

~~TOP SECRET//SI//NOFORN~~

NATIONAL SECURITY AGENCY/CENTRAL SECURITY SERVICE



INSPECTOR GENERAL

REPORT OF INVESTIGATION

1 May 2013

(b) (3) - P.L. 86-36
(b) (6)

IV-11-0019

(U) Alleged Financial Mismanagement of [Redacted] Program

This is a PRIVILEGED DOCUMENT. Further dissemination of this report outside of the Office of Inspector General, NSA, is PROHIBITED without the approval of the Assistant Inspector General for Investigations.

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

(U) OFFICE OF THE INSPECTOR GENERAL

(U) Chartered by the NSA Director and by statute, the Office of the Inspector General conducts audits, investigations, inspections, and special studies. Its mission is to ensure the integrity, efficiency, and effectiveness of NSA operations, provide intelligence oversight, protect against fraud, waste, and mismanagement of resources by the Agency and its affiliates, and ensure that NSA activities comply with the law. The OIG also serves as an ombudsman, assisting NSA/CSS employees, civilian and military.

(U) AUDITS

(U) The audit function provides independent assessments of programs and organizations. Performance audits evaluate the effectiveness and efficiency of entities and programs and their internal controls. Financial audits determine the accuracy of the Agency's financial statements. All audits are conducted in accordance with standards established by the Comptroller General of the United States.

(U) INVESTIGATIONS

(U) The OIG administers a system for receiving complaints (including anonymous tips) about fraud, waste, and mismanagement. Investigations may be undertaken in response to those complaints, at the request of management, as the result of irregularities that surface during inspections and audits, or at the initiative of the Inspector General.

(U) INTELLIGENCE OVERSIGHT

(U) Intelligence oversight is designed to insure that Agency intelligence functions comply with federal law, executive orders, and DoD and NSA policies. The IO mission is grounded in Executive Order 12333, which establishes broad principles under which IC components must accomplish their missions.

(U) FIELD INSPECTIONS

(U) Inspections are organizational reviews that assess the effectiveness and efficiency of Agency components. The Field Inspections Division also partners with Inspectors General of the Service Cryptologic Elements and other IC entities to jointly inspect consolidated cryptologic facilities.

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

(b) (3) - P.L. 86-36
(b) (6)

IV-11-0019

(b) (1)
(b) (3) - 50 USC 3024 (i)
(b) (3) - P.L. 86-36

I. (U) SUMMARY

~~(TS//SI//REL)~~ This investigation was conducted in response to an allegation that [redacted] Program Management Office, mismanaged Government funds. [redacted] is the Program Director of the [redacted] Program, which involves [redacted] a key corporate partner. Specifically, it was alleged that [redacted] spent her entire budget each year by revealing the budget amount to the corporate partner, who would then submit a proposal in that exact amount. Because the contracts are not supported out of NSA, the complainant alleged that there are no checks and balances for reasonableness of price, and, as a result, the Government might be overpaying. Furthermore, it was also alleged that in FY2010, [redacted] approved a sub-project, entitled [redacted] for "Food and Refreshments" for meetings held between the Government and the corporate partner. During the conduct of this investigation, an additional complaint surfaced alleging that [redacted] had arranged for the employment of [redacted] with the corporate partner.

(U//FOUO) As a result of our inquiry, we concluded that [redacted] did not mismanage Government funds, but she did fail to obey the conflicts of interest and impartiality rules. [redacted] involved herself in matters that could affect the financial interests of family members, in violation of 5 C.F.R. Subpart A, Section 2635.101 (b), that requires employees to act impartially and not give preferential treatment to any private organization or individual, and to avoid any actions creating the appearance that they are violating the law or ethical standards set forth in this part.

(U//FOUO) Copies of the OIG report will be forwarded to MR/Employee Relations and the Office of the General Counsel (OGC), Administrative Law (D23), and a summary of this report will be forwarded to Special Actions (Q234) for information and action as appropriate.

(b) (3) - P.L. 86-36

Classified By: [redacted]
Derived From: NSA/CSSM 1-52
Dated: 20070108
Declassify On: 20380501

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

(b) (6)

IV-11-0019

II. (U) BACKGROUND

(U//FOUO) [redacted] entered on duty with NSA on [redacted] and began her association with the [redacted] Program in [redacted] as a budget/program analyst. She progressed from budget/program analyst to [redacted] program manager. [redacted] became the [redacted] Program Director on [redacted] when she was subsequently promoted to [redacted] As Director, she manages the [redacted] program consisting of approximately [redacted] government and contractor personnel and a [redacted] annual budget. [redacted] has been required to file an OGE 450, Financial Disclosure Report, since [redacted]

(b) (3) - P.L. 86-36

(b) (3) - P.L. 86-36
(b) (6)

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(U) APPLICABLE AUTHORITIES*(see full citations at Appendix A)*

(U) 5 C.F.R. 2635.101(b) Subpart A: General Provisions. (1) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain. (2) Employees shall not hold financial interests that conflict with the conscientious performance of duty. (3) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest. (7) Employees shall not use public office for private gain. (9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities. (10) Employees shall not engage in outside employment or activities, ... that conflict with official government duties and responsibilities. (14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards set forth in this part. Whether particular circumstances create the appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

(U) Sec. 2635.502 Personal and business relationships. (a) Consideration of appearances by the employee. Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter...

(U) NSA/CSS Personnel Management Manual (PMM) 30-2, Chapter 366, Section 1-2. Responsibilities:

A. Employees are expected to conduct themselves, both on and off the job, in a manner that reflects favorably on both the Federal Government and the Agency.

(U) Section 1-3 General Principles for On-The-Job Conduct.

Generally, every employee is expected to:

(G) Act impartially and not give preferential treatment to any private organization or individual.

~~TOP SECRET//SI//NOFORN~~

(b) (3) - P.L. 86-36
(b) (6)

III. (U) FINDINGS

(U//FOUO) **Issue 1: Did [redacted] mismanage Government funds by knowingly and willfully engaging in financial transactions using nonpublic Government information and allow the improper use of such information in violation of 5 C.F.R. 2635.101(b)(3).**

(U//FOUO) **CONCLUSION 1: Unsubstantiated.** The OIG found no evidence to support the allegation that [redacted] mismanaged Government funds. [redacted] followed a process set up years ago in [redacted] whereby financial requirements were negotiated with the corporate partner, [redacted]. [redacted] OIG auditors reviewed the accounting documents and found the information did not support actual disbursements. Further, [redacted] did approve a sub-program [redacted] which was for food and refreshments at the corporate partner's quarterly meetings with the Government. However, [redacted] caught the error before it could be contracted out, and the funds were subsequently applied to another requirement.

A. (U) EVIDENCE

1. (U) Documentary Evidence

(b) (3) - P.L. 86-36

(U//FOUO) The OIG obtained [redacted] NSA Employee Profile and Training Profile, her classified and unclassified email accounts, her classified [redacted] document files, and copies of [redacted] websites related to her responsibilities on Economy Act Orders (EAOs) involving or potentially involving [redacted].

(U//FOUO) **Corporate Partner's FY2010 Annual Proposal.** The [redacted] project, identified in the corporate partner's FY2010 annual proposal, was for expenses associated with program meetings held throughout the year, including but not limited to modest refreshments and meals, and any other expenses necessary to facilitate an efficient and productive program, technical or financial review.

(U//FOUO) **EAOs Audit Review.** During the investigation, we requested that the OIG Audits Division (D13) review [redacted] EAOs. The auditors found in the accounting documents little information that was supportive of actual disbursements. NSA forwarded [redacted] on EAOs to [redacted] over two years with no detailed accounting of what was purchased. [redacted] also does not receive an accounting of their expenditures of NSA money. According to D13, [redacted] has been using the same payment process for many years. All EAOs to [redacted] reference [redacted]. Another memo, [redacted] is a blanket purchase agreement with [redacted] that requires "quarterly accountings and billings to the NSA

reflecting detailed cost by activity.” This memo has not been updated since FY1999. The Audit Division found no quarterly accounting documentation.

