

NATIONAL RAILROAD PASSENGER CORPORATION

OFFICE OF INSPECTOR GENERAL

INVESTIGATIVE CLOSING REPORT

CLOSED

TITLE: Conflict of Interest

CASE NUMBER: 07-081

DATE OF REPORT: April 21, 2008

REPORT PREPARED BY: [REDACTED]

Allegation:

Inspector General Fred Weiderhold ("Weiderhold") received information that [REDACTED] had a business relationship with a firm, [REDACTED], seeking contracts with Amtrak. In April 2007, [REDACTED] opined that Amtrak could not contract with [REDACTED] due to [REDACTED]'s financial relationship with them. Later, [REDACTED], [REDACTED] suspected that [REDACTED] was being proffered as sub-contractor on a proposed contract. OI initiated an investigation on July 30, 2007.

Investigation:

OI conducted research and determined that [REDACTED] had a business relationship with the following four firms:

- [REDACTED]: Advisory Board member
- [REDACTED] Consulting Group: President
- [REDACTED]; Chairman and CEO
- [REDACTED]: Advisory Board member

OI interviewed [REDACTED]

Interview of [REDACTED]

[REDACTED] told Agents that in March 2007, she was approached by [REDACTED] seeking an opinion regarding the propriety of Amtrak doing business with [REDACTED], a firm in which [REDACTED] had a financial interest. [REDACTED] emailed [REDACTED] with the particulars of his relationship with [REDACTED] and explained that [REDACTED] could provide services to Amtrak in the area of bomb prevention training and passenger screening. [REDACTED] offered that he was on [REDACTED]'s Board of Advisors and had a 1% interest in the company. [REDACTED] informed [REDACTED] that she was referring the matter to

██████████ who acts as the legal advisor to ██████████

██████████ told Agents that she believed that either Weiderhold, or ██████████, from the Office of Inspector General, alerted ██████████ that using ██████████ could be a conflict. She recalled that ██████████ was of the opinion that if he recused himself from the negotiation process and deferred to a member of his staff, no conflict would exist. ██████████ explained to Agents that that reasoning is not the case. She explained that a conflict would still exist because an unfair burden would be put on the subordinate employee tasked with evaluating a firm in which the superior has a financial interest. ██████████ stated it is not even a "fine-line."

According to ██████████, on April 10, 2007, ██████████ met with ██████████ to discuss the particulars of ██████████'s holdings and relationship with ██████████. On April 16, 2007, ██████████ sent a memo, authored by ██████████ to ██████████, which informed ██████████ that ██████████ could not be used as an Amtrak contractor due to the conflict.

██████████ told Agents that ██████████'s personnel file did not list any companies in which he had a financial interest. ██████████ informed ██████████ that after he met with ██████████, ██████████ stated he would submit a revised Conflict of Interest disclosure form to include two companies in which he had a financial interest in addition to ██████████. ██████████ stated that ██████████ had initially resubmitted the disclosure form with just ██████████ listed.

██████████ stated that disclosure of an employee's interest in a company does not make it acceptable for the company to be used as a vendor. ██████████ opined that ██████████, having been in high level government service for many years, would know this. The only solution to undo the conflict would be for the employee to sever all ties with the company seeking to do business with Amtrak.

In July 2007, ██████████ learned through ██████████, that ██████████ was being listed as a sub-contractor in one or two proposals for security contracts. ██████████ explained that being listed as a sub-contractor is just as conflicted as if ██████████ was the prime contractor, as long as ██████████ had an interest in the firm.

#### Interview of ██████████

██████████ told OI Agents that in March 2007, he was copied on an email from ██████████ to ██████████. The email was a response from ██████████ to ██████████ concerning ██████████'s inquiry into Amtrak contracting with ██████████. In the email, ██████████ informed ██████████ that ██████████ would be reviewing the matter.

