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INTRODUCTION

Since the moment the Environmental Protection Agency became aware that a long-time employee had systematically duped his colleagues and criminally defrauded the agency, we have taken critical, concrete steps to ensure nothing like this could ever happen at the EPA again. This report details the many aspects of John C. Beale’s criminal fraud on the agency, how he evaded the controls the agency relied on to protect against such a fraud, and the new protections the EPA has put into place to prevent any portions of his fraud from repeating. The case of John C. Beale is a twenty-plus year pattern of calculated fraud that touched many aspects of Mr. Beale’s employment at the EPA. In response, the agency conducted an initial review of internal policies and controls that failed to timely uncover and possibly prevent this fraud. This report, however, details just the beginnings of the EPA’s efforts to strengthen its administrative controls, and will be updated as the agency makes additional improvements.

As detailed below, the agency is currently engaged in ongoing, comprehensive reviews of the controls in place in eight key areas implicated in Mr. Beale’s fraud, with the goal of assessing the adequacy of current controls and opportunities for additional strengthening of controls. These reviews will be completed over the next 4-12 weeks (the time to complete each review varies due to its complexity), and the EPA will update this report once those reviews are complete. Finally, the Office of the Inspector General continues its administrative investigation and six separate audits into Mr. Beale’s conduct, and the agency is awaiting any recommendations made as a result of those efforts.
ACTIONS TAKEN AND PLANNED BY THE EPA

Well before the EPA became aware of Mr. Beale’s criminal activity, the EPA had already begun enterprise-wide efforts to improve key administrative policies and controls. On October 2, 2012, the EPA’s Deputy Administrator Robert Perciasepe issued a memorandum to Barbara Bennett, Chief Financial Officer, and Craig Hooks, Assistant Administrator for the Office of Administration and Resources Management, calling for renewed leadership and attention on the area of time and attendance. Also on October 2, Deputy Administrator Perciasepe issued a memo to all EPA managers and supervisors, reminding them of time and attendance responsibilities. On April 26, 2013, Maryann Froehlich, the EPA’s Acting Chief Financial Officer, and Craig Hooks, the EPA’s Assistant Administrator, wrote to Deputy Administrator Perciasepe regarding key time and attendance control activities. These offices reviewed agency time and attendance activities and provided the Deputy Administrator with a summary of completed and planned enhancements.

On July 3, 2013, Ms. Froehlich and Mr. Hooks sent a second memorandum to Deputy Administrator Perciasepe and the EPA’s Chief of Staff, Gwendolyn Keyes Fleming, detailing 16 critical improvements the agency had already made to a variety of administrative policies and controls. Ranging from increasing responsibilities for timekeepers and supervisors to new anomaly reports designed to identify potential issues of concern with an employee’s time entry, attendance, or salary, these actions are detailed in the applicable section below. In order to emphasize the importance of these issues across the agency, the EPA’s Chief of Staff sent the memorandum to every manager and supervisor across the agency. The Chief of Staff asked all managers and supervisors to “impress upon [their staff] the importance of prompt implementation of these procedures.”

The agency’s efforts did not stop with this initial effort. As we learned more about Mr. Beale’s actions, the agency identified additional areas needing review and evaluation. Currently, the EPA’s Office of the Chief Financial Officer, in consultation with the EPA’s Office of Administration and Resources Management, is in the process of evaluating the effectiveness of controls in eight separate administrative areas:

1. Executive Payroll Approvals
2. Employee Departures and Payroll
3. Statutory Pay Limits
4. Parking and Transit Subsidy
5. Retention Incentives
6. Travel Other than Coach Class Travel
7. Travel Reimbursements Above the Government Rate
8. Executive Travel Approval

The agency expects to complete its review of each of these areas in 4-12 weeks, depending on the complexity of each individual review. Through these reviews, the agency expects to identify new opportunities to improve internal controls that will better safeguard against fraud. Once the reviews are completed, the agency intends to update this report and detail the additional findings and actions taken.
THE AGENCY’S HIRING PROCESS

Currently, the EPA employs approximately 16,000 individuals. With an average attrition rate of about 5%, the agency is always recruiting new employees. Between 2012 and 2013, the EPA hired approximately 250 employees. Beginning in 2008, the agency sought to improve the consistency, efficiency, and accountability of the hiring process by consolidating most hiring actions into three “shared service centers” located in Research Triangle Park, North Carolina; Cincinnati, Ohio; and Las Vegas, Nevada.

APPLICABLE LAWS, REGULATIONS, AND POLICIES

At the EPA, most positions are advertised through USAjobs.gov, a website used government-wide for the hiring process. Utilizing USAjobs.gov helps ensure a transparent application process that is available and fair to all interested applicants. Most employees are hired through the competitive service hiring process. In that process, all applicants are given scores based upon their application, and hiring officials may select from the highest scoring applicants.

