



Memorandum from the Office of the Inspector General

May 4, 2022

Susan E. Collins
David B. Fountain

**REQUEST FOR MANAGEMENT DECISION – AUDIT 2021-17277 – OUTSIDE
EMPLOYMENT RELATED TO SMALL BUSINESS ADMINISTRATION LOANS**

Attached is the subject final report for your review and management decision. You are responsible for determining the necessary actions to take in response to our findings. Please advise us of your management decision within 60 days from the date of this report. In accordance with the Inspector General Act of 1978, as amended, the Office of the Inspector General is required to report to Congress semiannually regarding audits that remain unresolved after 6 months from the date of report issuance.

If you have any questions, please contact Jennifer R. Bogus, Senior Auditor, at (865) 633-7372 or Rick C. Underwood, Director, Financial and Operational Audits, at (423) 785-4824. We appreciate the courtesy and cooperation received from your staff during the audit.

David P. Wheeler
Assistant Inspector General
(Audits and Evaluations)

JRB:KDS

Attachment

cc (Attachment):

TVA Board of Directors
Janda E. Brown
Catherine Butler
Buddy Eller
Megan T. Flynn
Amanda D. Johns
Jeffrey J. Lyash
Jill M. Matthews
Wilson Taylor III
OIG File No. 2021-17277



Office of the Inspector General

Audit Report

To the Executive Vice President and
Chief People and Communications
Officer, Human Resources and
Communications, and to the Executive
Vice President and General Counsel

OUTSIDE EMPLOYMENT RELATED TO SMALL BUSINESS ADMINISTRATION LOANS

Audit Team
Jennifer R. Bogus
Michael C. Cook

Audit 2021-17277
May 4, 2022

ABBREVIATIONS

CFR	Code of Federal Regulations
ECM	Enterprise Content Management
EIDL	Economic Injury Disaster Loan
FDR	Financial Disclosure Report
HR	Human Resources
PPP	Paycheck Protection Program
SBA	United States Small Business Administration
SPP	Standard Program and Process
TVA	Tennessee Valley Authority

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Audit 2021-17277 – Outside Employment Related to Small Business Administration Loans

EXECUTIVE SUMMARY

Why the OIG Did This Audit

The Tennessee Valley Authority (TVA) is required to follow Title 5, Code of Federal Regulations (CFR), Chapter 7901 (5 CFR § 7901), *Supplemental Standards of Ethical Conduct for Employees of the Tennessee Valley Authority*. This regulation requires TVA employees to obtain written approval from the supervising TVA vice president, or designee, before engaging in outside employment, with or without compensation. TVA Standard Programs and Processes 11.806, *Outside Employment*, details the process for TVA employees to follow in obtaining the required approval of outside employment by submitting TVA Form 15570. Our office, through a partnership with the Pandemic Response Accountability Committee,ⁱ obtained data from the United States Small Business Administration (SBA) related to their Economic Injury Disaster Loans (EIDL) and Paycheck Protection Program (PPP) loans. We used this data to identify any TVA employees represented in that data, indicating the employee potentially had an outside business or employment.

We scheduled this audit after identifying potential matches between the SBA data and TVA employees. Our audit objective was to determine if TVA's policies and procedures are effective in assuring outside employment of TVA employees is properly approved. Our audit scope was limited to TVA employees identified as having potential outside employment or business ownership through review of EIDL and PPP loan data received from the SBA.

What the OIG Found

We found TVA's policies and procedures are not effective in assuring outside employment of TVA employees is properly approved. Specifically, we found TVA employees are not consistently submitting their outside employment or business ownership on TVA Form 15570 prior to accepting outside employment or opening a business. In addition, we found TVA's (1) review for potential conflicts of interest and (2) application of 5 CFR § 7901 requirements could be improved. We also found (1) the TVA Forms 15570 on file were not updated as required and (2) roles and responsibilities in the outside employment approval process could be clarified.