2. (U) Testimonial Evidence

(U//FOUO) [redacted] Contracting Officer, BA351, consented to a voluntary interview with the OIG on 23 November 2011 and provided the following sworn testimony:

(U//FOUO) [redacted] is able to spend her entire budget each year because at the end of the fiscal year, she tells the contractor exactly how much money is left in her spend plan, and “magically” the contractor’s proposal comes in at that exact amount. There is no price reasonableness determination on EAOs by the NSA because the contracts are awarded [redacted]

(b) (3) - P.L. 86-36

(U//FOUO) [redacted] Budget Analyst, [redacted] consented to a voluntary interview with the OIG on 9 November 2011 and provided the following sworn testimony:

(U//FOUO) [redacted] has observed [redacted] handling of EAOs and believes [redacted] exercises no due diligence. She has not, however, observed [redacted] committing violations of appropriations or ethics rules. [redacted] does have poor communications skills which led to several incidents with [redacted] a contracting officer from BA.

(b) (3) - P.L. 86-36
(b) (6)

(U//FOUO) [redacted] Chief, [redacted] consented to a voluntary interview with the OIG on 10 November 2011 and provided the following sworn testimony:

(U//FOUO) [redacted] was fully supportive of [redacted] and acted as her mentor during her recent promotion. [redacted] was the [redacted] Financial Manager for many years and was very knowledgeable about [redacted] worked as the [redacted] financial manager when [redacted] was in [redacted] and she became the [redacted] Program Manager when [redacted] became the office’s Deputy Chief. [redacted] has known [redacted] for many years and does not believe that she would do anything improper. The process of price negotiation is the same process he followed when he was negotiating with the “partner.” [redacted] requirements are always larger than funding amounts, and eventually funding discussions will lead to obligating the full budgeted amount to negotiate the best deal for the Agency.

(b) (6)

(U//FOUO) [redacted] Program Director, [redacted] consented to voluntary interviews with the OIG on 15 June 2011, 1 August 2012, and 12 September 2012. [redacted] provided the following sworn testimony:

(S//REL) [redacted] is responsible for the [redacted] program, which includes approximately [redacted] government employees and [redacted] contractor personnel. [redacted] began her association with [redacted] as a Financial Analyst [redacted] She has also worked as the [redacted] Program Manager and the [redacted] Program Deputy

(b) (3) - P.L. 86-36

(b) (3) - P.L. 86-36

(b) (6)

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

Director, and has been the [redacted] Program Director since [redacted]. The process originally established for EAOs in [redacted] is the same process that is used for [redacted] today. She has been "groomed" and trained to be the [redacted] Program Director since [redacted].

(S//NF) [redacted] never questioned the company's accounting for expenses. [redacted] also did not know that expenses for food and refreshments were not allowable and that the [redacted] project, included in the proposal but subsequently found to be inappropriate by [redacted] could not be contracted out. The money originally intended for [redacted] was reallocated to other parts of the contract.

(b) (3) - P.L. 86-36
(b) (6)

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(b) (3) - P.L. 86-36
(b) (6)

(U) Analysis and Conclusion

(U//FOUO) The OIG completed its investigation into allegations that the [redacted] Program Director, [redacted] was mismanaging Government EAO funds, in violation of appropriations law. The OIG found no personal culpability against [redacted] or other [redacted] Program managers. However, OIG D13 did find serious issues involving poor or nonexistent management controls over Agency EAOs to [redacted] D13 concluded that [redacted] EAOs receive virtually no independent review to determine whether they are in NSA's best interests and whether the servicing agency actually spent all of NSA's funds for what was ordered. [redacted] EAOs are not reviewed by NSA Contracting Officers, nor are the EAOs subject to an independent entity review to determine whether there is a valid reason for bypassing the Contracting Group. The OIG notified the Senior Acquisition Executive of these weaknesses, and D13 is using its work as background for a future audit.

(b) (3) - P.L. 86-36

~~TOP SECRET//SI//NOFORN~~

(U//FOUO) **Issue 2: Did [redacted] knowingly and willfully engage in or create the appearance that she was violating the law or ethical standards to further private interest in negotiations with the [redacted] corporate partner?**

(U//FOUO) **CONCLUSION 2: Substantiated.** The preponderance of the evidence supports the conclusion that [redacted] gave the appearance of partiality by involving herself in matters that affected the financial interests of family members and by doing so violated the conflicts and impartiality rules of 5 C.F.R. 2635.101(b).

A. (U) EVIDENCE

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

[redacted] (b) (3) - P.L. 86-36
[redacted] (b) (6)

2. (U) Documentary Evidence

(U//FOUO) The OIG obtained [redacted] NSA Employee Profile and Training Profile and classified and unclassified email accounts. We also reviewed [redacted] Confidential Financial Disclosure Reports (OGE Form 450) and the security files for both [redacted] and [redacted] who is an employee of the [redacted] corporate partner.

(U//FOUO) **OGE Form 450.** The duties and responsibilities of [redacted] position require her to file OGE Form 450 to avoid involvement in real or apparent conflicts of interest. The purpose of OGE Form 450 is to flag potential conflicts of interest and impartiality concerns for employees and managers so suitable remedies can be implemented to avoid them. OGC, Randi Elizabeth DuFresne-Wall, Associate General Counsel Ethics and Fiscal Law (D27), Designated Agency Ethics Official, informed the OIG that [redacted] did not file OGE Form 450 in 2010 because she was not required to do so until late in November 2009, so a 2010 filing was not required. [redacted] did file in 2009, 2011, and 2012. OGC had a prior record of [redacted] seeking ethics advice after the OIG in 2008 and recommended she contact OGC. The advice [redacted] was given in 2008 is contained in an attached email (Appendix B). [redacted] was instructed on ethics rules governing conflicts of interest as they relate to Federal employees' family members working for defense contractors.

(U//FOUO) **Prior OIG Hotline Complaint.** In October 2008, the OIG received a complaint regarding [redacted] getting [redacted] a job with the same company she oversees as the [redacted] Program Director. The OIG recommended [redacted] meet with a Standards of Conduct Office (SOCO) attorney and maintain a memo for record of the meeting to address any potential conflicts of interest. [redacted] met with OGC, [redacted] Attorney/Ethics Counselor, Deputy Designated Agency Ethics Official, on 6 October 2008 to discuss the ethics rules governing conflicts of interest as they relate to Federal employees' family members working for defense contractors. OGC warned that, "depending on the circumstances, there could be an appearance of partiality, as delineated by the conflicts regulation that also governs Federal employees' conduct." The OIG raised the issue again in August 2012 with Ms. DuFresne, OGC. Ms. DuFresne noted that [redacted] "nondisclosure is not a violation, but the fact that she involved herself in a matter that could affect the financial interests of a family member may be a violation of 5 C.F.R. 2635, Section 502, Personal and business relationships."

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

(b) (3) - P.L. 86-36
(b) (6)

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(U//FOUO) The 2008 OGC email to [redacted] (Appendix B) provided guidance to avoid potential future conflicts. The OGC recommended [redacted] and her supervisor may need to reassess [redacted] situation relative to the ethics rules. No reassessment was ever conducted. [redacted] became involved in matters affecting the Corporate Partner and the hiring of [redacted] and her supervisor never discussed whether a reasonable person would question [redacted] ability to act impartially in official decision making regarding Corporate Partner matters. Finally, [redacted] was advised that three of the 14 ethics principles that Federal employees are required to abide by state that (1) employees shall not use their public office for their own, or anyone else's, private gain; (2) employees shall act impartially and not give preferential treatment to any non-Federal entities; and (3) employees shall try to avoid creating even the appearance of impropriety.

