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**OFFICE OF THE INSPECTOR GENERAL  
NATIONAL SECURITY AGENCY  
CENTRAL SECURITY SERVICE**

**To:** for Chief, D14 [redacted] **Date:** 21 July 2016

**From:** [redacted] Investigator [redacted]

**Subject:** [redacted] Labor Mischarging

**File No:** IV-16-0011

[redacted] (b) (3) - P.L. 86-36

**Precedence:** Routine

**Purpose:** To provide a summary report of investigation, and to recommend that this case be closed.

**Details:** [redacted] (b) (3) - P.L. 86-36  
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**I. (U) Background**

(U//FOUO) On 3 August 2015 and 26 October 2015, the OIG received allegations that [redacted] may have billed more hours to an NSA contract than he actually performed. At the time of the allegation, [redacted] was an employee of [redacted] and assigned to the [redacted] contract, [redacted]. Prior to being contacted by the OIG, [redacted] resigned from his employment with [redacted]. He is currently a cleared contractor with another government agency.

**II. (U) Issue(s)**

- Has [redacted] falsified his time sheets?
- Were falsifications knowing and willful?
- Was the government billed for labor hours not actually performed by [redacted]?

**III. (U) Applicable Standard(s)**

- **31 U.S.C. § 3802 – False Claims and Statements; liability**

(a)(1) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a claim that the person knows or has reason to know—

- (A) is false, fictitious, or fraudulent;
- (B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

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- (C) includes or is supported by any written statement that—
  - (i) omits a material fact;
  - (ii) is false, fictitious, or fraudulent as a result of such omission;
  - and
  - (iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact;

or

(D) is payment for the provision of property or services which the person has not provided as claimed, shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than \$5,000 for each such claim. Except as provided in paragraph (3) of this subsection, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter to be in violation of the preceding sentence.

(2) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that –

- (A) the person knows or has reason to know—
  - (i) asserts a material fact which is false, fictitious, or fraudulent;
  - (ii) (I) omits a material fact; and
  - (II) is false, fictitious, or fraudulent as a result of such omission;

(B) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and

(C) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than \$5,000 for each such statement.

IV. (U) Investigative Activity

A. (U) Document Review

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(U//~~FOUO~~) NSA Access Control records

(U//~~FOUO~~) Access Control records for [redacted] were obtained from Access Operations, Q123. The OIG compared [redacted] Access Control records and timesheets for the period covering 3 November 2014 to 30 October 2015. The analysis revealed 56 “no access days” ranging from 1 hour to 11.25 hours. Additionally, there were shortages resulting from mid-day gaps, both when he did not leave the “Big4 campus” and when he did; late arrivals and early departures. The initial analysis revealed 570 hours that [redacted] claimed on the [redacted] contract when he was not within Access Control spaces.

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(U//~~FOUO~~) Contract [redacted]

(U//~~FOUO~~) The contract was reviewed and the Place of Performance clause states:

*Unless written approval of the Contracting Officer is obtained in advance, the work herein shall not be performed at any facility/facilities other than the Contractor's facility/facilities located at Dulles, VA and at the Government's facility/facilities.*

(U//~~FOUO~~) Technical Task Order [redacted]

(U//~~FOUO~~) The Technical Task Order was reviewed and states:

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(U//~~FOUO~~) [redacted]

[Large redacted area]

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(U//~~FOUO~~) [redacted] Comments Regarding Hours Outside of Access Control

(U//~~FOUO~~) [redacted] was provided an opportunity to review the OIG's analysis and provided a written explanation, dated 20 March 2016, for his absences from Access Control during his interview. [redacted] provided credible information, supported by witness testimony, that he performed contract related work at:

[redacted]

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(U//~~FOUO~~) Additionally, [redacted] wrote that he performed work at company facilities in Dulles and Chantilly, Virginia, and traveled TDY to other NSA locations.<sup>1</sup>

**B. (U) Interviews**

(U//~~FOUO~~) On 21 March 2016, [redacted] a former employee of [redacted] was interviewed and provided the following testimony.

(U//~~FOUO~~) [redacted] was assigned to the NSA [redacted] contract which [redacted] from October 2014 to January 2016. He was a System Administrator (SA) on the contract. His duties included monitoring systems, troubleshooting, phone support, [redacted] site surveys, and assisting with installations.

(U//~~FOUO~~) [redacted] stated that the contract was "drastically understaffed" and there were only two SAs doing the work of what should have been eight SAs from the contract award in October 2014 to May 2014. [redacted] assigned work space was in [redacted] however; he performed many duties at other locations. He commuted from [redacted] and was sometimes called on, by his company, to stop at the [redacted] facility, shipping facilities [redacted] and a facility in Caroline county, VA), and other NSA W buildings before reporting to [redacted] for the day. Likewise, he often stopped at other work locations on his way home and received telephone calls and e-mails after hours, which he was authorized to include in his duty time. During his time on the contract, he worked at many NSA locations that did not have access control or were not yet operational. These included; [redacted]

(U//~~FOUO~~) The government customer, [redacted] requested that [redacted] develop a set work schedule but because of his commute, TDYs, on-call hours, and duties at other locations, [redacted] was not able to set a schedule. He typically arrived between 0600 hours and 0630. He does not include breaks for lunches or breaks in his labor hours. He used his phone records to calculate his on-call hours, and recorded them immediately after completing calls. He billed

<sup>1</sup> (U//~~FOUO~~) This claim was verified by witness testimony as well as access control records provided by [redacted]

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actual time for telephone support, despite company practices of recording at least one hour for each call regardless of the duration.