ⁱ The Pandemic Response Accountability Committee was established as a committee of the Council of the Inspectors General on Integrity and Efficiency, as part of the Federal Government's coronavirus response, to prevent and detect fraud, waste, abuse, and mismanagement.



Audit 2021-17277 – Outside Employment Related to Small Business Administration Loans

EXECUTIVE SUMMARY

What the OIG Recommends

We made eight recommendations to TVA management to improve compliance with requirements of 5 CFR §7901 and TVA Standard Programs and Processes 11.806, *Outside Employment*, by (1) reinforcing and clarifying CFR requirements and (2) enhancing oversight of the receipt and processing of TVA Form 15570.

TVA Management's Comments

In response to our draft report, TVA management agreed with our recommendations. See Appendix B for TVA management's complete response.

BACKGROUND

The Tennessee Valley Authority (TVA) is required to follow Title 5, Code of Federal Regulations (CFR), Chapter 7901 (CFR § 7901), *Supplemental Standards of Ethical Conduct for Employees of the Tennessee Valley Authority*. This regulation requires TVA employees to obtain written approval from the supervising TVA vice president, or designee, before engaging in outside employment, with or without compensation. It also states approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation. Employment is defined in the CFR as:

Any form of non-Federal employment or business relationship involving the provision of services by the employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless such activities involve the provision of professional services or advice or are for compensation other than reimbursement for actual expenses.

TVA Standard Programs and Processes (SPPs) 11.806, *Outside Employment*, details the process for TVA employees to follow in obtaining the required approval of outside employment. According to TVA-SPP-11.806, TVA employees must:

- Complete TVA Form 15570, *Request for Approval of Outside Employment or Consulting Work*.
- Obtain approval of their supervisor and of the TVA Officer in their chain of command.
- Submit the approved form to the Director, Ethics and Compliance.

TVA Ethics and Compliance is then supposed to review completed requests and notify management of any potential conflicts or concerns. Human Resources (HR) should then enter the information on the form into TVA's human capital management system. The form itself is maintained in Enterprise Content Management (ECM). Employees are required to submit a new request at least once every three years or sooner when necessitated by a change of duties or by other factors.

Ethics and Compliance told us when they receive a TVA Form 15570, they perform the following steps, which they also indicated are not all-inclusive, to identify any potential conflicts of interest or other concerns:

- Obtain additional information from the employee about the outside activity/company and their job duties there.
- Compare/analyze the employee's job and outside activity.
- Review the contract database in ECM.
- Reach out to Supply Chain for additional information if it is known that TVA conducts, or potentially could conduct, business with the entity in question.
- Obtain various lists of customers from business units including TVA's direct served customers, preferred customers, and companies with whom TVA has gas contracts.

In addition to communicating requirements related to outside employment through TVA-SPP-11.806, TVA requires annual training entitled "Employee Rights and Responsibilities," commonly known as Ethics training, for all employees. It is an annual obligation of employment. The Director, Ethics and Compliance, informed us some topics are included in the Ethics training on a rotational basis, with outside employment being one of those rotated subjects.

Our office, through a partnership with the Pandemic Response Accountability Committee,¹ obtained data from the United States Small Business Administration (SBA). The data contained records of individuals who applied for Economic Injury Disaster Loans (EIDL) as of May 12, 2021 or Paycheck Protection Program (PPP) loans as of April 26, 2021 with the SBA. According to the SBA website, EIDL provides economic relief to small businesses and nonprofit organizations experiencing a temporary loss of revenue and unable to meet obligations and pay ordinary and necessary operating expenses. The PPP was intended to provide economic relief to small businesses adversely impacted under the Coronavirus Disease 2019 (COVID-19) Emergency Declaration issued on March 13, 2020. The PPP ended on May 31, 2021. We utilized data from TVA systems to identify potential matches between individuals in the SBA and TVA data, indicating the TVA employee applied for an EIDL or PPP loan. The data analysis identified potential matches to 199 current or former TVA employees.