(U//FOUO) **Contact with Ethics and Fiscal Law, NSA OGC.** On 14 August 2012, The Designated Agency Ethics Official, Ms. Randi E. DuFresne-Wall, Associate General Counsel (Ethics and Fiscal Law), responded to several OIG inquiries regarding [redacted] (Appendix C). The OGC opined that because [redacted] [redacted] on her OGE Form 450. However, as the Program Director of [redacted] is required to obey the conflict-of-interest and impartiality rules, and OGC believes she may have violated 5 C.F.R. 2635.

(U//FOUO) **Office of Personnel Security Special Actions Branch (Q234).** On 30 August 2012, Q234 referred a potential contract impropriety case involving [redacted] (Appendix D). During security processing, Q234 discovered that [redacted] [redacted] was sponsored for access to NSA SCI by [redacted] [redacted]. The Contracting Officer's Representative's (COR) concurrence on the original sponsorship letter, dated 8 September 2006 was signed by [redacted] (a legacy organization no longer in existence). [redacted] employee profile indicated that at the time she signed the sponsorship letter, she was not working within the [redacted] organization.

(b) (3) - P.L. 86-36

~~TOP SECRET//SI//NOFORN~~

(b) (3) -P.L. 86-36
(b) (6)

2. (U) Testimonial Evidence

(b) (1)
(b) (3) -P.L. 86-36

(U//FOUO) [redacted] Contracting Officer, BA351, consented to a voluntary interview with the OIG on 23 November 2011 and provided the following sworn testimony:

(S//NF) [redacted] works for the partner but he never saw him. He did not know how [redacted] was hired, but he does not believe he works with the [redacted] or anything directly related to the [redacted] program. Other programs in that office are performed out of the [redacted]

(U//FOUO) [redacted] Chief, [redacted] consented to a voluntary interview with the OIG on 10 November 2011 and provided the following sworn testimony:

(b) (3) -P.L. 86-36

(b) (6)

(U//FOUO) [redacted] was aware that [redacted] worked for the partner, but [redacted] did not believe there was any conflict of interest with [redacted] because when this issue first came up, [redacted] recommended that [redacted] see the ethics counselor. [redacted] discussed all this with OGC, and [redacted] higher management was comfortable with the arrangement as long as OGC approved. [redacted] was adamant that [redacted] had discussed the situation with OGC and had been given their approval. [redacted] remembers that [redacted] was alarmed that there could be an issue when [redacted] was seeking employment with the corporate partner. [redacted] talked about it with him, and they decided that she should explain everything to the ethics counselor and she did. [redacted] thought the advice she was given was that if [redacted] was qualified and hired, then that is fine. [redacted] believed she followed those guidelines. [redacted] was qualified, and he got hired [redacted] because "he wasn't working on the program, he was just working for the company."

(U//FOUO) [redacted] Budget Analyst, [redacted] consented to a voluntary interview with the OIG on 9 November 2011 and provided the following sworn testimony:

(b) (6)

(U//FOUO) [redacted] was aware that [redacted] is employed by the corporate partner.

(U//FOUO) [redacted] consented to voluntary interviews with the OIG on 15 June 2011, 1 August 2012, and 12 September 2012. [redacted] provided the following sworn testimony:

(U//FOUO) [redacted] testified that during discussions with the Partner's program manager, [redacted] she mentioned that [redacted] previously worked for NSA, had a clearance, and was looking for work. [redacted] is the [redacted] for the corporate partner, and he is the person [redacted] reaches out to the most. [redacted] stated that [redacted] was hired when he was

(b) (3) -P.L. 86-36

(b) (3) -P.L. 86-36
(b) Release: 2019-06
NSA:08557

[redacted] or sometime [redacted] gave [redacted] a point of contact for [redacted] to send a resume. [redacted] contacted her supervisor at the time, and he recommended that she contact OGC. [redacted] contacted [redacted] who recalled an earlier telephone discussion with [redacted] concerning conflicts of interest. However, her brief records did not include mention of [redacted] employment. OGC pointed out that the discussion might have addressed [redacted] but her records were not that specific.

(b) (3) - P.L. 86-36

(b) (3) - P.L. 86-36
(b) (6)

(b) (6)

(U//FOUO) After receiving the 2008 complaint, the OIG recommended that [redacted] discuss her relationship with [redacted] employer with a [redacted] attorney and maintain a memo for the record of the meeting. [redacted] met with [redacted] of that office to discuss the ethics rules governing conflicts of interest, in particular as they relate to Federal employees' family members working for defense contractors. [redacted] testified that she contacted [redacted] but does not remember whether she had met with her or just talked with her over the phone. [redacted] stated that relatives of Agency employees are hired by contractors all the time; you cannot help making contacts, just so long as you did not do anything beyond giving them the information. [redacted] said she did not and the rest was on them, "and that was that." The resume was given to the [redacted] representative. [redacted] knows that [redacted] works for another customer and has no involvement with the [redacted] program.

(U//FOUO) On 29 August 2012, the OIG received a security referral from Special Actions (Q234) regarding a potential conflict of interest involving [redacted] and [redacted] Appendix D). During security processing, Q discovered that [redacted] original Sponsorship Letter, dated 8 September 2006, stated that he was being sponsored by [redacted] organization. The COR concurrence was signed by [redacted] who at the time was not working in the [redacted] organization. [redacted] also signed as the COR concurrence for [redacted] whose organization the form listed as [redacted]. At the time, [redacted] was also in [redacted]. The OIG reviewed [redacted] security forms and discovered that he had listed [redacted] as his supervisor, directly contradicting [redacted] previous testimony. [redacted] testified that she had had no further involvement between [redacted] and the contractor. However, [redacted] signed the Partner's Sponsorship Letter Justification page for [redacted] as the Government's COR. [redacted] also signed for [redacted].

(b) (6)

(b) (3) - P.L. 86-36
(b) (6)

(U//FOUO) [redacted] was interviewed for a third time on 12 September 2012 to address inconsistencies between the security referral and her previous testimony. [redacted] testified that her only involvement in [redacted] hiring process was to give him the "partner's" point of contact information. [redacted] stated that [redacted] had nothing to do with the [redacted] program, that he did not work on the program, and that none of his activities are charged to the program or related to the program. He can participate in any other work that the company has outside of this program. "And so long as I'm running the program, [redacted] are not allowed to support or work in the program."

(b) (3) - P.L. 86-36

(U//FOUO) [redacted] testified that she signed the sponsorship letters for everybody, and that included [redacted] did not see any problems with her signing the form that reinstates him or sponsors him. [redacted] reasoned that this was

okay because he was not working on the program or charging the program. "The company hired him to do something non-related to the program, but then in order for him to have a clearance, the only people that sponsors his clearance and the work that he's doing is NSA." "I suppose I could have said... this one person, [redacted] needs to sponsor... Well, we've changed the whole cognizant security authority from [redacted] to NSA and it was just one more name... of us supporting their clearance. So he would be the anomaly if I left him out merely because [redacted]."

(U//FOUO) As a follow-up to the interview, [redacted] emailed the OIG on 18 September 2012 that she double-checked the [redacted] contract to make sure [redacted] never charged hours to the program since he started in 2006. [redacted] discovered that [redacted] had charged [redacted] the following:

(b) (3) - P.L. 86-36

[redacted]

(b) (3) - P.L. 86-36
(b) (6)

(U//FOUO) [redacted] stated that she was previously unaware that [redacted] hours were charged to the [redacted] program. [redacted] understood that [redacted] would work for [redacted] (corporate work that supports any/all customers) or he would work for other [redacted] customers and would not work on [redacted] is the company's name for the program) program activities. [redacted] understood that although he might not have been cognizant of the program and program activities, he was, more than likely, one of a few who conducted similar types of activities. It gives the wrong appearance. [redacted] asked if it would be acceptable for her to request a meeting with either [redacted] at the company to come up with an OPSEC-friendly way to ensure that [redacted] activities/hours are more closely monitored by the [redacted] Program Management Office so that this does not happen again. [redacted] asked the company to transfer [redacted] clearance sponsorship from NSA to his rightful customer, and [redacted] responded that they are working on getting this done.