Applicants submit their application and required materials through the USAjobs website. Materials may be in the form of answers to narrative questions designed to demonstrate the knowledge, skills, and abilities of applicants, or documents such as a resume or curriculum vitae. Scores for each application are determined by human resources specialists based upon consideration of things such as education level and work history, as well as narrative answers to questions contained in the application. Certain jobs have what is called a “positive education requirement.” For those jobs, a specific degree or educational achievement is required, and applicants must provide sufficient evidence of obtaining such a degree or achievement before they are hired into the position. Examples of such positions at the EPA are attorney-advisors, toxicologists, and biologists. A smaller number of positions at the agency are designated as eligible to be filled through the excepted service hiring process, which allows greater flexibility in decision making by the hiring official. In either process, hiring decisions must be based on merit principles, not prohibited factors such as discrimination based on race or sex.

CONCERNS RAISED BY THE BEALE CASE

Mr. Beale’s fraudulent activity appears to have started even before he became a full-time employee at the EPA through the competitive process described above. According to the testimony of the EPA’s Assistant Inspector General for Investigation, Patrick Sullivan, Mr. Beale’s applications for federal employment contained “numerous misleading and false statements.” For example, Mr. Beale apparently claimed he had worked for a United States Senator in Washington, D.C. for a period of time, but also listed his address as being in California for the same time period. Perhaps more telling, Mr. Beale’s application apparently misspelled the name of the Senator for whom he claimed to have worked. Mr. Beale claimed in his employment application that he had been a member of a Washington D.C. law firm. While he did have a law degree, he was not a member of any state bar association. Nevertheless, the position to which Mr. Beale was hired did not require a law degree.
Based upon Mr. Beale’s alleged work history and salary in the private sector, the agency official hiring Mr. Beale completed paperwork supporting an “advance in hire,” which allowed Mr. Beale to enter the agency earning a salary that would have been the maximum he could have earned in the position after a number of years of service.⁠¹

CORRECTIVE ACTIONS TAKEN AND PLANNED

The EPA has improved the efficiency of the hiring process but has not significantly altered its approach to employment verification. The Office of Personnel Management only requires verification of education for those positions with a positive education requirement (e.g., attorneys, scientists). An applicant’s education can be listed on the resume or a copy of an attached transcript. If an applicant is tentatively selected for a position that has a positive education requirement or if an educational achievement is required in order for the applicant to meet the qualification requirements (e.g., substitution of education achievement for experience) the applicant must provide proof of education via official transcripts before a firm job offer is made. Applicants must certify to the validity of this information. The EPA looks forward to reviewing any suggested improvements the Office of the Inspector General may make in this area.

¹ Although not directly implicated in this case, the EPA notes that there are checks in place designed to ensure starting salaries for Senior Executive, Senior Leader, and Senior Technicians are set at an appropriate rate. While the recommendation of the hiring official is considered, OARM’s Executive Resources Division, per OPM guidelines, requires all selectees to SES/SL/ST positions to verify their salary from the previous or current employer (e.g., pay stubs, W-2s, IRS1014s) when determining pay for these levels of positions with the agency. A written memo on salary recommendation is provided to the AA for OARM and that document must be signed before a final offer of employment is extended.
**Retention Incentives**

Retention incentives are an important tool to help attract and keep top talent in the Federal government. These incentives provide government agencies with a mechanism to encourage employees with unusually high or unique qualifications to remain with the agency. At the EPA, the agency may also pay a retention incentive when a special agency need makes it essential to retain an employee. In either case, the approving official must determine that the employee would likely leave for employment outside the federal government if not provided the incentive. Historically, the EPA has used retention incentives very rarely. Currently, no EPA employees are receiving a retention incentive.

**Applicable Laws, Regulations, and Policies**

The provision of retention incentives is governed by regulations issued by the Office of Personnel Management, contained at 5 CFR 575. Those regulations allow for retention incentives to be paid to General Schedule, Senior Level, and Senior Executive employees in certain circumstances, and specifically prohibit retention incentives for political appointees and some other non-career employees. In order to pay the incentives, two criteria must be met:

An agency may pay a retention incentive to an individual employee under the conditions prescribed in this subpart when the agency determines that—

1. The unusually high or unique qualifications (i.e., competencies) of the employee or a special need of the agency for the employee’s services makes it essential to retain the employee; and

2. The employee would be likely to leave the Federal service in the absence of a retention incentive.

40 CFR 575.305. The regulations specify eight factors the agency head, or her designee, must consider when evaluating a request for a retention incentive:

1. Employment trends and labor market factors such as the availability and quality of candidates in the labor market possessing the competencies required for the position and who, with minimal training, cost, or disruption of service to the public, could perform the full range of duties and responsibilities of the employee’s position at the level performed by the employee;

2. The success of recent efforts to recruit candidates and retain employees with competencies similar to those possessed by the employee for positions similar to the position held by the employee;

3. Special or unique competencies required for the position;

4. Agency efforts to use non-pay authorities to help retain the employee instead of or in addition to a retention incentive, such as special training and work scheduling flexibilities or improving working conditions;

5. The desirability of the duties, work or organizational environment, or geographic location of the position;
(6) The extent to which the employee’s departure would affect the agency’s ability to carry out an activity, perform a function, or complete a project that the agency deems essential to its mission;
(7) The salaries typically paid outside the Federal Government; and
(8) Other supporting factors.