Internal Control

TVA's policies and procedures put the burden of reporting outside employment solely on the employee. TVA's methods for making employees aware of their reporting requirements are TVA-SPP-11.806 and the annual Ethics training. TVA's controls related to the processing of TVA Form 15570 include requiring (1) the approval of the employee's supervisor and TVA Officer, (2) a review for

¹ The Pandemic Response Accountability Committee was established as a committee of the Council of the Inspectors General on Integrity and Efficiency, as part of the Federal Government's coronavirus response, to prevent and detect fraud, waste, abuse, and mismanagement.

potential conflicts of interest, and (3) an update to the form every three years, at minimum.

OBJECTIVE, SCOPE, AND METHODOLOGY

We scheduled this audit after identifying potential matches between the SBA data and TVA employees. Our audit objective was to determine if TVA's policies and procedures are effective in assuring outside employment of TVA employees is properly approved. Our audit scope was limited to TVA employees identified as having potential outside employment or business ownership through review of PPP and EIDL data received from the SBA. A complete discussion of our audit objective, scope, and methodology is included in Appendix A.

FINDINGS AND RECOMMENDATIONS

We found TVA policies and procedures are not effective in assuring outside employment of TVA employees is properly approved. The following provides a detailed discussion of our findings.

TVA EMPLOYEES ARE NOT CONSISTENTLY FILING TVA FORM 15570

We reviewed 199 potential matches between SBA loan data and TVA personnel data. We determined 48 of the 199 were not a match, leaving 151 potential matches to TVA employees. The 48 that were not a match were determined to be either a potentially fraudulent loan application (e.g., identify theft) (28), not a match to the employee (17), or were not required to file the form (3).

We conducted analysis of the 151 potential matches to TVA employees through review of supporting documentation and discussion with TVA employees and TVA's Ethics and Compliance personnel and determined 18² (12 percent) TVA employees had completed a TVA Form 15570 requesting approval for outside employment as required by policy. We also found 86 of the 151 (57 percent) TVA employees with actual outside employment and/or business ownership did not complete TVA Form 15570 prior to taking outside employment or opening the business. The most common response provided as to why TVA employees had not previously completed a TVA Form 15570, was they believed the form applied only if they felt there was a potential conflict of interest with TVA or if the work was related to their TVA job duties. Additional reasons given included they:

- Did not know there was a form.

² We obtained a TVA Form 15570 for 27 of the 199 potential matches; 26 were officially on file with TVA, and one was obtained directly from an employee. Only 18 were considered compliant with policy because, four forms were for businesses not related to the business in the SBA data, we could not confirm if three forms were related to the business in the SBA data, and two forms were filed after the date of the SBA loan.

- Own a business but did not consider that employment.
- Were told by a supervisor, or someone in HR, they did not need to file a form.

We were unable to determine if the remaining 47 of the 151 (31 percent) potential matches represented actual outside employment or business ownership because either the person was no longer employed at TVA (17) or they did not respond to our e-mail inquiry (30).

As noted in the Background, Ethics and Compliance stated the topic of outside employment is included in the annual Ethics training on a rotational basis only. We observed the November 2021 training did not include information related to outside employment beyond the listing of the Principles of Ethical Conduct for Government Officers and Employees, referred to in the Ethics training as the “14 Guiding Principles.” The tenth principle states, “employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.”

Recommendations – We recommend TVA’s Executive Vice President and General Counsel:

1. Obtain a TVA Form 15570 for all employees identified during the audit with actual outside employment or business ownership.
2. Annually inform TVA employees of the requirement to file a TVA Form 15570 through Ethics training or some other form of communication.
3. Reinforce requirements regarding approval for outside employment with TVA’s HR organization.

TVA Management’s Comments – TVA management agreed with our recommendations. See Appendix B for TVA management’s complete response.