(b) (6)

(U//FOUO) [redacted] also disclosed that the Corporate Partner has now reached out to [redacted] regarding his potential employment with the company at the recommendation of [redacted] with the company will be supporting a different contract, and that customer will be sponsoring all of the [redacted] clearances.

(U) Analysis and Conclusion

(b) (3) - P.L. 86-36
(b) (6)

(b) (6)

(U//FOUO) Testimonial and documentary evidence revealed that [redacted] works for the [redacted] corporate partner. He was hired by the company in [redacted] discussed the issue with her counterpart, [redacted] and is still working for the company. [redacted] then requested, signed, and forwarded [redacted] clearance Sponsorship Letter. This appearance of a conflict of interest was enough of a concern that it was mentioned by several witnesses and known by her management. [redacted] security file indicates that from September 2006 to May 2008, his supervisor was [redacted] the [redacted] Program Manager.

(U//FOUO) [redacted] OGE Form 450 lists her position as [redacted] Program Director, managing the [redacted]. According to OGC, the Standards of Conduct for Employees of the Executive Branch, 5 C.F.R. 2635.502, requires a conflicts-of-interest analysis for slightly more distant financial relationships. When any of these more distant financial relationships are involved, the employee must ask: "Would a reasonable person with knowledge of all relevant facts question the employee's impartiality in this matter?" If so, then the employee should not participate in the matter. These more distant financial relationships include household members and family members and friends with whom the employee has a close relationship. Where the employee could have a direct and predictable effect on the financial interests of one of these parties through official duties, the supervisor must undertake an impartiality analysis before the employee takes the proposed action. The supervisor would have to make such a review of a subordinate's proposed service as a project manager on a contract with that company if that company is the employer of the subordinate's spouse. Neither [redacted] nor her supervisor undertook such an analysis.

(b) (3) - P.L. 86-36

(U//FOUO) The preponderance of the evidence supports the conclusion that [redacted] gave the appearance of partiality by involving herself in matters that affect the financial interests of a family member and by doing so violated the conflicts-of-interest and impartiality rules, in violation of 5 C.F.R. 2635. [redacted] supervisor, [redacted] (retired), also has the same responsibility when signing the accompanying OGE 450 Supervisor's Evaluation Forms.

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

IV. (U) RESPONSE TO TENTATIVE CONCLUSION

(U//~~FOUO~~) The OIG's tentative conclusion was forwarded to [redacted] on 16 April 2013. [redacted] provided a written response on 25 April, 2013 (Appendix E).

(U//~~FOUO~~) [redacted] response was reviewed by the OIG. It was determined that her response had no impact upon the conclusion reached by the OIG.

[redacted]
(b) (3) - P.L. 86-36
(b) (6)

~~TOP SECRET//SI//NOFORN~~

V. (U) CONCLUSIONS

(b) (3) - P.L. 86-36
(b) (6)

(U//FOUO) Concerning the alleged mismanagement of Government EAO funds in violation of appropriations law, the OIG found no personal culpability against [redacted] or other [redacted] Program Managers. However, D13 did find [redacted] EAOs did not contain "enough information to make any kind of conclusion, good or bad about these EAOs. [redacted] appears to be continuing on with a process set up years ago, before she was doing the job." [redacted] EAOs are not reviewed by NSA Contracting Officers, nor are the EAOs subject to an independent entity review to determine whether there is a valid reason for bypassing the Contracting Group. The OIG notified the Senior Acquisition Executive of these weaknesses, and D13 is including its work as background for a future audit.

(U//FOUO) With respect to conflicts and impartiality rules, the preponderance of the evidence supports the conclusion that [redacted] gave the appearance of partiality by involving herself in matters that affect the financial interests of a family member, specifically [redacted] 5 C.F.R. 2635 requires that employees avoid any actions creating the appearance that they are violating the law or ethical standards. [redacted] failed to avoid such actions; therefore, the OIG finds that she was in violation of that authority.

(b) (6)

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

VI. (U) DISTRIBUTION OF RESULTS

(U//~~FOUO~~) This report of investigation will be provided to:

1. M/ER, for information and any appropriate action

(U//~~FOUO~~) A summary of this report of investigation will be provided to:

1. OGC, Ethics & Fiscal Law, D27, for information
2. OGC, Acquisition, Research & Technology Law, D25, for information
3. OGC, Litigation Law, D28, for information
4. OGC, Administrative Law, D23, for appropriate handling
5. Q234, Special Actions, for information and any appropriate action

(b) (3) - P.L. 86-36

[Redacted Signature]

Senior Investigator

Concurred by:

[Redacted Signature]

Assistant Inspector General
for
Investigations

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(U) APPENDIX A

(U) Applicable Standards

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(U) Applicable Standards

(U) U.S.C. Title 31, Subsection 1535, "Agency Agreements." (a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if –

- (1) amounts are available;
- (2) the head of the ordering Agency ... decides the order is in the best interest of the United States Government;
- (3) the agency or unit to fill the order is able to provide or get by contract the ordered goods or services; and
- (4) the head of the agency decides ordered goods or services cannot be provided by contract as conveniently or cheaply by a commercial enterprise....

(U) FAR Subpart 17.5 – "Interagency Acquisitions Under the Economy Act"

(U) Each Economy Act order shall be supported by a D&F. The D&F shall state that –

- Use of an interagency acquisition is in the best interest of the Government; and
- The supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source.

(U) If the Economy Act order requires contract action by the servicing agency, the D&F must include a statement that at least one of the following circumstances applies:

- The acquisition will appropriately be made under an existing contract of the servicing agency, entered into before placement of the order, to meet the requirements of the servicing agency for the same or similar supplies or services;
- The servicing agency has capabilities or expertise to enter into a contract for such supplies or services which is not available within the requesting agency; or
- The servicing agency is specifically authorized by law or regulation to purchase such supplies or services on behalf of other agencies.

(U) The D&F shall be approved by a CO of the requesting agency with authority to contract for the supplies or services to be ordered, or by another official designated by the agency head, except that, if the servicing agency is not covered by the FAR, approval of the D&F may not be delegated below the senior procurement executive of the requesting agency.

(U) 5 C.F.R. Subpart A, Sec. 2635.502 Personal and business relationships. (a)

Consideration of appearances by the employee. Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

informed the agency designee of the appearance problem and received authorization from the agency designee in accordance with paragraph (d) of this section.

(1) In considering whether a relationship would cause a reasonable person to question his impartiality, an employee may seek the assistance of his supervisor, an agency ethics official or the agency designee.

(2) An employee who is concerned that circumstances other than those specifically described in this section would raise a question regarding his impartiality should use the process described in this section to determine whether he should or should not participate in a particular matter.

(U) (b) Definitions. For purposes of this section:

(1) An employee has a covered relationship with:

(i) A person, other than a prospective employer described in Sec. 2635.603(c), with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction;

Note: An employee who is seeking employment within the meaning of Sec. 2635.603 shall comply with subpart F of this part rather than with this section.

(ii) A person who is a member of the employee's household, or who is a relative with whom the employee has a close personal relationship;

(iii) A person for whom the employee's spouse, parent or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;

(iv) Any person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or

(v) An organization, other than a political party described in 26 U.S.C. 527(e), in which the employee is an active participant. Participation is active if, for example, it involves service as an official of the organization or in a capacity similar to that of a committee or subcommittee chairperson or spokesperson, or participation in directing the activities of the organization. In other cases, significant time devoted to promoting specific programs of the organization, including coordination of fundraising efforts, is an indication of active participation. Payment of dues or the donation or solicitation of financial support does not, in itself, constitute active participation.

Note: Nothing in this section shall be construed to suggest that an employee should not participate in a matter because of his political, religious or moral views.

(2) Direct and predictable effect has the meaning set forth in Sec. 2635.402(b)(1).

(3) Particular matter involving specific parties has the meaning set forth in Sec. 2637.102(a)(7) of this chapter.

