



OFFICE OF
INSPECTOR GENERAL

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

MEMORANDUM

March 10, 2010

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FROM: H. David Kotz 
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SUBJECT: Employee Recognition Program and Grants of Employee Awards (PI 09-07)

An inquiry conducted by the Office of Inspector General (OIG) in response to an anonymous complaint found evidence that a former Regional Office Director of the Securities and Exchange Commission (SEC) used funds from the office's supplies budget to purchase non-monetary honorary or informal recognition awards, in the form of inscribed glass blocks, for staff members.

The OIG found that the awards were not issued pursuant to an agency-sponsored awards program.¹ The OIG also found that the SEC's internal administrative regulation and policy did not provide SEC division or office directors or the SEC's Executive Director with authority to make or approve non-monetary awards outside the agency-sponsored awards program. In addition, the OIG determined that the absence of clear criteria to serve as the basis for making such awards could lead to an appearance of impropriety on the part of the manager making the award and a perception of unfairness or favoritism on the part of other staff.

¹ The Government Employee Incentive Awards Act, 5 U.S.C. § 4501 *et seq.*, and the Office of Personnel Management's implementing regulations and guidance, provide authority for agencies to develop honorary and informal recognition programs. The SEC has an Employee Recognition Program, which is described in Chapter 6-451.A of the Personnel Operating Policies and Procedures (POPPS), dated September 9, 1991, attaching and modifying SEC Regulation (SECR) 6-2, dated October 14, 1986.

The OIG's inquiry also found that the former Regional Office Director was incorrectly advised by the SEC's Executive Director that appropriated funds could be used to purchase parking spaces to be given as employee awards, although this was not ultimately pursued. The OIG determined, based upon reviewing Comptroller General decisions pertaining to the use of appropriated funds for employee parking,² and information about awards obtained from the Office of Personnel Management, that appropriated funds may not be used to pay for parking for employees as an award. This is because parking is considered a personal expense,³ and the provision of a parking space does not meet the criteria for either an honorary or informal recognition award.

In the course of its inquiry, the OIG learned that the SEC's internal regulation authorizing the agency's Employee Recognition Program (ERP), SECR 6-2, as revised by Personnel Operating Policies and Procedures (POPPS) Chapter 6-451.A, has not been updated since 1991. The SEC's ERP does not provide any authority for informal recognition awards or any honorary awards other than those awarded as part of the annual agency awards ceremony. Nevertheless, we were informed that some SEC divisions and offices, such as the Division of Enforcement and the Office of Human Resources, have given such awards outside the ERP, sometimes using supply funds or at the personal expense of senior managers. The OIG also found that the ERP regulation is outdated in many respects, *e.g.*, the list of honorary awards no longer reflects the awards that are currently available, and it does not reflect the fact that SEC employees are no longer on the GS pay schedule. In addition, the internal ERP regulation and policy are not posted on the SEC's Intranet site, the "Insider." The OIG believes that the ERP regulation and policy should be thoroughly reviewed and appropriately updated and that the revised regulation should be posted on the Insider website, so that the awards process will be clear and transparent.

The OIG inquiry also concluded that the use of the supplies Budget Object Class (BOC) code for the inscribed glass block awards was not proper, particularly given that another BOC (one for Cultural Awareness/ Ceremony – Related) is used for the SEC's honorary awards. We were informed by the Government Accountability Office (GAO) that, under the "pick and stick" rule, if two budget categories are arguably available for the same purpose, an agency should pick one and stick with it. The OIG found that the SEC's use of more than one BOC for non-monetary awards is contrary to the "pick and stick" rule and may lead to confusion and a lack of transparency.

Recommendation 1

The Office of the Executive Director, in coordination with the Office of Human Resources, should review and update the internal regulation and policy for the

² *In re Subsidized Parking for Employees of the U.S. Mint*, 72 Comp. Gen. 139, 141 (1993); *In re Use of Appropriated Funds to Pay Commercial Parking Costs of Severely Disabled Employees*, 63 Comp. Gen. 270, 272 (1984); *To the Secretary of Transportation*, 49 Comp. Gen. 476, 478-80 (1970); *To the Secretary of the Treasury*, 43 Comp. Gen. 131, 132 (1963).

³ "An agency may not use appropriated funds to pay for items of personal expense unless there is specific statutory authority." *In re Utility Costs under Work-at-Home Programs*, 68 Comp. Gen. 502, 505 (1989) (citing *In re Dep't of the Interior – Purchase of Physical Exercise Equipment*, 63 Comp. Gen. 296 (1984)).

Securities and Exchange Commission's (SEC's) Employee Recognition Program, which is currently set forth in SEC Administrative Regulation (SECR) 6-2 and Chapter 6-451.A of the Personnel Operating Policies and Procedures, and post the revised regulation and/or policy to the SEC's Intranet site.

Recommendation 2

The Office of the Executive Director, in coordination with the Office of Human Resources, should ensure that the revised Employee Recognition Program regulation and/or policy referred to in Recommendation 1 above specifically addresses whether informal recognition awards and honorary awards in addition to the existing annual awards are authorized and, if so, what criteria, standards and approvals are pertinent to such awards.

Recommendation 3

The Office of the Executive Director, in coordination with the Office of Human Resources and the Office of Financial Management, should ensure that the revised Employee Recognition Program regulation and/or policy referred to in Recommendation 1 above make clear that appropriated funds may not be used to pay for employee parking as an award.

Recommendation 4

The Office of Financial Management should review the various Budget Object Class (BOC) codes that are currently used for non-monetary employee awards, select the most apposite BOC and ensure that all properly authorized non-monetary employee awards are charged to that BOC.

Recommendation 5

The Office of Financial Management should approve requests to use appropriated funds for non-monetary employee awards only after ensuring that an authorized officer of the agency has approved such awards in accordance with statutory and regulatory authority.