

TVA RESTRICTED INFORMATION



Memorandum from the Office of the Inspector General

October 5, 2021

Annette Moore

████████████████████
FORMER CONTRACTOR

████████████████████
FALSE CLAIMS
OIG FILE NO. 19-0203

We have completed our investigation into former ██████████ contractor ██████████ ██████████. The investigation was conducted to determine whether ██████████ received improper Temporary Living Allowance (TLA) payments concerning his permanent residence due to a non-arm's length real estate transaction, falsified lease documents, and not incurring substantially all of the costs for maintenance and upkeep of the claimed permanent residence, in violation of Title 18, United States Code § 287 (18 USC § 287). ██████████ has improperly acquired \$80,857.70 in TLA payments over the duration of the Tennessee Valley Authority (TVA)-█████████ contract ██████████ at TVA's Boone Hydro Project.

There are certain requirements that a contracted employee, and the dwelling claimed as his/her permanent residence, must meet in order for such dwelling to qualify as the employee's permanent residence for the purposes of the TLA payment provision. Some of these requirements (summarized in the TLA applications completed and certified by the employees) that must be met at the time of initial application for TLA payments and throughout the period during which such payments are made, are as follows:

- (1) The employee must be maintaining as their Permanent Residence a dwelling that is located more than 60 radius miles from the TVA work location. In maintaining the Permanent Residence the employee must continue to incur substantially all of the cost for its upkeep and maintenance.
- (2) "Permanent Residence" is the employee's legal residence in accordance with the laws of the state in which his/her permanent residence is located, which they maintained prior to the temporary assignment, or if acquired after the start of the temporary assignment replaces the Permanent Residence he/she maintained prior to the assignment; it must be the Permanent Residence that he/she historically maintained (or if acquired after the start of the temporary assignment replaces the Permanent Residence he/she historically maintained).
- (3) The employee must establish and maintain a temporary (second) residence in the immediate vicinity of the TVA work location, as to which he/she will incur additional (substantial and bona fide) living expenses related to maintaining the temporary (second) residence;

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- (4) A dependent family member must continue to occupy the claimed dwelling during all periods for which the TLA payments are reimbursed to the contractor, or the employee must have actually occupied the dwelling for a contiguous period of at least six (6) months during the thirty-six (36) months immediately preceding his/her assignment.
- (5) Any rental or lease agreement or mortgage payment agreement must result from an arm's length transaction, which the contract defines as a transaction negotiated by unrelated parties, each acting in his or her own self-interest and with comparable bargaining power, resulting in an agreement based on a fair-market determination.
- (6) The annual applications must include a true and correct copy of the lease agreement, mortgage payment agreement, or property deed.
- (7) The employee must have a present and ongoing intention to return to the permanent residence upon completion of their temporary assignment at the TVA worksite.
- (8) Under the TVA-█████ contract, it is ██████ responsibility to review each TLA applicant's applications and related documentation prior to authorizing TLA payments, and it is ██████ responsibility to properly and accurately determine eligibility of its employees and subcontractors for TLA.

██████████ a former JSC employee, participated in TVA's TLA program from January 17, 2013, through January 26, 2016, while working as a field supervisor, Dam Safety Construction Projects at TVA's Boone Dam in Kingsport, Tennessee. During that time, ██████████ received \$80,857.70 in TLA payments from TVA. ██████████ completed three TLA certifications, one each for 2012, 2013-2014, and 2015. Each application states that ██████████ permanent residence is ██████████ and that his wife, ██████████ would continue to occupy the permanent residence. A lease agreement was attached to each of ██████████ TLA applications for the ██████████ permanent residence at ██████████. The lease was signed by ██████████ as the lessor of the residence.

Evidence uncovered during the investigation shows that a home located at ██████████ ("permanent residence") was purchased on July 15, 2008, by ██████████ via a mortgage. ██████████ is the mother of ██████████, ██████████, and ██████████. ██████████ died, without a last will and testament, on December 9, 2010. The title to the permanent residence transferred, in one-third equal parts, to her children—██████████, ██████████, and ██████████. ██████████ moved into the permanent residence after ██████████ passed away and continues to live there now. The ██████████ have paid the monthly mortgage on the permanent residence since ██████████ passed away, including during the time that ██████████ received TLA payments from TVA. The monthly mortgage varied from \$728.19 to \$1,100.22.

Since moving into the permanent residence, ██████████ has paid money to the ██████████ in varying amounts averaging between \$900 and \$1,000 per payment. During the period of time that ██████████ received TLA payments from TVA, ██████████ made a total of twenty-three (23) deposits or transfers to ██████████ and ██████████ totaling \$22,452. Since September 2013, ██████████ has paid the monthly water bill and has also paid \$4,793.34 for a variety of household maintenance and upkeep, to include plumbing, tree trimming, electrical work, and painting.