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

Example 1: An employee of the General Services Administration has made an offer to purchase a restaurant owned by a local developer. The developer has submitted an offer in response to a GSA solicitation for lease of office space. Under the circumstances, she would be correct in concluding that a reasonable person would be likely to question her impartiality if she were to participate in evaluating that developer's or its competitor's lease proposal.

Example 2: An employee of the Department of Labor is providing technical assistance in drafting occupational safety and health legislation that will affect all employers of five or more persons. His wife is employed as an administrative assistant by a large corporation that will incur additional costs if the proposed legislation is enacted. Because the legislation is not a particular matter involving specific parties, the employee may continue to work on the legislation and need not be concerned that his wife's employment with an affected corporation would raise a question concerning his impartiality.

Example 3: An employee of the Defense Logistics Agency who has responsibilities for testing avionics being produced by an Air Force contractor has just learned that his sister-in-law has accepted employment as an engineer with the contractor's parent corporation. Where the parent corporation is a conglomerate, the employee could reasonably conclude that, under the circumstances, a reasonable person would not be likely to question his impartiality if he were to continue to perform his test and evaluation responsibilities.

Example 4: An engineer has just resigned from her position as vice president of an electronics company in order to accept employment with the Federal Aviation Administration in a position involving procurement responsibilities. Although the employee did not receive an extraordinary payment in connection with her resignation and has severed all financial ties with the firm, under the circumstances she would be correct in concluding that her former service as an officer of the company would be likely to cause a reasonable person to question her impartiality if she were to participate in the administration of a DOT contract for which the firm is a first-tier subcontractor.

Example 5: An employee of the Internal Revenue Service is a member of a private organization whose purpose is to restore a Victorian-era railroad station and she chairs its annual fundraising drive. Under the circumstances, the employee would be correct in concluding that her active membership in the organization would be likely to cause a reasonable person to question her impartiality if she were to participate in an IRS determination regarding the tax-exempt status of the organization.

(U) (c) Determination by agency designee. Where he has information concerning a potential appearance problem arising from the financial interest of a member of the employee's household in a particular matter involving specific parties, or from the role in such matter of a person with whom the employee has a covered relationship, the agency designee may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question the employee's impartiality in the matter. Ordinarily, the agency designee's determination will be initiated by information provided by the employee pursuant to paragraph (a) of this section. However, at any time, including after the employee has disqualified himself from participation in a matter pursuant to paragraph (e) of this section, the agency designee may make this determination on his own initiative or when requested by the employee's supervisor or any other person responsible for the employee's assignment.

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(1) If the agency designee determines that the employee's impartiality is likely to be questioned, he shall then determine, in accordance with paragraph (d) of this section, whether the employee should be authorized to participate in the matter. Where the agency designee determines that the employee's participation should not be authorized, the employee will be disqualified from participation in the matter in accordance with paragraph (e) of this section.

(2) If the agency designee determines that the employee's impartiality is not likely to be questioned, he may advise the employee, including an employee who has reached a contrary conclusion under paragraph (a) of this section, that the employee's participation in the matter would be proper.

(U) (d) Authorization by agency designee. Where an employee's participation in a particular matter involving specific parties would not violate 18 U.S.C. 208(a), but would raise a question in the mind of a reasonable person about his impartiality, the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. Factors which may be taken into consideration include:

- (1) The nature of the relationship involved;
- (2) The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship;
- (3) The nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) The sensitivity of the matter;
- (5) The difficulty of reassigning the matter to another employee; and
- (6) Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

(U) Authorization by the agency designee shall be documented in writing at the agency designee's discretion or when requested by the employee. An employee who has been authorized to participate in a particular matter involving specific parties may not thereafter disqualify himself from participation in the matter on the basis of an appearance problem involving the same circumstances that have been considered by the agency designee.

(U) The Office of General Counsel, Ethics & Fiscal Law Office (E&FL) Conflicts of Interest: Summary of Related Rules (Jan 07). Regulatory Restrictions:

The Standards of Conduct for Employees of the Executive Branch, 5 C.F.R. 2635.502, also requires a conflicts of interest analysis for slightly more distant financial relationships. When any of these more distant financial relationships are involved, the employee must ask: "Would a reasonable person with knowledge of all relevant facts question the employee's impartiality in this matter?" If so, then the employee should not participate in the matter. These more distant financial relationships include:

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

- household members;
- family members and friends with whom the employee has a close relationship;
- a non-governmental organization in which the employee's spouse, parent or dependent child is serving or seeking to serve, e.g., as an employee or partner;
- a person with whom the employee has or seeks a business, contractual, or other financial relationship that involves other than a routine consumer transaction;
- a non-political organization in which the employee is an active participant;
- any person or organization for whom the employee has served within the last year as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.

(U) Where the employee could have a direct and predictable effect on the financial interests of one of these parties through official duties, the supervisor must undertake an impartiality analysis before the employee takes the proposed action. The supervisor would have to make such a review of a subordinate's proposed service as a project manager on a contract with ABC Company, if ABC company is the employer of the subordinate's spouse.

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(U) APPENDIX B

(U) 2008 OGC Email

~~TOP SECRET//SI//NOFORN~~

(b) (3) - P.L. 86-36
(b) (5)
(b) (6)

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

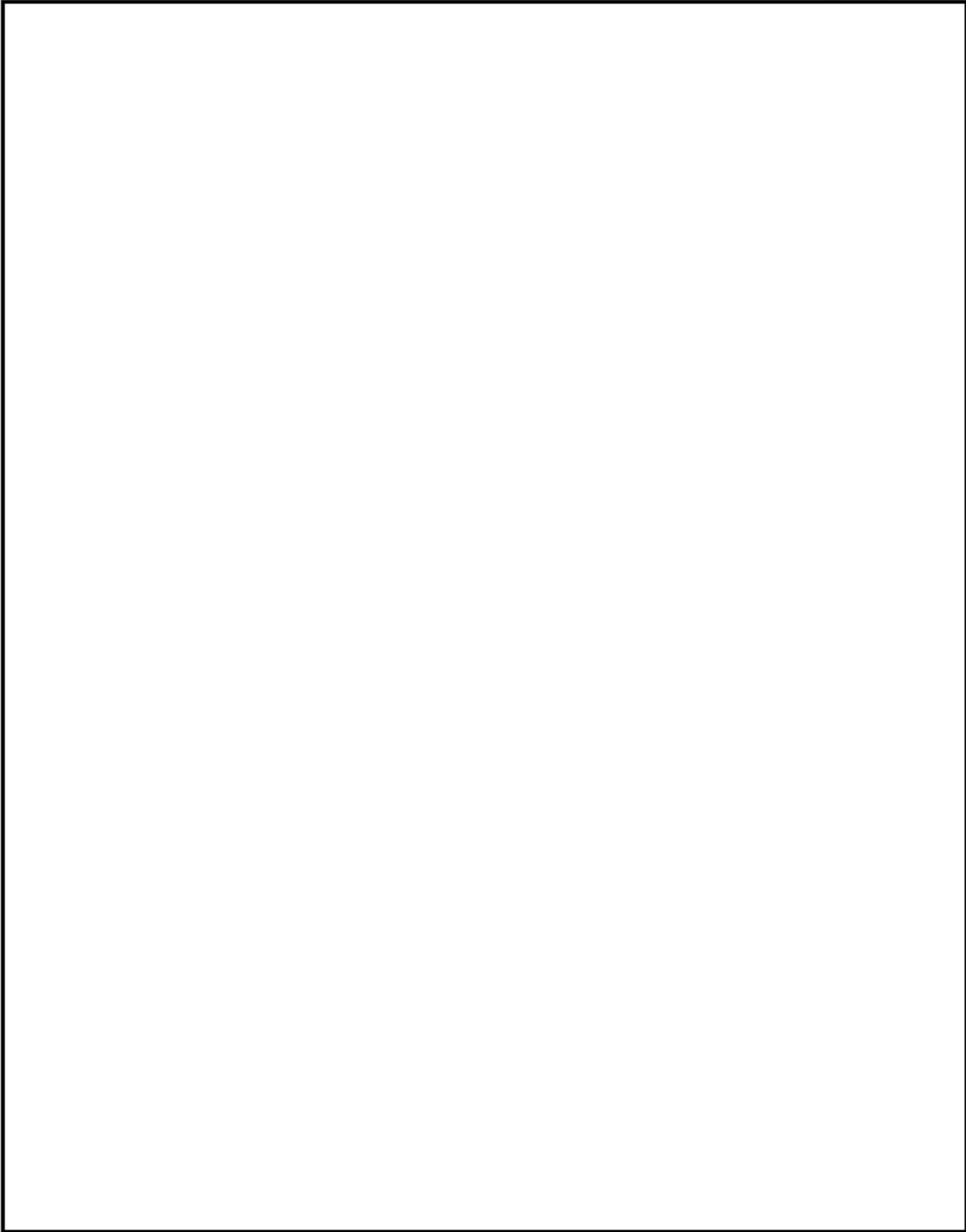


~~TOP SECRET//SI//NOFORN~~

(b) (3) - P.L. 86-36
(b) (5)
(b) (6)