5 CFR 575.306. Recommendations for incentives must be reviewed and approved by an official who is at least one level higher than the supervisor of the employee for whom the incentive is requested. The final decision must be in writing and must document the bases for three things: 1) that unusually high or unique qualifications or the special need of the agency makes retaining the employee essential; 2) that the employee is likely to leave absent the retention incentive; and 3) the amount and duration of the incentive. While the basis for the conclusion that an employee is likely to leave the agency must be documented in writing, the OPM regulations do not require that any offers of employment that serve as the basis for that conclusion must be in writing. Incentives are limited to up to 25% of an employee’s salary if paid to a specific employee or 10% of an employee’s salary if paid to a group of employees, and may be paid in increments or in a lump sum after a period of service. While the amount of the incentive is not considered part of the employee’s basic pay for any purpose (such as calculating the employee’s retirement benefits), it is subject to the limitations on total pay contained in 5 CFR 530, subpart B.

At the EPA, retention incentives are controlled by EPA Pay Administration Manual 3155 TN, dated June 28, 1991. Chapter 3 of the Manual details the aspects of the EPA’s retention incentive program. Highlights of the program include requirements that retention allowances:

- cannot exceed a three year period;
- are accomplished on an annual basis wherein the retention allowance will be paid in 1/26th increments;
- requires an annual re-certification for the second and third year (if the incentive is set to continue for more than one year); and
- the maximum level of retention incentive is 25% of an employee’s basic rate of pay.

2 The regulations also provide agencies with the ability to request a waiver from OPM of these caps up to 50% of an employee’s salary.
3 Since Mr. Beale’s criminal activity has come to light, there have been many questions about the propriety of Mr. Beale receiving retirement benefits even after he has pleaded guilty to defrauding the government. Unfortunately, Federal law is quite clear: a government employee’s retirement benefits can only be denied in very limited cases where the employee has committed a national security violation. Although Mr. Beale masqueraded as a CIA agent, the Department of Justice did not charge him with a national security-related crime, and, therefore, it does not appear to be possible to deny him retirement benefits outright. The EPA is committed to working with the Office of Personnel Management to address any unjust enrichment of Mr. Beale’s retirement benefits, however. For example, while the law clearly does not consider retention incentives in calculating the amount of an annual retirement benefit, it may be possible Mr. Beale’s annual benefit was unjustly enriched by months in which he did not perform any work for the government. When the EPA releases an update to this report in the future, we intend to include an update on whether Federal law allows the government to reduce Mr. Beale’s retirement benefits in light of the terms of his guilty plea.
The Manual delegates the responsibility for final decision on requests for retention incentives to the Assistant Administrator for the Office of Administration and Resources Management. A thorough review of the EPA’s retention incentive plan demonstrates that the plan is consistent with all of the requirements established in the OPM regulations.

**CONCERNS RAISED BY THE BEALE CASE**

The case of John C. Beale exposed weaknesses in the EPA’s policies for awarding and paying retention incentives. Mr. Beale received his initial retention incentive in 1991, and recertifications for that incentive were properly filed in 1992 and 1993. It was at the end of that three year period, 1994, that the first weakness in the EPA’s system was exposed. Rather than the retention incentive payments ending as they should have, the payments continued from 1994-2000 without any valid retention incentive in place.

Paperwork for a second three-year retention incentive was filed in June 2000. Although the paperwork is complete, this retention incentive also exposes weakness in the EPA’s incentive program. First, the paperwork contains multiple falsifications. For example, many of the justifications contained in the 2000 request for the incentive are copied word for word from the 1991 request or the 1992 and 1993 recertifications. Most troubling is that the written justification for the conclusion that Mr. Beale was likely to leave Federal service absent the incentive is based on two supposed job offers, but the job offers in the 2000 request are exactly the same as the offers detailed in the 1993 recertification. The 2000 request exposed another weakness when the incentive continued to be paid despite there being no evidence of recertification of the need to continue the incentive in either 2001 or 2002. Finally, the 2000 request also failed to terminate at the end of its three-year life, and instead continued until it was specifically cancelled in 2013.

**CORRECTIVE ACTIONS TAKEN AND PLANNED**

When the concerns with Mr. Beale came to light, the EPA quickly made changes to its retention incentive program. There are currently no EPA employees receiving a retention incentive. In fact, the agency’s review of its past practice demonstrates that retention incentives are very sparingly used at the EPA, with only 28 employees receiving an incentive since 1990. Notwithstanding the relatively low occurrence of retention incentives, improvements were needed in the EPA’s program to prevent the mistakes made in Mr. Beale’s case from recurring.

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4 The 1993 recertification states:

He is presently being courted by a major law firm in this area at a starting salary of $250,000 (including stock options) and also by an international consulting firm headquartered in London, England. Their salary offer is for $175,000 plus an attractive benefits package.