██████████ met with ██████████. ██████████ told ██████████ that he was seeking the opinion from the Law Department as a result of someone on his staff being alerted to a possible conflict by a member of the Amtrak OIG. ██████████ informed ██████████ that he was on the Board of Advisors for two companies that perform security work. ██████████ recalled one company as ██████████, but could not recall the name of the second firm. ██████████ explained that he did not receive compensation for sitting on

the Board of Advisors, but did receive expense reimbursement for attending Board meetings. In addition, ██████ explained that he has a 1% interest in each of the companies that would be paid to him only if they were sold.

█████ further told ██████ that he would like Amtrak to contract with ██████ to perform passenger screening and training. ██████ told ██████ that ██████ was the leader in the field. ██████ added that another firm, ██████, could also provide the same function. ██████ advised ██████ that there would be a conflict in using ██████. ██████ suggested that he would find a way to "firewall" himself from the process.

█████ had checked ██████'s Conflict of Interest-Certificate of Compliance form and saw that no companies were listed. ██████ told ██████ that someone from Human Resources informed him that only Railroad conflicts needed to be listed. ██████ informed ██████ that was not the case and instructed him to complete the form. ██████ resubmitted a form, but it only included ██████ and not the second company. ██████ called ██████ and told him to resubmit the form and include both companies.

█████ met with ██████, who, along with ██████ opined that there is no way to "firewall" ██████ and that using ██████ would be a conflict. ██████ also spoke with ██████ who concurred with the opinion. On April 16, 2007, ██████ drafted a memo for ██████ to send to ██████ detailing the opinion.

In July 2007, ██████ of Amtrak ██████, contacted ██████ and inquired if ██████ could be used as a subcontractor. About the same time as ██████'s inquiry, ██████ received a call from ██████'s ██████, inquiring if ██████ is precluded from being used as a sub-contractor. ██████ conferred with ██████ and the resulting opinion was that ██████ could not be used as a sub-contractor.

#### Review of ██████'s Personnel File

█████'s personnel file revealed a Certificate of Compliance-Conflict of Interest form listing ██████, ██████ as firms in which ██████ has a financial relationship. The form was signed by ██████ and dated May 8, 2007. The form was signed by Amtrak President Alex Kummant on May 14, 2007.

#### Contract Research

OI met with ██████ and researched all proposed and existing Security Contracts and discovered that two submissions to Request for Proposals ("RFPs") included ██████ as a proposed sub-contractor. The RFPs are described as follows:

- 1) RFP # ██████ for Security Training Needs Assessment. The proposal was submitted by ██████ on July 6, 2007. The two sub-contractors listed were ██████.

2) RFP # [REDACTED] for Emergency Operations Plans. The proposal was submitted by [REDACTED] on July 18, 2007. The two sub-contractors listed were [REDACTED] and [REDACTED].

[REDACTED] Separation of Employment

On August 4, 2007, [REDACTED]'s employment with Amtrak was terminated. On August 23, 2007, [REDACTED] and [REDACTED], [REDACTED] on behalf of Amtrak, signed an Executive Committee Release Agreement ("Agreement"). Section 4, Paragraph E of the Agreement reads in part:

"...Amtrak hereby release and discharge [REDACTED] from any and all liabilities and claims of any kind or nature, known or unknown, that Amtrak may have had or may now have against [REDACTED] under any federal, state or municipal law, including but not limited to, all claims for attorney's fees and damages, breach of contract and tort claims arising from his employment with Amtrak."

Cancellation of Contracts

Shortly after [REDACTED] termination of employment, a new Office of Security Strategy and Special Operations ("SSSO") was formed. The Office is headed by [REDACTED] formerly [REDACTED]. The new SSSO evaluated all contracts that were entered in or proposed during [REDACTED]'s tenure. All such contracts and RFPs were cancelled.

**Conclusion:**

[REDACTED]'s termination and the signed Agreement, along with the cancellation of all contracts and proposals during [REDACTED]'s employment, was discussed with the Deputy Inspector General/Counsel and no further action is deemed necessary

**Recommendation:**

This case should be closed.

CLOSED

Deputy Inspector General/Counsel: \_\_\_\_\_

Date: \_\_\_\_\_