(U//~~FOUO~~) In addition to receiving calls at home afterhours, [redacted] stated that it was generally accepted that both government and contract workers completed work at home, or while TDY, afterhours. He completed three TDYs to [redacted] during the period of review. [redacted] asserted that there is no way to track his time and attendance through access control, and that he properly recorded and submitted his work hours.

(U//~~FOUO~~) On January 6, 2015, [redacted] Branch Chief [redacted] was interviewed and provided the following testimony.

(U//~~FOUO~~) [redacted] is the Branch Chief of [redacted] and the Contracting Officer's Representative (COR) for the [redacted] contract. [redacted] joined the effort in October 2014 when [redacted] was awarded the contract. [redacted] had daily interaction with [redacted]. He is responsible for assigning and managing his tasks and projects. He monitors status of the work on the contract, issues various approvals and reviews and certifies invoices.

(U//~~FOUO~~) [redacted] is responsible for [redacted]. The majority of his work can be performed within NSA access control spaces. He has an assigned work location in [redacted]. Occasionally he has tasks at new buildings that do not yet have access control. He is also authorized and required to provide on-call support, some of which can be done over the phone. [redacted] also participated in weekly System Administrators meetings which was held in the [redacted] an office in [redacted] just outside of the turnstiles.

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(U//~~FOUO~~) [redacted] received complaints about [redacted] to include concerns about him not completing his work, and fluctuations in his arrival and departure times. He reported the concerns to [redacted] management, but does not know if [redacted] took any action. [redacted] rates [redacted] performance on the contract as low. [redacted] is knowledgeable and in some cases was the only person knowledgeable enough to perform work, especially TDY. During the period of review, [redacted] traveled to Georgia, Texas, [redacted] and Hawaii, in support of the contract. He usually traveled alone.

(U//~~FOUO~~) On 22 February 2016, [redacted] Project Manager, [redacted] was interviewed and provided the following testimony.

(U//~~FOUO~~) [redacted] has been in his current position for five years. He began working with [redacted] in October 2014 when his employer, [redacted] was awarded the [redacted] contract. [redacted] completed several TDYs in

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support of the contract including NSAG and overseas locations. He spent more time [than other [redacted] personnel] outside of access control because of his travel, and also because of his networking experience. He could also perform work at the [redacted] facility.

(U//FOUO) On March 17, 2016, [redacted] Program Manager, [redacted] was interviewed and provided the following testimony.

(U//FOUO) [redacted] is a [redacted] employee. He was the Program Manager on site for the [redacted] contract from September 2014 to December 2015. The place of performance for the contract is at government facilities in the NSA local area, and some overseas locations. [redacted] was responsible for overseeing all activities and staff on the contract. It was a large effort that had up to 40 individuals assigned, but was severely understaffed and should have been staffed up to 80 individuals.

(U//FOUO) [redacted] was a System Administrator and he was responsible for [redacted] at NSA facilities. He was a full-time employee and they generally had contact daily. [redacted] was aware of some complaints about [redacted] but explained that [redacted] worked at non-access control sites for weeks at a time.

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(U//FOUO) [redacted] had assigned contract duties that he performed at several building fit-ups in the area, as well as TDYs to overseas locations. He also worked on-call hours where he provided support over the phone after-hours. On-call hours were billed to the contract under the same code as regular work hours. In addition to work at other facilities, [redacted] attended meetings in [redacted] up to 2 times per week, and also needed to go to [redacted] in support of the contract.

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#### V. (U) Analysis

(U//FOUO) 31 U.S.C. § 3802 prohibits any person from making, presenting or submitting a claim that the person knows or has reason to know is false, fictitious, or fraudulent. Under applicable legal standards, a person "knowingly" makes a false statement whenever he or she acts with knowledge of its falsity or acts with reckless disregard of whether the statement is true.

(U//FOUO) The [redacted] contract, by several accounts, was understaffed and there was strife in the office both among assigned contractors and between contractors and civilians. The government witness testimony is conflicting in that they indicated that the majority of [redacted] work should have been performed in the office, but then confirmed contract related duties at a multitude of locations outside of Access Control, including several TDYs, which is further supported by contract documents. The work [redacted] described mirrors the tasks described in the Technical Task Order [redacted]. This lends credibility to his statements that he performed the work of more than one System

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Administrator. Witness testimony, as well as the contract documents, support [redacted] [redacted] assertion that he was required to perform work at locations other than his desk in [redacted]

(U//~~FOUO~~) In addition to his duties in and around NSA facilities, [redacted] was required to take telephone calls on an on-call basis. This is supported by short duration "No Access" days evidenced in access control records, witness testimony, and contract documents. Because the on-call hours were charged to the same charge codes, and there are no standardized records for after-hours calls, the OIG cannot distinguish on-call hours from other direct labor hours [redacted] claimed. While [redacted] may have performed work out of scope, by working at his home or at hotels while TDY, it is not possible for the OIG to quantify such hours or distinguish any potentially fraudulent hours from hours that were performed at non-Access Control locations. Based on the above, there is evidence to support that during the times [redacted] was outside of access control, he was conducting contract related duties, and there is insufficient evidence to indicate that he knowingly submitted false labor hours on an NSA contract.

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**VI. (U) Conclusion(s)**

(U//~~FOUO~~) Unsubstantiated. The OIG did not find by the preponderance of the evidence that [redacted] knowingly submitted hours to an NSA contract that were not performed.

**VII. (U) Recommendation(s)**

(U//~~FOUO~~) In accordance with the information contained herein, this case should be closed. [redacted] will be notified of the investigative conclusion.

**VIII. (U) OGC Concurrence (as appropriate)**

(U//~~FOUO~~) N/A

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