The exact same sentences are included in the 2000 request. While there is no evidence that the reviewing and deciding officials, who were not at the EPA during the time of the first retention incentive period, were aware of the previous request, the requesting official was the same for both the 1991 request (and recertifications) and the 2000 request.
The EPA now requires any future retention incentive to be entered into the human resources system with a “not to exceed” date of the next date a recertification is required or the date that the incentive is set to end. At this date, a human resources specialist will be required to either reset the date in the system because the annual recertification has been completed, or terminate the incentive payment. Based on a preliminary analysis, it does not appear that the agency could program its current payroll system to automatically terminate the incentives on the not to exceed date, however, the agency is committed to exploring that possibility when we migrate to a new payroll system in 2014. The EPA’s Office of the Chief Financial Officer is continuing to explore what might be possible in terms of implementing a “hard stop” within the payroll system.

Additionally, the EPA intends to add into the retention incentive request process a requirement that the request identify whether the employee has received retention incentives from the agency in the past. If so, the process will require the justifications for the previous incentive(s) be attached to the new application.
STATUTORY AGGREGATE PAY LIMITS

Federal law sets limits on the amount of compensation an employee can receive in any year. There are different pay limits for different types of employees (e.g., General Schedule employees, Senior Executive Service Employees, Title 42 employees, etc.) and different types of programs (e.g., a Senior Leader program certified by the Office of Personnel Management (OPM) vs. an uncertified program), so there is not a one size fits all limit. Agency employees and policies for ensuring employees are not paid above the statutory limits must, therefore, have accurate information about the status of each employee.

APPLICABLE LAWS, REGULATIONS, AND POLICIES

Statutory pay limits are contained in 5 USC 5307, and implemented by OPM regulations at 5 CFR 530. The limits apply to what is called “aggregate annual compensation,” which includes not only an employee’s basic pay, but additional payments such as premium pay; incentive awards and performance bonuses; cash awards; recruitment, retention, and relocation incentives; and locality pay adjustments. In very limited situations, agencies may request that OPM set the rate of pay for a position at a rate above the statutory limits. These positions are deemed “Critical Positions,” and are limited to 800 across the entire Federal government. According to an OPM Fact Sheet, these positions “must require an extremely high level of expertise in a scientific, technical, professional, or administrative field that is critical to the successful accomplishment of an important agency mission.” For these positions, the rate of pay is generally limited to the rate for level II of the Executive Schedule, but could be the rate of level I of the Executive Schedule or higher in exceptional and rare circumstances.

As of 2011, both the Senior Level/Scientific/Technical and the Senior Executive Service performance systems at EPA are certified by OPM as being in compliance with applicable regulations. Therefore, executives in those positions can be paid at a basic pay rate up to Executive Level II (currently $179,700).

5 The aspects of aggregate total pay are defined in 5 CFR 530.202:
(1) Basic pay received as an employee of the executive branch or as an employee outside the executive branch to whom the General Schedule applies;
(2) Premium pay under 5 U.S.C. chapter 53, subchapter IV;
(3) Premium pay under 5 U.S.C. chapter 55, subchapter V;
(4) Incentive awards and performance-based cash awards under 5 U.S.C. chapters 45 and 53;
(6) Extended assignment incentives under 5 U.S.C. 5757;
(7) Supervisory differentials under 5 U.S.C. 5755;
(8) Post differentials under 5 U.S.C. 5925;
(9) Danger pay allowances under 5 U.S.C. 5928;
(10) Post differentials based on environmental conditions for employees stationed in nonforeign areas under 5 U.S.C. 5941(a)[2];
(11) Physicians’ comparability allowances under 5 U.S.C. 5948;
(12) Continuation of pay under 5 U.S.C. 8118;
(13) Lump-sum payments in excess of the aggregate limitation on pay as required by § 530.204; and
(14) Other similar payments authorized under title 5, United States Code, excluding—
   (i) Overtime pay under the Fair Labor Standards Act of 1938, as amended, and 5 CFR part 551;
   (ii) Severance pay under 5 U.S.C. 5595;
   (iii) Lump-sum payments for accumulated and accrued annual leave upon separation under 5 U.S.C. 5551 or 5552;
   (iv) Back pay awarded to an employee under 5 U.S.C. 5596 because of an unjustified personnel action;
   (v) Student loan repayments under 5 U.S.C. 5379; and
   (vi) Nonforeign area cost-of-living allowances under 5 U.S.C. 5941(a)[1].
Additionally, the certification allows for aggregate pay to be at not more than the salary of the Vice President of the United States (currently $230,700). Systems not certified, including EPA’s systems before they were certified, restrict aggregate pay to the Executive Level III.

