that the veterans' VRA appointments should have resulted in permanent full-time work, we found that, although it is normally expected that positions filled through VRA appointments will ultimately lead to permanent full-time positions, OPM's regulations do not guarantee such positions. Furthermore, the use of VRA appointments to on-

call positions is specifically provided for in OPM's regulations². Also, these individuals, as required by OPM, signed a preappointment agreement in which they acknowledge the "on-call" nature of the work and that they have no guarantee of placement in permanent, full-time positions. DLA's Defense Distribution Region West (DDRW) officials told us that, unfortunately, due to the overall downsizing of the Department of Defense (DOD), no permanent, full-time positions that these veterans could have filled have materialized.

As you are aware, OPM, which has the responsibility for administering federal personnel programs, has previously reviewed this allegation. OPM's findings are consistent with our current assessment of the veterans' situation.

VRA Funds

Concerning the second allegation, that separate funds were provided for VRA and were improperly manipulated, Air Force and OPM officials informed us that no specific funds are provided for VRA training or salaries. We found no basis for the veterans' allegations.

Temporary Appointments

The third allegation concerns DLA's decision to advertise temporary positions. We found no evidence to support the allegation that DLA was retaliating against the veterans by advertising for temporary positions instead of recalling the veterans.

DLA's Defense Reutilization and Marketing Service (DRMS), in Battle Creek, Michigan, advertised for temporary positions nationwide for all Defense Reutilization and Marketing Offices (DRMO) due to a backlog caused by a new DOD regulation.³ The Defense Reutilization Marketing Office at McClellan, a tenant organization at the base, has tentative approval for two temporary positions.

Both individuals whose cases we examined are employees of DDRW and worked at Defense Depot McClellan, also a tenant organization at the base. Although DDRW and DRMS are both agencies within DLA, they have separate personnel offices. Because the decision to advertise and fill the temporary positions was made pursuant to a nationwide management directive, rather than by local officials, it does not appear that DRMS management's decision was intended to retaliate against any DLA employee.

²The Office of Personnel Management's guidance for on-call employment can be found in subchapter 3 of chapter 340 of the Federal Personnel Manual.

³DRMS has 177 DRMO's nationwide. It has tentative approval to fill 150 temporary positions nationwide.

It should also be noted that the two individuals or any other on-call veterans in a nonpay status could have applied for the temporary positions. As on-call employees, they may hold more than one appointment. OPM provisions governing on-call positions state that on-call employees in nonpay status may accept other employment, federal or nonfederal.

Transfer From Sacramento Army Depot

The fourth allegation concerns DLA's transfer of several employees from the Sacramento Army Depot to McClellan Air Force Base. We found nothing improper with the transfer of the 10 permanent full-time employees. DLA officials told us that the transfer of these employees was intended both to fill vacancies created by employees accepting separation pay incentives⁴ or retiring, and to reduce the Sacramento Army Depot's work force in anticipation of the Depot's closure. The downsizing of DOD has caused the displacement of many employees, including veterans.

Administrative Irregularities

As indicated earlier, we identified three administrative irregularities in the way both the Air Force and/or the DLA handled the veterans' appointments. These are (1) the Air Force improperly appointed the veterans to positions as demonstration on-call employees; (2) the Air Force failed to take corrective actions directed by OPM to convert the veterans to traditional on-call employees, and (3) the Air Force and/or DLA did not convert the veterans from VRA appointees to career status in a timely manner. Nevertheless, even if these administrative irregularities had not occurred, the veterans would now be in the same situation; that is, permanent career status employees working in on-call positions and now in a nonpay status due to reduced workload.

The first of these irregularities was the veterans' initial appointment by the Air Force to a DOC position. Although all of the individuals concerned were hired before 1991 as DOCs, the Pacer Share project did not specifically provide for the use of VRA appointees in the DOC program until May 31, 1991.

According to OPM, the agency entrusted with approving demonstration projects, the Air Force's actions prior to May 1991 were not correct under the terms of the original demonstration project. OPM amended the project plan to allow future VRA demonstration on-call appointments and required the current VRA on-call employees hired before May 31, 1991, to be covered by TOC provisions. (It should be noted that the Air Force disagrees with OPM's interpretation of the original project plan.)

⁴DLA has recently offered separation pay and early retirement in an effort to downsize without a reduction-in-force.

The second administrative irregularity was that the Air Force failed to follow OPM's directive to convert the veterans to traditional on-call appointments. Air Force officials claim they could not unilaterally establish a traditional on-call program within the Pacer Share project without an agreement with the local union. No agreement was ever reached.

Although the Air Force failed to take the corrective action required by OPM, DLA, the veterans' current employer, has corrected this administrative error. The veterans' personnel records now accurately reflect their career status as well as their TOC position. Therefore, we do not believe there is any consequence of either the Air Force's original hiring of the employees as DOCs or its failure to officially change their appointments to traditional on-call employment.

The third irregularity was the veterans' untimely conversion from VRA appointees to career status employees. The conversions to career status of the individuals whose cases we examined were delayed beyond the 3-year period OPM specifies for VRAs; however, DLA made the conversions retroactively in accordance with appropriate OPM procedures. That is, both individuals received career status effective August 2, 1992, which is the date they completed 3 years of continuous service. Therefore, there was no consequence of their not receiving career status at the proper time.

OPM also reviewed these three administrative irregularities, and directed the corrective actions as discussed above. We concur with the actions directed by OPM and believe that as a result of these actions the veterans' rights and entitlements have not been denied.

Current Status of Employment at DLA

DOD--and its constituent organizations such as DLA--is downsizing its civilian work force. The Defense Distribution Region West is not only faced with a number of unused on-call employees, but also has a large number of excess permanent full-time employees who face a decline in workload, the realignment or reallocation of their job functions, or possibly a reduction in force. According to DDRW's Director of Civilian Personnel, utilizing and placing permanent full-time employees takes precedence over recalling on-call workers. In discussions with the Director, we found that DDRW is currently in the process of assessing its workload needs. As part of this process, the agency is offering separation pay incentives and early retirements before it makes a final determination on its future workforce needs. DLA expects to complete the assessment and any necessary actions early next year.

This assignment was conducted in accordance with generally accepted government auditing standards, and with the assistance of GAO's Federal Human Resource Management Issue

B-255424

Area, General Government Division. If you or your staff have any questions about this correspondence, please call me or Mr. Jack Erlan at (415) 904-2000.

Sincerely yours,

A handwritten signature in black ink that reads "Thomas P. McCormick". The signature is written in a cursive style with a large, stylized initial "T" and "M".

Thomas P. McCormick
Regional Manager

(966606)