REVIEW FOR POTENTIAL CONFLICTS OF INTEREST COULD BE STRENGTHENED

We found the review performed by Ethics and Compliance for potential conflicts of interest could be improved. According to Ethics and Compliance, they do not have a set procedure or list of steps when reviewing a TVA Form 15570 for a potential conflict of interest, but rather perform multiple steps for review on a case-by-case basis.

We obtained TVA Forms 15570 officially on file for 26 employees in our list of 199 potential matches to the SBA data from either ECM or Ethics and Compliance.³ We reviewed all TVA vendors and vendor invoice payments related to business names and/or employee names on those TVA Forms 15570. We concluded that the review for potential conflicts of interest by Ethics and Compliance was inadequate for one employee. After Ethics and Compliance reviewed the submitted TVA Form 15570, they stated in an e-mail to the employee they found no conflict of interest because the company listed on the form "does not conduct business with TVA." Our review of all TVA vendors and vendor invoice payments found two payments totaling \$1,379 had been made to this company from 2009 to the time the TVA Form 15570 was filed in 2015. An additional six payments were made to the company totaling \$5,362 between February 2016 and December 2021. While this does not represent a significant amount of money, failure to review vendor invoices when looking for potential conflicts of interest could result in payments of greater significance going unnoticed.

We requested supporting documentation of the potential conflicts of interest review performed by Ethics and Compliance for the 24 TVA Forms 15570 they provided from their records. The only evidence of review maintained were e-mails from Ethics and Compliance to 15 of the employees to inform them their review was complete. For 8 of the 24 employees, some e-mail documentation was provided; however, it was inconsistent and either (1) did not relate to the form obtained during the audit (but rather an updated form filed during the audit) or (2) did not show evidence Ethics and Compliance had completed the review for potential conflicts of interest after receipt of an approved form. No documentation was provided for one of the 24 employees.

Recommendations – We recommend TVA's Executive Vice President and General Counsel:

4. Formally document procedures to be followed during the TVA Form 15570 review and (a) include a review of vendor invoice payments to determine if TVA does business with the entity and (b) maintain evidence of the procedures performed.
5. Modify TVA Form 15570 to include evidence of review by the Director, Ethics and Compliance.

TVA Management's Comments – TVA management agreed with our recommendations. See Appendix B for TVA management's complete response.

³ We obtained forms for 17 employees directly from ECM. Ethics and Compliance provided forms for 24 employees, 15 of which were the same forms we obtained from ECM, while 9 were not included in the 17 obtained from ECM. This resulted in at least one TVA Form 15570 officially on file for 26 of the 151 potential matches to SBA data.

APPLICATION OF 5 CFR § 7901 REQUIREMENTS COULD BE IMPROVED

TVA's application of the requirement in 5 CFR § 7901 for employees to report outside employment could be improved. During calendar year 2021, ten of the employees identified as having an outside employment and/or business ownership during the audit were required to file a Financial Disclosure Report (FDR). All ten employees reported the outside employment and/or business ownership we identified on their FDR; however, only five of the ten employees had a TVA Form 15570 on file.

Ethics and Compliance considered eight of the ten employees' business to be reportable as outside employment on TVA Form 15570, with five already having an approved form on file at the time of their 2021 FDR filing. We obtained documentation showing the additional three employees were contacted by Ethics and Compliance regarding their outside employment and/or business ownership, informing them of the TVA Form 15570 requirement. However, we found no evidence of a subsequent follow up by Ethics and Compliance, resulting in three employees not filing a TVA Form 15570 as required.

For the two businesses TVA did not consider reportable as outside employment on TVA Form 15570, the rationale documented by TVA was the businesses were not set up as legal business entities.⁴ Additionally, one of the five employees with a TVA Form 15570 on file also reported multiple Board positions on their FDR, which were not related to the business on their TVA Form 15570. TVA did not consider those Board positions reportable as outside employment on a TVA Form 15570 because those positions were held at nonprofit organizations.