**Concerns Raised by the Beale Case**

The EPA’s analysis concluded that Mr. Beale was paid above the statutory aggregate pay limit in three years during his career. Mr. Beale’s aggregate pay exceeded statutory limits in 2008, 2009, and 2010. The total amount of pay above the limits for all three years combined was $15,273. The EPA’s review concluded that the agency’s e-payroll provider’s payroll system did not prevent the overpayments because Mr. Beale’s position was designated in the payroll system as a critical position and, therefore, theoretically not subject to the lower pay limits. Subsequent evaluation determined Mr. Beale’s position should not have been designated as such. In 2011, the EPA’s Senior Level/Scientific/Technical performance system was certified and, therefore, the aggregate pay limit applicable to Mr. Beale rose to $230,700. That increase resulted in Mr. Beale’s aggregate pay in 2011 and 2012 being below the statutory limits.

**Corrective Actions Taken and Planned**

The EPA is now monitoring statutory pay limits on a semiannual basis. In order to ensure compliance with the limits, new reports detailing gross pay and total pay are generated and reviewed by human resource specialists and the program offices. The agency also reviewed the 22 positions designated as critical in the EPA’s payroll system and, as a result, removed the critical designation for all of them. The EPA confirmed that none of those positions have previously or are currently exceeding the statutory pay limits. The Office of the Chief Financial Officer is considering whether to begin a new quarterly report that would identify positions in the payroll system that carry the critical designation, so that the agency can ensure that any positions identified were properly designated.
PREMIUM CLASS TRAVEL

Federal laws and regulations generally require government employees to travel on a coach class ticket, except in a few limited exceptions. Those exceptions include employees with a documented medical condition, employees with an immediate need to travel when no coach class ticket is available, and employees travelling over a certain number of hours.

APPLICABLE LAWS, REGULATIONS, AND POLICIES

The Federal Travel Regulations, located at 41 CFR 301-13.3, are published by the General Services Administration and govern travel by Federal employees. These regulations allow an agency to pay “any expenses deemed necessary by [an] agency to accommodate an employee with a special need.” The regulations authorize such payments for any “special physical need which is either: (a) Clearly visible and discernible; or (b) Substantiated in writing by a competent medical authority.” The regulations do not provide a limit on what may constitute a “special physical need” or who may constitute a “competent medical authority.” If an employee qualifies, the additional expenses and agency may pay include:

(a) Transportation and per diem expenses incurred by a family member or other attendant who must travel with [the employee] to make the trip possible;
(b) Specialized transportation to, from, and/or at the TDY duty location;
(c) Specialized services provided by a common carrier to accommodate [the employee’s] special need;
(d) Costs for handling [the employee’s] baggage that are a direct result of [the employee’s special need;
(e) Renting and/or transporting a wheelchair;
(f) Other than coach-class accommodations to accommodate [the employee’s] special need, under Subpart B of Part 301-10 of this Subchapter; and
(g) Services of an attendant, when necessary, to accommodate [the employee’s] special need.

The regulations further specify that the substantiation of a special physical need should be done annually unless the employee has a life-long physical condition, and should specify the appropriate class of travel for the employee. Finally, the regulations also authorize limited use of non-coach travel when coach accommodations are “not reasonably available” and when exceptional security circumstances require.

CONCERNS RAISED BY THE BEALE CASE

Over the course of Mr. Beale’s career, the EPA, on occasion, purchased first class tickets for his government travel. These first class tickets often cost significantly more than a coach class ticket, including at least one occasion where the first class ticket purchased may have been 14 times the cost of a coach class ticket on the same route. The EPA’s analysis indicated that Mr. Beale was allowed to travel on premium class tickets as an accommodation for an alleged special physical need. Mr. Beale’s special physical need was apparently certified by a licensed chiropractor, however, in light of the many
fraudulent documents Mr. Beale submitted during his tenure, it is possible that these documents were fraudulent as well.

**CORRECTIVE ACTIONS TAKEN AND PLANNED**

After Mr. Beale’s fraudulent travel came to light, the EPA took steps to review not only Mr. Beale’s travel, but premium class travel across the agency. Federal agencies are required to report all premium travel to the General Services Administration on a fiscal year basis. A review of the EPA’s most recent reports demonstrates that travel above coach class is very rare at the EPA. Despite thousands of authorized trips for official government business, for the FY 2012 reporting cycle, the EPA reported only 16 trips funded at levels above coach class for the entire year. Those trips were taken by seven unique employees. Ten of those trips were funded above coach class due to a medical condition of the traveler, while six trips were funded at this level because of the unavailability of coach fare tickets or the length of the flight. For FY 2013, the EPA reported only five trips involving premium class travel. Two of those trips involved flights that were long enough to authorize other than coach class travel. One of the trips was merely originally ticketed as a premium class ticket but the traveler ultimately converted that ticket into a coach class ticket before travelling, while another trip was coded in the system as premium class travel but was actually coach class travel. Finally, the fifth trip was ticketed in first class travel as a free upgrade the airline provided the traveler, and did not increase the cost of the travel above the cost of a coach class ticket. These trips represent a very small fraction of official government travel authorized by the EPA during these time periods. Although the numbers of non-coach trips are very small, the EPA has initiated a comprehensive review of past trips to ensure funding above the coach level was appropriate, and to develop any additional controls that are deemed necessary.