~~TOP SECRET//SI//NOFORN~~

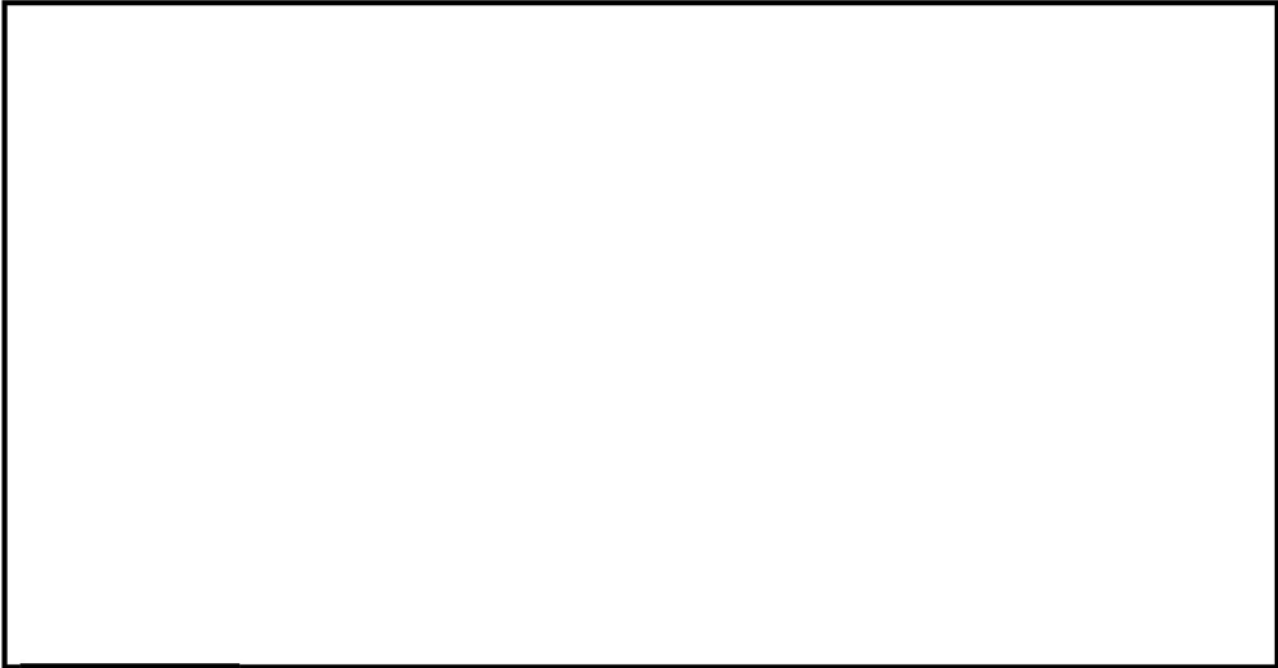
IV-11-0019

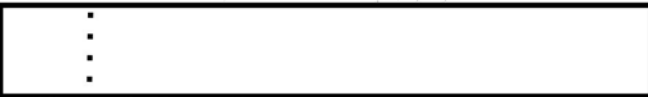


~~TOP SECRET//SI//NOFORN~~

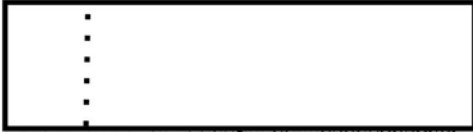
~~TOP SECRET//SI//NOFORN~~

IV-11-0019





Ethics & Fiscal Law
Office of General Counsel



(b) (3) - P.L. 86-36
(b) (5)
(b) (6)

(b) (3) - P.L. 86-36

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(U) APPENDIX C

(U) 2012 OGC Email

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

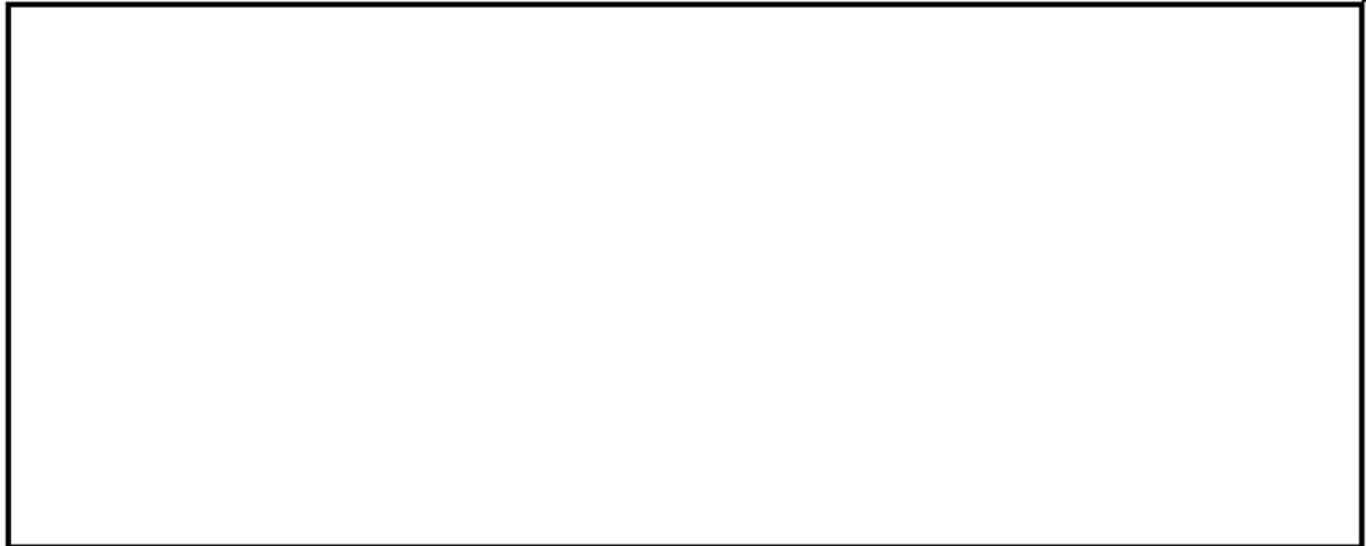
From: Dufresne Randi E NSA-D27 USA CIV
Sent: Tuesday, August 14, 2012 4:45 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: (U) IV-11-0019 [Redacted]

(b) (3) - P.L. 86-36

Categories: Important

(b) (3) - P.L. 86-36
(b) (5)
(b) (6)

Classification: ~~TOP SECRET//COMINT//NOFORN~~



Sec. 2635.502 Personal and business relationships.

(a) Consideration of appearances by the employee. Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee in accordance with paragraph (d) of this section.

(1) In considering whether a relationship would cause a reasonable person to question his impartiality, an employee may seek the assistance of his supervisor, an agency ethics official or the agency designee.

(2) An employee who is concerned that circumstances other than those specifically described in this section would raise a question regarding his impartiality should use the process described in this section to determine whether he should or should not participate in a particular matter.