According to numerous witnesses and analyses of the ██████████ financial records, ██████████ did not live at the permanent residence during the period 2013 through 2015. Rather,

she lived with [REDACTED] at his temporary residences, but frequently traveled to [REDACTED] to visit family and babysit her granddaughter. The lease agreements [REDACTED] submitted with his annual TLA applications were not real; he admitted that those lease agreements were manufactured for the purpose of showing they paid for a permanent residence.

[REDACTED] explanation was that because he had credit issues, [REDACTED] obtained the mortgage in her name but that the house was actually for the [REDACTED] that they did in fact live there, and that [REDACTED] lived there as well while [REDACTED] lived in [REDACTED]. [REDACTED] further stated there was no formal rent agreement between them but that [REDACTED] "occasionally" insisted on paying them "something." [REDACTED] stated that he created the fake leases on the advice of legal counsel to prove he had a permanent residence. [REDACTED] was asked if he could explain the \$22,452 in payments from [REDACTED] as they appeared to look like rent payments. [REDACTED] said he did not know what any of the transactions were, that [REDACTED] was never required to pay rent, and that "maybe he [REDACTED] paid back what he felt he owed [the [REDACTED] [REDACTED] was asked about the \$4,793.34 that [REDACTED] paid in household related maintenance and upkeep. He stated that [REDACTED] may have fixed some things and not told the [REDACTED] about it. [REDACTED] could not explain how [REDACTED] did not know about the repairs if she lived there.

[REDACTED] also stated that [REDACTED] lived at the permanent residence with [REDACTED] but frequently traveled to visit [REDACTED] at his temporary residences. This was disputed by [REDACTED] and other witnesses.

According to the TVA contract manager who approved [REDACTED] TLA contracts, pursuant to the [REDACTED] TVA contract, all of the foregoing information was required to be disclosed to TVA by [REDACTED] at the time of his applications, and the information would have resulted in the contract manager not approving his TLA applications.

The evidence indicates that, while [REDACTED] did own a residence more than 60 miles away from his temporary work assignment with TVA, which he paid a monthly mortgage on, and he did establish a second, temporary residence near his TVA work assignment, [REDACTED] was not eligible to receive TLA in that:

- (1) Contrary to what he listed on his TLA applications, [REDACTED] did not have a qualifying dependent occupy the permanent residence because his spouse, [REDACTED] lived with him at his temporary residences;
- (2) [REDACTED] did not incur substantially all of the expenses at the permanent residence because his brother-in-law, [REDACTED] lived in and paid rent at the permanent residence, paid some of the utilities, and paid for a portion of the maintenance and upkeep;
- (3) [REDACTED] presented a false lease agreement with his TLA applications. Even if it had been a valid lease, it would not have qualified for TLA because it was not an arm's length transaction, as the lease agreement was between [REDACTED] and his sister-in-law, [REDACTED], who co-owned the permanent residence along with [REDACTED] wife and brother-in-law, who was paying rent in addition to co-owning the residence; and
- (4) [REDACTED] knowingly withheld all of this information from his TLA application, which was required to be disclosed, under the terms of the TVA-[REDACTED] contract, prior to a decision being made about his eligibility to receive TLA.

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This matter was initially accepted for criminal prosecution by the United States Attorney's Office, Eastern District of Tennessee, and [REDACTED] was officially notified that he was the subject of a federal criminal investigation for presenting false claims to TVA, in violation of Title 18 U.S.C. § 287, a felony. However, the case was dismissed after the most critical witness became unavailable due to circumstances beyond the witness' control.

Pursuant to TVA- [REDACTED] contract [REDACTED], it was [REDACTED] responsibility to review each TLA applicant's certification and its related documentation prior to authorizing TLA payments, and it was [REDACTED] responsibility to properly and accurately determine eligibility of its employees and subcontractors for Temporary Living Allowance. We recommend TVA seek any and all TLA reimbursements of \$80,857.70 from [REDACTED] for TLA payments.

We would appreciate being informed within 30 days of your determination and of any action taken as a result of this memorandum. In addition, if you decide to take documented action, please forward a copy of the relevant information to this office for our file.

This memorandum has been designated "TVA Restricted" in accordance with TVA Standard Programs and Processes 12.002, *TVA Information Management Policy*. Accordingly, it should not be disclosed further without prior approval of the Inspector General or their designee. In addition, no redacted version of this memorandum should be distributed without notification to the Inspector General of the redactions that have been made.



Nancy J. Holloway
Assistant Inspector General
(Investigations)

JW:KLS

cc: Janda E. Brown
Laura Campbell
David B. Fountain
Jill M. Matthews
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