The agency also identified and corrected a weakness regarding agency evaluation of medical documentation supporting premium class travel waivers. Effective November 15, 2013, the EPA now requires that a determination of eligibility be made by the EPA’s Office of Reasonable Accommodation instead of a supervisor who may not have appropriate knowledge to determine eligibility.

Finally, the EPA is also initiating additional travel controls in the second quarter of FY 2014, EPA will establish the following additional travel controls. First, the agency will institute a new control aimed at ensuring lodging costs that exceed per diem are necessary and appropriate. Currently, trips where lodging costs are above 100% per diem are approved by the designated approving official. EPA will now require a second line supervisor, in addition to the first line approving official, to approve certain hotel per diem amounts that exceed a designated percentage over 100%. The second control is aimed at increasing review of high cost travel. To provide additional scrutiny, in the future any single trip exceeding $5,000 will require approval by the appropriate Senior Resource Official before final bookings and reservations can be made.
TRAVEL VOUCHER FRAUD

Federal employees are only authorized to travel on behalf of the Federal government when such travel is necessary and appropriately authorized. Unless not practical or possible, Federal employees are required to obtain written or electronic authorization prior to travelling for official government business. Implicit in all government regulations and agency policies is the obligation that the travel must be for an official government purpose.

APPLICABLE LAWS, REGULATIONS, AND POLICIES

According to the Federal Travel Regulation, an agency may only pay specific expenses of an employee’s travel:

Your agency may pay only those expenses essential to the transaction of official business, which include:

(a) Transportation expenses as provided in Part 301-10 of this chapter;
(b) Per diem expenses as provided in Part 301-11 of this chapter;
(c) Miscellaneous expenses as provided in Part 301-12 of this chapter; and
(d) Travel expenses of an employee with special needs as provided in Part 301-13 of this chapter.

41 CFR 301-2.2. Per diem rates for hotels and meals and incidentals are determined for the entire government by the General Services Administration. Federal travelers are expected to comply with these per diem rates, except in rare circumstances. Actual lodging expenses, not to exceed 300% of the standard per diem rates, can be paid under the following circumstances:

(a) Lodging and/or meals are procured at a prearranged place such as a hotel where a meeting, conference or training session is held;
(b) Costs have escalated because of special events (e.g., missile launching periods, sporting events, World’s Fair, conventions, natural or manmade disasters); lodging and meal expenses within prescribed allowances cannot be obtained nearby; and costs to commute to/from the nearby location consume most or all of the savings achieved from occupying less expensive lodging;
(c) The TDY location is subject to a Presidentially-Declared Disaster and your agency has issued a blanket actual expense authorization for the location (see §301-70.201);
(d) Because of mission requirements; or
(e) Any other reason approved within your agency.

41 CFR 301-11.300.

The EPA’s travel policies require the certification of accuracy and authority by both the travelling employee and his supervisor or designated approver. It is the primary responsibility of the employee, often with assistance of a secretary, to prepare a travel authorization that explains the purpose of the trip, the method of travel, and the expected expenses. The employee’s supervisor or travel authorizing official then must review the travel authorization and either approve it for funding, deny it, or return it to the employee for adjustment. Once a trip has concluded, it is again the primary responsibility of the
employee, often with the assistance of a secretary or travel approver, to prepare a travel voucher reflecting the actual costs of the travel. The employee’s supervisor or travel approver then must review the travel voucher and either approve it for funding, deny it, or return it to the employee for adjustment. If approved for funding, the payment office also reviews the travel voucher for all of the required signatures and justifications and, if present, authorizes payment.

CONCERNS RAISED BY THE BEALE CASE

During the 1990’s, Mr. Beale took several trips, including several international trips, on behalf of the EPA that appear to be both appropriately justified and in compliance with the Federal Travel Regulations and agency policy. Beginning in late 2001, however, Mr. Beale’s travel vouchers raise a number of concerns.

First, on at least one occasion, Mr. Beale was reimbursed for lodging that was at 300% of the standard per diem for the destination city. Such a significant increase over standard per diem rates could be allowable under the Federal Travel Regulations, but EPA lacks evidence to justify the added expense in this case.

Second, the EPA Assistant Inspector General for Investigations, Patrick Sullivan, has testified before Congress that some of Mr. Beale’s travel authorizations indicated that Mr. Beale was travelling to one city, while his travel vouchers included receipts for travel to a different city. EPA’s initial review of the Beale vouchers revealed that, although there were some instances where the voucher and the receipts were for a different destination than what was originally authorized, in each case an amended travel authorization which captured the new itinerary was submitted and approved by the appropriate program officials. This amended authorization would make the voucher and receipts valid if the trip origin was adjusted for legitimate government business purposes.

Finally, the EPA’s Office of the Inspector General has concluded that some of the trips for which Mr. Beale was reimbursed in the mid 2000s were for personal travel, but treated as official government travel. These trips appear to have been authorized beginning in 2005, when an Assistant Administrator for the Office of Air and Radiation approved Mr. Beale to work on a project with little to no oversight.

