



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

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**To:** Chief, D14 [redacted]

**Date:** 26 January 2015

**From:** Senior Investigator [redacted]

**Subject:** [redacted] Conflict of Interest

**File No:** IV-13-0009

**Precedence:** Routine

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

**Details:**

**I. (U) Background**

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(U//FOUO) [redacted] was Chief, [redacted] from January 2012 to January 2013, when she became Deputy Chief, [redacted]. From September 2010 to January 2012, she was Chief, [redacted]. During the time she was its chief, [redacted] was responsible for business operations, mission assurance, and systems engineering [redacted]. In managing the [redacted] business portfolio, the [redacted] team worked with organizational and technical leaders across the Technology Directorate (TD), Signals Intelligence Directorate (SID), Directorate of Acquisition (BA), and Directorate of Resource Management (BF) to provide financial management and contract administration services to ensure that operational capabilities met [redacted] mission requirements and complied with the Agency's business policies and procedures.

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

(U//FOUO) On 03 February 2012, the NSA/CSS Office of the Inspector General (OIG) received an anonymous allegation that [redacted] had a conflict of interest (COI) related to her official duties as a Government civilian and her husband's employment with an NSA contractor, [redacted]. Specifically, it was alleged that [redacted] participated personally and substantially in two sole source contracts

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Derived From: NSA/CSSM 1-52  
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involving [redacted]. As evidence, the complainant included an email allegedly sent by [redacted] on 02 February 2012 (the "to" and "cc" lines had been redacted). In the email, [redacted] suggested to [redacted] that his newly approved sole source [redacted] contract to [redacted] be combined with the sole source follow-on to the [redacted] contract" being worked by [redacted] into "one [redacted] contract" that would provide both materials and services.

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

#### 18 United States Code (U.S.C.) § 208, Acts Affecting a Personal Financial Interest

(a) ...whoever, being an officer or employee of the executive branch of the United States Government...participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a...contract... or other particular matter in which, to his knowledge, he, his spouse, ... has a financial interest-

Shall be subject to the penalties set forth in section 216 of this title:

#### Federal Acquisition Regulation (FAR), Part 3, Improper Business Practices and Personal Conflicts of Interest

##### 3.101 (FAR, part 3 § 3.101-1), Standards of Conduct

###### 3.101-1 General.

Government business shall be conducted in a manner above reproach and ... with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships. While many Federal laws and regulations place restrictions on the actions of Government personnel, their official conduct must, in addition, be such that they would have no reluctance to make a full public disclosure of their actions.

##### 3.104 Procurement Integrity

###### 3.104-1 (FAR, part 3 § 3.104-1), Definitions:

(3) "Participating personally and substantially in a Federal Agency procurement" means—

(1) Active and significant involvement of an official in any of the following activities directly related to that procurement.

- (i) Drafting, reviewing, or approving the specification or statement of work for the procurement.
- (ii) Preparing or developing the solicitation.
- (iii) Evaluating bids or proposals, or selecting a source.
- (iv) Negotiating price or terms and conditions of the contract.
- (v) Reviewing and approving the award of the contract.

5 C.F.R. § 2635.101, Basic Obligation of Public Service... (8) Employees shall act impartially and not give preferential treatment to any private organization or individual... (14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards....

5 C.F.R. § 2635.502, Personal and Business Relationships, subpart (a): Considerations of appearances by the employee. Where an employee knows that a particular matter involving specific parties is likely to have

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a direct and predictable effect on the financial interest of a member of his household, or knows a person with whom he has a covered relationship is . . . a party to such a 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. (b) Definitions. For the purpose of this section: (1) An employee has a covered relationship with: . . . (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 . . .

**5 C.F.R. § 2635.702, Use of public office for private gain.** An employee shall not use his public office . . . for the private gain of . . . relatives.

(a) Inducement or coercion of benefits. An employee shall not use . . . his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to . . . relatives.

(d) Performance of official duties affecting a private interest. To ensure that the performance of his official duties does not give rise to an appearance of use of public office for private gain or of giving preferential treatment, an employee whose duties would affect the financial interests of a . . . relative . . . shall comply with any applicable requirements of [5 C.F.R.] § 2635.502.

**NSA/CSS PMM, Chapter 366, Section 1, § 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. . . .

**IV. (U) Investigative Activity**

**A. (U) Document Review**

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(U//FOUO) The OIG obtained and reviewed [redacted] classified system OUTLOOK email account. The review did not disclose the 02 February 2012 email allegedly sent by [redacted] and provided to the OIG by the complainant. However, it did reveal that [redacted] had involvement in procurement matters involving [redacted]

(U//FOUO) In an email dated 10 February 2012 and sent to multiple people including [redacted] Technical Director (TechDir), [redacted], [redacted] attached a draft sole source justification (SSJ) for [redacted] and said that her work was complete: "I've taken this about as far as I can." She opined that a particular section of the SSJ required work and asked email recipients to review the entire document. The SSJ listed [redacted] as the document's point of contact. On 13 February 2012, [redacted] replied that he had a great deal of technical data to provide and would require assistance from BA on the wording.