The definition of outside employment in 5 CFR § 7901 does not specify the activity must be a legal business entity before becoming reportable. Additionally, although the regulation provides some exceptions, it is an overstatement by TVA that an employee's involvement with nonprofits is not reportable as outside employment. Board level positions at any entity could be compensated or involve the provision of professional services or advice, as defined as outside employment in 5 CFR § 7901.

Recommendation – We recommend TVA's Executive Vice President and General Counsel:

6. Ensure TVA employees, whose FDR indicates they have outside employment, complete TVA Form 15570, as appropriate, when analysis indicates it is required by 5 CFR § 7901.

TVA Management's Comments – TVA management agreed with our recommendation. See Appendix B for TVA management's complete response.

⁴ These two businesses were both in agriculture, with one listed as a family farm and one as cattle sales.

ADDITIONAL AREAS FOR IMPROVEMENT

We identified two areas for improvement where TVA informed us they were actively addressing issues identified during the audit.

TVA Form 15570 Was Not Being Updated as Required

As previously stated, we identified 26 total employees with one or more TVA Forms 15570 on file within ECM or provided by Ethics and Compliance. We found 17 of the 26 employees with TVA Forms 15570 on file did not keep all of their forms up to date as required by TVA-SPP-11.806.

Ethics and Compliance informed us they had initiated a project to contact all active TVA employees with an outdated TVA Form 15570 to obtain an updated form if the employee was still participating in the outside employment.

Recommendation – We recommend TVA’s Executive Vice President and General Counsel:

7. Formalize the process to ensure TVA Forms 15570 are updated as required in TVA-SPP-11.806.

TVA Management’s Comments – TVA management agreed with our recommendation. See Appendix B for TVA management’s complete response.

Roles and Responsibilities Could Be Clarified

During testing of the TVA Forms 15570 for 27 employees, we identified seven instances where there was a TVA Form 15570 but no corresponding data in TVA’s human capital management system. Those forms were either (1) obtained from ECM, (2) provided by Ethics and Compliance, or (3) received directly from an employee during testing. We asked Ethics and Compliance and HR personnel to provide information related to those seven forms and found:

- Ethics and Compliance had no record of the one TVA Form 15570 we obtained from an employee during testing.
- Documentation provided by Ethics and Compliance showed two forms were sent to HR for processing. They also provided a report showing information from those two forms was entered into TVA’s human capital management system, but had been removed at some point prior to the audit initiation.
- Ethics and Compliance stated they never received the final copies signed by a TVA Officer for two forms, so they were subsequently not sent to HR for processing.
- Ethics and Compliance was unable to provide documentation showing the remaining two forms were sent to HR for processing.

TVA HR personnel informed us multiple areas for improvement had been identified and discussed between HR and Ethics and Compliance after the

initiation of the audit. HR personnel provided documentation of e-mail discussions and edits to both department-level procedures and TVA-SPP-11.806. Additionally, HR provided an updated working version of their department-level procedures related to the receipt and processing of TVA Form 15570.

Recommendation – We recommend TVA’s Executive Vice President and General Counsel:

8. Work with HR to ensure roles and responsibilities for the receipt, processing, and maintenance of TVA Form 15570 are clear and consistent in both department-level procedures and in TVA-SPP-11.806.

TVA Management’s Comments – TVA management agreed with our recommendation. See Appendix B for TVA management’s complete response.