CORRECTIVE ACTIONS TAKEN AND PLANNED

In June 2012, well before the concerns raised by Mr. Beale were fully understood, the EPA issued an updated travel policy that we believe would have made much more difficult the kind of travel fraud conducted by Mr. Beale. The EPA’s travel system automatically highlights exceptions from the normal travel parameters such as lodging that exceeds per diem or transportation above coach class, a longstanding practice within the Agency. The system requires a traveler to enter, and a supervisor or travel approver to review, a justification for any such deviations before the travel is authorized. The EPA’s updated travel policy makes several adjustments to tighten controls, in addition to the forthcoming controls on premium class and high cost travel described above. First, after a trip, employees are now required to scan into the voucher system all receipts for expenses over $75, in addition to maintaining those receipts themselves. Previously, the EPA’s policy only required the traveler to maintain his receipts, not to enter actual copies of the receipts into the system. Second, the
EPA’s policy now calls for “split pay,” where “hard” costs such as airfare and lodging are paid directly to the government credit card company, rather than to the employee’s personal bank account. And third, the EPA now audits 100% of travel vouchers before payment. Previous policy of the EPA called for an audit of a subset of agency travel after payment of the vouchers. The multiple, significant changes made to the EPA’s travel policy have considerably tightened agency controls on employee travel.
TIME AND ATTENDANCE

Government employees are only entitled to compensation for hours spent working on official government responsibilities or for other categories of authorized paid leave (e.g., sick leave, annual leave, etc.). At their core, time keeping and approving responsibilities rely primarily on the employee, and secondarily on a time approver or supervisor.

APPLICABLE LAWS, REGULATIONS, AND POLICIES

The EPA’s time and attendance system resides within “PeoplePlus.” Within the PeoplePlus system, employees are generally required to enter their own time (i.e., regular hours and any hours other than regular hours) into the system on a biweekly basis. The system does allow for a time keeper to enter an employee’s time for the employee, but such action is supposed to be the exception, such as when the employee is on sick leave or annual leave. Once attested as accurate and saved by the employee, the time card is routed to the employee’s time keeper, supervisor, and time approver for review. The primary responsibility for approval of an employee’s time rests with the employee’s direct supervisor, although this function is often performed by an authorized time approver in situations where the direct supervisor is a very senior employee whose duties are likely to be too demanding to manage the time review and approval process. Time approvers are generally senior-level career employees whose responsibilities specifically include time review and approval responsibilities. Currently, the EPA is implementing a policy of “default pay” and “mass approval”, where an employee will be paid for a full 80 hours over a pay period even if one step of the process fails to occur. This process calls for reconciliation of that pay and the actual hours worked in the subsequent pay period.

CONCERNS RAISED BY THE BEALE CASE

The EPA’s analysis of Mr. Beale’s employment history has identified several concerns related to time and attendance. First, beginning in 2001, it appears that Mr. Beale began to not appear in the office as much as one day per week even though he was not on approved leave. Second, beginning in the mid-2000’s Mr. Beale began to not appear in the office for more lengthy periods of time. According to the EPA’s Office of Inspector General, those absences ranged for weeks to several months from the mid-2000’s to the end of Mr. Beale’s career. (The EPA recognizes that many of these absences were “explained” by Mr. Beale as being attributable to work he was performing for a member of the Intelligence Community.) Third, Mr. Beale always relied on his time keeper or someone else to enter his time on his behalf for a period of many years. The EPA has confirmed that, for many of the pay periods where Mr. Beale failed to appear in the office he did contact his time keeper and provide his time keeper with his alleged hours for that pay period. It has now become clear that the hours reported by Mr. Beale were fraudulent. Finally, the EPA’s analysis has determined that Mr. Beale’s supervisors and time approvers often approved Mr. Beale’s time based upon fraudulent assertions made by Mr. Beale.

CORRECTIVE ACTIONS TAKEN AND PLANNED

The EPA has already implemented several changes to its review of time entry and approval practices to prevent the type of fraud undertaken by Mr. Beale. The EPA’s efforts combine both computer-
performed checks on time entry and approval with increased requirements for review by supervisors or time approvers.

First, the EPA’s time entry and approval system is now generating a series of reports that will help the agency’s Office of the Chief Financial Officer and senior managers within an employee’s home office identify possible concerns with an employee’s time entry and approval actions. The agency now generates a pay period by pay period report that identifies any employee when neither the employee nor the employee’s time keeper entered the employee’s time. This information is then reviewed by the Office of the Chief Financial Officer and provided to the employee’s supervisor for review and investigation. It should be noted that inclusion on such a list does not, in and of itself, indicate there is an impropriety with the employee’s time, as reasonable explanations may exist (e.g., both the employee and time keeper are out on approved leave). This pay period by pay period report is supplemented with a new quarterly report highlighting any employee that failed to enter her time (even if an approved time keeper entered her time) three pay periods during that quarter. Again, while an appropriate explanation may exist (e.g., an employee on maternity leave or extended sick leave), the report is reviewed by the Office of the Chief Financial Officer and provided to the employee’s home office for review and investigation.