(b) Definitions. For purposes of this section:

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(1) An employee has a covered relationship with:

(i) A person, other than a prospective employer described in Sec. 2635.603(c), with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction;

Note: An employee who is seeking employment within the meaning of Sec. 2635.603 shall comply with subpart F of this part rather than with this section.

(ii) A person who is a member of the employee's household, or who is a relative with whom the employee has a close personal relationship;

(iii) A person for whom the employee's spouse, parent or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;

(iv) Any person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or

(v) An organization, other than a political party described in 26 U.S.C. 527(e), in which the employee is an active participant. Participation is active if, for example, it involves service as an official of the organization or in a capacity similar to that of a committee or subcommittee chairperson or spokesperson, or participation in directing the activities of the organization. In other cases, significant time devoted to promoting specific programs of the organization, including coordination of fundraising efforts, is an indication of active participation. Payment of dues or the donation or solicitation of financial support does not, in itself, constitute active participation.

Note: Nothing in this section shall be construed to suggest that an employee should not participate in a matter because of his political, religious or moral views.

(2) Direct and predictable effect has the meaning set forth in Sec. 2635.402(b)(1).

(3) Particular matter involving specific parties has the meaning set forth in Sec. 2637.102(a)(7) of this chapter.

Example 1: An employee of the General Services Administration has made an offer to purchase a restaurant owned by a local developer. The developer has submitted an offer in response to a GSA solicitation for lease of office space. Under the circumstances, she would be correct in concluding that a reasonable person would be likely to question her impartiality if she were to participate in evaluating that developer's or its competitor's lease proposal.

Example 2: An employee of the Department of Labor is providing technical assistance in drafting occupational safety and health legislation that will affect all employers of five or more persons. His wife is employed as an administrative assistant by a large corporation that will

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

incur additional costs if the proposed legislation is enacted. Because the legislation is not a particular matter involving specific parties, the employee may continue to work on the legislation and need not be concerned that his wife's employment with an affected corporation would raise a question concerning his impartiality.

Example 3: An employee of the Defense Logistics Agency who has responsibilities for testing avionics being produced by an Air Force contractor has just learned that his sister-in-law has accepted employment as an engineer with the contractor's parent corporation. Where the parent corporation is a conglomerate, the employee could reasonably conclude that, under the circumstances, a reasonable person would not be likely to question his impartiality if he were to continue to perform his test and evaluation responsibilities.

Example 4: An engineer has just resigned from her position as vice president of an electronics company in order to accept employment with the Federal Aviation Administration in a position involving procurement responsibilities. Although the employee did not receive an extraordinary payment in connection with her resignation and has severed all financial ties with the firm, under the circumstances she would be correct in concluding that her former service as an officer of the company would be likely to cause a reasonable person to question her impartiality if she were to participate in the administration of a DOT contract for which the firm is a first-tier subcontractor.

Example 5: An employee of the Internal Revenue Service is a member of a private organization whose purpose is to restore a Victorian-era railroad station and she chairs its annual fundraising drive. Under the circumstances, the employee would be correct in concluding that her active membership in the organization would be likely to cause a reasonable person to question her impartiality if she were to participate in an IRS determination regarding the tax-exempt status of the organization.

(c) Determination by agency designee. Where he has information concerning a potential appearance problem arising from the financial interest of a member of the employee's household in a particular matter involving specific parties, or from the role in such matter of a person with whom the employee has a covered relationship, the agency designee may make an independent determination as to whether a reasonable person with knowledge of the relevant facts would be likely to question the employee's impartiality in the matter. Ordinarily, the agency designee's determination will be initiated by information provided by the employee pursuant to paragraph (a) of this section. However, at any time, including after the employee has disqualified himself from participation in a matter pursuant to paragraph (e) of this section, the agency designee may make this determination on his own initiative or when requested by the employee's supervisor or any other person responsible for the employee's assignment.

(1) If the agency designee determines that the employee's impartiality is likely to be questioned, he shall then determine, in accordance with paragraph (d) of this section, whether the employee should be authorized to participate in the matter. Where the agency designee determines that the employee's participation should not be authorized, the employee will be disqualified from participation in the matter in accordance with paragraph (e) of this section.

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(2) If the agency designee determines that the employee's impartiality is not likely to be questioned, he may advise the employee, including an employee who has reached a contrary conclusion under paragraph (a) of this section, that the employee's participation in the matter would be proper.

(d) Authorization by agency designee. Where an employee's participation in a particular matter involving specific parties would not violate 18 U.S.C. 208(a), but would raise a question in the mind of a reasonable person about his impartiality, the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. Factors which may be taken into consideration include:

- (1) The nature of the relationship involved;
- (2) The effect that resolution of the matter would have upon the financial interests of the person involved in the relationship;
- (3) The nature and importance of the employee's role in the matter, including the extent to which the employee is called upon to exercise discretion in the matter;
- (4) The sensitivity of the matter;
- (5) The difficulty of reassigning the matter to another employee; and
- (6) Adjustments that may be made in the employee's duties that would reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

Authorization by the agency designee shall be documented in writing at the agency designee's discretion or when requested by the employee. An employee who has been authorized to participate in a particular matter involving specific parties may not thereafter disqualify himself from participation in the matter on the basis of an appearance problem involving the same circumstances that have been considered by the agency designee.

From our web pages at:

Regulatory Restrictions:

(b) (3) - P.L. 86-36

The Standards of Conduct for Employees of the Executive Branch, 5 C.F.R. 2635.502, also requires a conflicts of interest analysis for slightly more distant financial relationships. When any of these more distant financial relationships are involved, the employee must ask: "Would a reasonable person with knowledge of all relevant facts question the employee's impartiality in this matter?" If so, then the employee should not participate in the matter. These more distant financial relationships include:

household members;

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

- family members and friends with whom the employee has a close relationship;
- a non-governmental organization in which the employee's spouse, parent or dependent child is serving or seeking to serve, e.g., as an employee or partner;
- a person with whom the employee has or seeks a business, contractual, or other financial relationship that involves other than a routine consumer transaction;
- a non-political organization in which the employee is an active participant; and
- any person or organization for whom the employee has served within the last year as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.

Where the employee could have a direct and predictable effect on the financial interests of one of these parties through official duties, the supervisor must undertake an impartiality analysis before the employee takes the proposed action. The supervisor would have to make such a review of a subordinate's proposed service as a project manager on a contract with ABC Company, if ABC company is the employer of the subordinate's spouse.

Let me know if you need more from me.

Randi

Randi Elizabeth DuFresne-Wall
 Associate General Counsel (Ethics and Fiscal Law)
 Designated Agency Ethics Official

[Redacted]

"If we succeed, no one will remember.

And if we fail, no one will forget."

From JINGO, by Terry Pratchett

Attorney Work Product --

Do not release outside of NSA without the express approval of OGC

Please reduce unnecessary printing

-----Original Message-----

From: [Redacted]

Sent: Tuesday, August 14, 2012 11:43 AM

To: Dufresne Randi E NSA-D27 USA CIV

Cc: [Redacted]

Subject: (U) IV-11-0019 [Redacted]

(b) (3) - P.L. 86-36

Classification: ~~TOP SECRET//COMINT//NOFORN~~

Randi [Redacted]

(b) (3) - P.L. 86-36
 (b) (6)

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019



If you need any further details, please let me know or I would be happy to meet with you.

v/r,

[Redacted]

Office of the Inspector General
Investigations (D14)

[Redacted]

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

[Redacted] (b) (3)-P.L. 86-36
(b) (5)
(b) (6)

PRIVACY SENSITIVE

Any misuse or unauthorized disclosure may lead to disciplinary action.