OBJECTIVE, SCOPE, AND METHODOLOGY

Our audit objective was to determine if the Tennessee Valley Authority's (TVA) policies and procedures are effective in assuring outside employment of TVA employees is properly approved. Our audit scope was limited to TVA employees identified as having potential outside employment or business ownership through review of Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) data received from the United States Small Business Administration (SBA). To achieve our objective we:

- Reviewed Title 5 Code of Federal Regulations (CFR) § 2635.105, *Standards of Ethical Conduct for Employees of the Executive Branch*, and 5 CFR § 7901, *Supplemental Standards of Ethical Conduct for Employees of the Tennessee Valley Authority*, to identify key federal regulations applicable to TVA employees, specifically related to outside employment.
- Reviewed TVA Standard Programs and Processes 11.806, *Outside Employment*, to identify key requirements applicable to TVA employees related to the request for approval of outside employment on TVA Form 15570.
- Obtained an understanding of internal controls associated with outside employment.
- Obtained EIDL data as of May 12, 2021 and PPP loan data as of April 26, 2021 from the SBA and identified potential matches within the loan data to TVA employees by matching on home address, social security number, or bank account details.
- Reviewed potential matches in the SBA data and found a population of 199 unique TVA employee identification numbers for testing.
- Obtained approved TVA Forms 15570 from TVA's Ethics and Compliance and Enterprise Content Management.
- Reviewed the TVA Forms 15570 on file for compliance with requirements in TVA-SPP-11.806 for the forms to be (1) approved by a supervisor and TVA Officer, (2) reviewed by Ethics and Compliance for potential conflicts of interest, and (3) updated at least every 3 years.
- Contacted 182 of the 199 potential matches to the SBA data who were still employed with TVA in December 2021 by e-mail, to determine if they were a true match and had outside employment/businesses.
- Searched all vendors and vendor invoice payments in TVA's Maximo system using names of identified businesses or names of employees identified as having a business with no specific name.
- Reviewed supporting documentation for TVA Forms 15570 on file for 23 employees for evidence of the review of potential conflicts of interest performed by Ethics and Compliance.

- Reviewed Financial Disclose Reports for any employee with confirmed outside employment and/or business ownership who was required to file.
- Reviewed Human Resources procedures for the receipt and processing of approved TVA Forms 15570.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

April 29, 2022

David P. Wheeler, WT 2C-K

MANAGEMENT RESPONSE – AUDIT 2021-17277 – OUTSIDE EMPLOYMENT RELATED TO SMALL
BUSINESS ADMINISTRATION LOANS

Our response to your request for comments regarding the subject draft report is attached. The OIG's recommendations align with TVA's commitment to fostering a strong ethical culture. Based on the draft report, we understand that the review for potential conflicts of interest was inadequate for one employee. Please let us know if your staff has any concerns with TVA's comments on the draft report.

We would like to thank Jennifer Bogus and Michael Cook for their professionalism and cooperation during this audit.



David B. Fountain,
Executive Vice President and General Counsel and Designated Agency Ethics Official
WT 6A-K

JEB:LA

Cc (Attachment):

Janda E. Brown
Susan E. Collins
Megan T. Flynn
Amanda D. Johns
Wilson Taylor, III

OIG File No. 2021-17277

Evaluation 2021-17259
External Organizations Board Practice
Response to Request for Comments

ATTACHMENT A
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	Recommendation	Comments
1	Obtain a TVA Form 15570 for all employees identified during the audit with actual outside employment or business ownership.	Management agrees.
2	Annually inform TVA employees of the requirement to file a TVA Form 15570 through ethics training or some other form of communication.	Management agrees.
3	Reinforce requirement regarding approval for outside employment with HR organization.	Management agrees.
4	Formally document procedures to be followed during the TVA Form 15570 review, (a) include a review of vendor invoice payments to determine if TVA does business with the entity, and (b) maintain evidence of the procedures performed.	Management agrees.
5	Modify TVA Form 15570 to include evidence of review by Director, Ethics & Compliance.	Management agrees.
6	Ensure TVA employees, whose FDR indicate they have outside employment, complete TVA form 15570, as appropriate.	Management agrees.
7	Formalize process to ensure TVA Forms 15570 are updated as required in TVA-SPP-11.806.	Management agrees.
8	Work with HR to ensure roles and responsibilities for the receipt, processing, and maintenance of TVA forms 15570 are clear and consistent.	Management agrees.