Second, the EPA’s time entry and approval system is now generating a pay period by pay period report that will identify any instance where neither an employee’s supervisor nor an employee’s time approver actually approve the employee’s time. As explained above, while inclusion on such a list may not indicate any impropriety, the list will be reviewed by the Office of the Chief Financial Officer and provided to the employee’s home office for review and investigation. Additionally, the EPA intends to begin generating a quarterly report identifying any employee for whom someone other than the employee’s direct supervisor approved the employee’s time (even if approved by an authorized time approver) more than three times during the quarter. Like the other reports, this report will be reviewed by the Office of the Chief Financial Officer and provided to the employee’s home office for review and investigation.

In addition to these computer-performed enhancements, the EPA has increased the requirements on supervisors and time approvers to review employee time cards. Previously, the EPA’s time and attendance system allowed supervisors and time approvers to review the time cards of a group of employees and then and approve the time cards for that group of employees with a “single click.” The EPA has now re-programmed its time and attendance system so that supervisors and time approvers must approve every individual employee’s time card. The combination of the computer-performed improvements and supervisor/time approver requirements would prevent the type of systematic, criminal time card fraud conducted by Mr. Beale.

Finally, the EPA also amended its time and attendance policy on June 20, 2013 and is currently engaged in negotiations with the agency’s unions over the revised policy. The revised policy strengthens internal controls over time and attendance reporting to eliminate system generated default pay and mass approval processes. The policy will be implemented within the agency following completion of union negotiations and the agency’s migration to a new payroll provider in June, 2014.
Government agencies are allowed to subsidize the transportation and parking costs of employees, within certain limitations. At the EPA, subsidized public and shared transportation benefits are generally available to agency employees, while subsidized parking is available to a more limited set of employees.

Applicable Laws, Regulations, and Policies

Consistent with the authorization for government agencies, the EPA has an official Transit Subsidy Program. At issue here is the Transit Subsidy Program for the Washington, DC area. With regard to parking subsidies, the EPA’s program authorizes subsidies for employees who are the principal member of a carpool, who are disabled, or who work irregular hours. The number of agency subsidized spaces is limited and priority is given to disabled employees, and then to EPA employees who are the principal members of a carpool. Employees are required to initially certify their status as a member of one of these three subsidized parking categories and provide the relevant supporting documentation, and then recertify their status annually. Employees applying for a parking subsidy based upon a claim of disability are required to submit a form completed by the employee’s physician along with their application.

Concerns Raised by the Beale Case

According to a Statement of Offense signed by Mr. Beale and filed with the District Court for the District of Columbia, Mr. Beale fraudulently obtained subsidized parking from January 2002 through June 2005 by submitting false information claiming he was rendered disabled by virtue of contracting malaria in Vietnam. As has now been proven, Mr. Beale neither served in Vietnam nor contracted malaria. The EPA’s review of Mr. Beale’s records has not yet identified those records described in the Statement of Offense, and we look forward to obtaining those records from the EPA’s Office of Inspector General. The EPA’s review identified four separate applications by Mr. Beale for subsidized parking:

1) An August 27, 2001, application based upon an assertion of a disability. This application was denied for a lack of medical documentation.
2) An April 25, 2005, application based upon an assertion of a disability. Although initially approved, the request was disapproved on May 20, 2005. The disapproval is most likely due to a failure to provide medical documentation.
3) A May 14, 2007, application based upon an assertion of a disability. Although initially approved, the request was disapproved on June 30, 2007. The disapproval is most likely due to a failure to provide medical documentation.
4) A December 2010, application based upon an assertion of unusual hours. This request was approved and the subsidy continued through July 31, 2012, when Mr. Beale cancelled his request for a parking subsidy.
CORRECTIVE ACTIONS TAKEN AND PLANNED

The EPA is redoubling its efforts to monitor approval of requests for subsidized parking. As a result, the agency plans to release almost 10% of its subsidized spaces in the Ronald Reagan Building. In addition, more rigorous procedures are now in place to verify all subsidized parking requests. In particular, employees applying for a parking subsidy based upon a claim of unusual hours are required to submit written verification and approval by agency senior management at the Deputy Assistant Administrator or equivalent level. With regard to employees applying for disabled parking, incomplete applications will no longer be conditionally approved pending receipt of medical documentation.

Finally, the EPA has also reduced the percentage of the cost of a parking space paid by an agency subsidy for qualifying individual. Previously, at headquarters the agency paid $131 per month for a subsidized space, which was approximately 75% of the total cost. The General Services Administration recently announced a significant increase in the rental cost per space in the Reagan Building Parking Garage. Rather than continue the subsidy at 75% of the total cost, the agency has lowered the amount of the subsidy to $125 per month. This amount is consistent with the amount the EPA makes available to all eligible employees for a transit subsidy and is approximately 43% of the total cost of a space.