Derived From: NSA/CSSM 1-52

Dated: 20070108

Declassify On: ~~20370801~~

Classification: ~~TOP SECRET//COMINT//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(U) APPENDIX D

(U) Security Referral

~~TOP SECRET//SI//NOFORN~~

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
MEMORANDUM

Q234, 968-6331

DATE: 29 August 2012

REPLY TO
ATTN OF: Chief, Q234

SUBJECT: [Redacted]

(b) (3) - P.L. 86-36

TO: Office of the Inspector General

1. (U//FOUO) [Redacted] is a contractor with [Redacted]. He was initially indoctrinated as an employee on [Redacted]. He subsequently resigned and became a contractor, indoctrinating with [Redacted] on [Redacted].

2. (U//FOUO) During recent security processing Q234 discovered potential contract impropriety. [Redacted] original [Redacted] Sponsorship Letter dated [Redacted] stated he was being sponsored by [Redacted] organization. The GOR concurrence is signed by [Redacted] is [Redacted]. Her employee profile indicates at the time she signed the Sponsorship Letter, [Redacted] was not working within the [Redacted] organization.

(b) (6)

3. (U//FOUO) A copy of the Sponsorship Letter is included for your review. We are also including for signature comparison, a copy of [Redacted] for security processing signed by [Redacted].

4. (U//FOUO) This information is being forwarded to you for your review and possible action. The POC for this case is [Redacted] 968-6331s.

[Redacted Signature]

Chief, Q234

(b) (3) - P.L. 86-36
(b) (6)

Encl: a/s

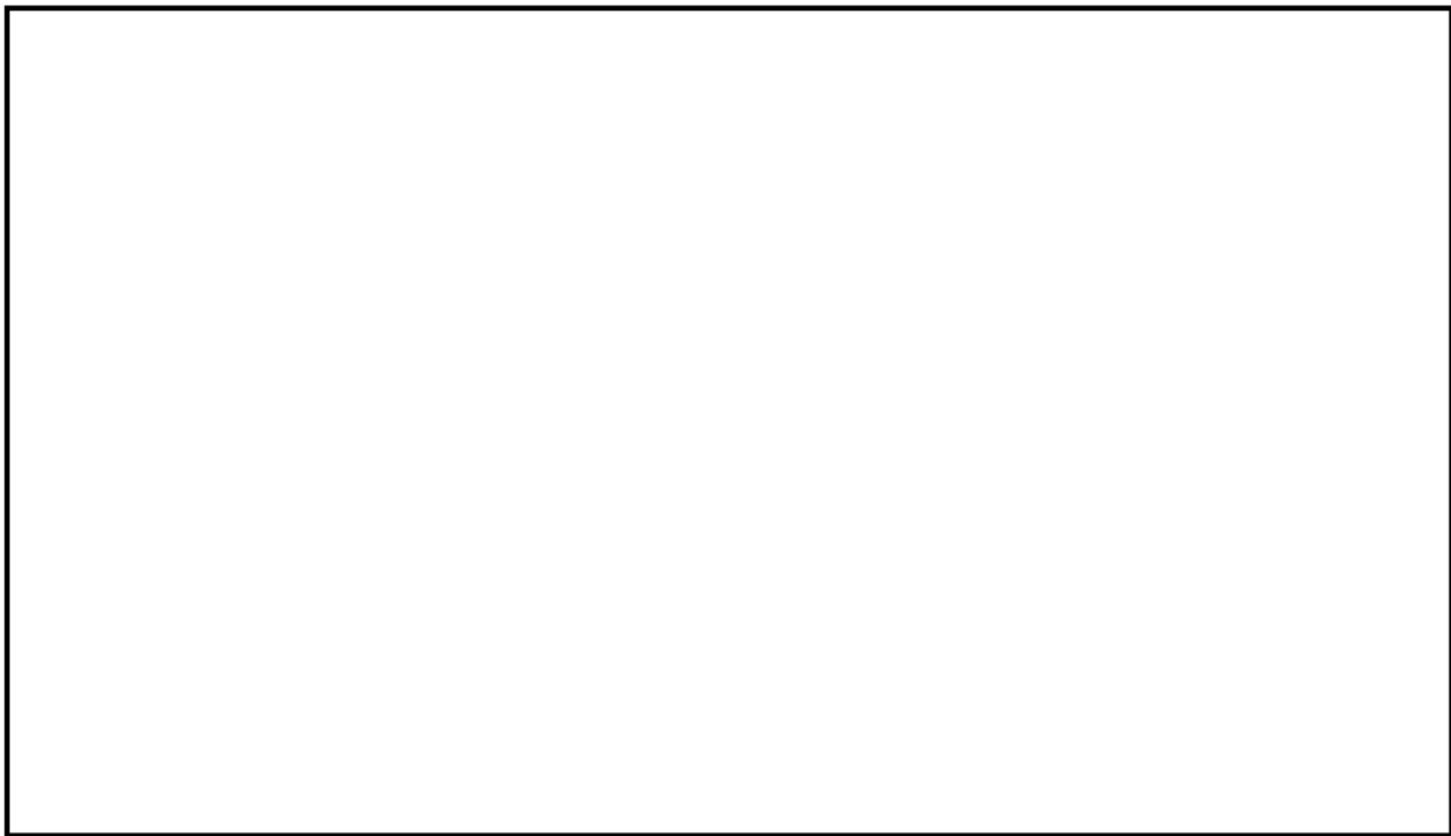
cc

Q234 R/F

Q23 [Redacted]

Sponsorship Letter (dated [Redacted])
[Redacted]

~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~



(b) (3) - P.L. 86-36
(b) (6)

(b) (3) - P.L. 86-36
(b) (6)

~~TOP SECRET//SI//NOFORN~~

IV-11-0019

(U) APPENDIX E

(U) Response To Tentative Conclusion

~~TOP SECRET//SI//NOFORN~~

[Redacted]

From: [Redacted]
Sent: Thursday, April 25, 2013 11:59 AM
To: [Redacted]
Subject: RE: (U) OIG Tentative Conclusions (IV-11-0019)

(b) (3) - P.L. 86-36
(b) (6)

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: INV

Classification: UNCLASSIFIED//~~FOR OFFICIAL USE ONLY~~

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

Thank you for giving me the opportunity to respond to your conclusion in paragraph 2 below. I know it was a difficult case with extenuating circumstances.

My response is two-fold. One, with regards to the Sponsorship Letter for [Redacted] even though I was the person that handled these actions during the time-frame in question, I was not in charge of nor running the program at that time. Therefore, I did not have final decision making authority. The Program Director, [Redacted] held that responsibility. Additionally, I spoke with [Redacted] for guidance on how to handle the Sponsoring of [Redacted] clearance since [Redacted]. I followed the direction/guidance I was given at that time, which was to continue to follow normal procedures for [Redacted] employees and not handle it out of the ordinary. For many years on the program, and even back in [Redacted] was sponsored for clearance by NSA, [Redacted] had, on occasion, sponsored [Redacted] employees for clearance that were not directly tied-in to the program. The rationale was that the company wanted to have a cleared cadre of [Redacted] employees ready to handle, in a prompt and timely manner, any work requiring [Redacted] services. [Redacted] employees support jobs across the entire Government Services Organization supporting multiple customers. However, only one Government organization handles the clearance process. The coordination of these employees' time/activities are solely handled by the company with no input from the various programs. Therefore, there was never any program direction provided by myself or the Program Director, [Redacted] with regards to [Redacted] activities. In fact, his work was completely transparent to us.

(b) (6)

The above also happens to take into account, the second matter of [Redacted] charging work hours in support of the [Redacted] program. While I was not initially in charge of the [Redacted] program, I did eventually take over as the Program Director. Even though it was completely transparent to me, as the Program Director, which [Redacted] employees were called upon to handle the [Redacted] work required by the program, I can certainly see where people might get the wrong perception. I do think making a couple of changes would make all the difference, such as properly aligning [Redacted] clearance sponsorship to his current customer and putting mechanisms in-place to ensure he does not charge his time/hours to the program. However, I'm not entirely certain that I am allowed to make these requests to the company. I'm certainly open to any suggestions on ways to remove or improve the potential for negative perceptions.

(U//FOUO)

[Redacted]