(U//FOUO) On 17 July 2012, the BA512 business manager supporting [redacted] sent [redacted] Chief, [redacted] as well as the [redacted] email distribution list and [redacted] an update on the status of the [redacted] procurement, which, at the time, was undergoing NSA Office of General Counsel (OGC) review. [redacted] responded to all addressees that same date, saying that she had used the business manager's email and

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another to brief [redacted] about her concerns regarding Fiscal Year 2012 funding and the importance of getting the [redacted] contract in place. "I requested [that] [redacted] escalate within contracting the release of the [Request for Proposal] to [redacted]"

(U//FOUO) In an email dated 25 July 2012, [redacted] sent [redacted] the finance slides for an upcoming [redacted] program review. The slides provided a summary of [redacted] financial execution for FY2012. According to the summary, [redacted] had numerous programs involving either current or planned contracts, three of which were marked in red due to financial execution issues. [redacted] was one such program (the other two red programs did not involve [redacted]). The slide indicated that the [redacted] Request for Proposal (RFP) was undergoing review. However, BA351 was expected to release the RFP by [redacted] with contract award expected no later than [redacted].

(U//FOUO) Subsequent emails revealed that [redacted] maintained an ongoing awareness of the status of both the [redacted] and [redacted] procurements. [redacted] was also known as [redacted]. In August 2012, [redacted] was on distribution for an email granting Exceptionally Controlled Information (ECI) access to members of the [redacted] team, led by [redacted] which would be [redacted]. She was also on distribution for [redacted] and [redacted] subsequent emails stating that the response to the RFP was received [redacted] the related technical review was completed [redacted] and the [redacted] contract was awarded [redacted].

(U//FOUO) As a member of the [redacted] email distribution list, [redacted] received August 2012 emails informing [redacted] organizations supported by the [redacted] contract that [redacted] the Contracting Officer's representative (COR), was leaving [redacted] and, therefore, [redacted] would assume responsibility for the contract's renewal. Subsequently, [redacted] sent emails to several [redacted] organizations informing them that due to [redacted] departure, [redacted] Deputy Chief, [redacted] would be the COR on the [redacted] contract, while she would be the COR on contracts involving [redacted] who was not yet a COR, would serve as back-up for all the contracts.

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(U//FOUO) On 16 August 2012, [redacted] emailed [redacted] and [redacted] Deputy Chief, [redacted] that there was a problem related to [redacted] proposal on the [redacted] contract renewal. Because additional [redacted] since the original contract was put in place, the Government's RFP for the follow-on called for two additional full-time contractor [redacted] had unsuccessfully requested that the [redacted] organizations that would receive support from the renewal contract share some of the added cost: "Both [redacted] and [redacted] are pushing back." On 31 August 2012, [redacted] informed [redacted] and [redacted] that he had learned that [redacted] did not provide [redacted] which equated to [redacted] and asked for guidance, as he was unsure whether the bases of estimate for the contract should be reduced as a result. On 04 September 2012, [redacted] confirmed that it should: "OK we cut back the analyst support [redacted]"

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(U//FOUO) In a 26 September 2012 email to BA5 and [redacted] [redacted] explained that due to other [redacted] commitments, the follow-on to the [redacted] contract had not been worked. Instead, the existing contract (due to exp that month) had been extended by the contracting officer (CO). She requested that each office assign someone to begin working with [redacted] on the acquisition package for the renewal: "This will be a sole source award to [redacted]". In subsequent emails, [redacted] offered to provide BA5 with historical information related to the service contract.

(U//FOUO) An OIG review of Employee Profiles disclosed that [redacted] directly supervised [redacted] during the rating period of January 2012 through July 2012. She was [redacted] direct supervisor from August 2009 through July 2011 and has again been his supervisor since November 2013.

(U//FOUO) The OIG requested and reviewed [redacted] Confidential Financial Disclosure Report (OGE450) and Disqualification records from the NSA OGC, Administrative Law and Ethics (Ethics), since 2008. Although incomplete, the records disclosed that [redacted] reported her husband's employment with [redacted] on her OGE450s and, according to the accompanying Supervisor's Evaluation Form, filed related disqualification memorandums every year from at least 2008 through 2012 (corresponding disqualification memorandums for 2008, 2010, and 2011 could not be located). OGC Ethics also provided a 2014 OGE450 for [redacted] (in which she again reported [redacted] as her husband's employer); but none for 2013. In her disqualification memorandum dated 17 January 2012, [redacted] reported that an immediate family member was employed by [redacted] and therefore she was disqualifying herself from participating personally and substantially in any particular matter that might directly and predictably affect [redacted].

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(U//FOUO) On 26 November 2014, [redacted] [redacted] was interviewed in [redacted] and provided the following sworn testimony:

(U//FOUO) [redacted] first met [redacted] in September 2008 upon his arrival as TechDir in [redacted] (in approximately August 2012, [redacted] became [redacted] and [redacted] became TechDir of [redacted]. At the time, [redacted] was Chief, [redacted] was responsible for [redacted] [redacted] was responsible for the [redacted] [redacted] were assigned to this organization). [redacted] became Chief of [redacted] upon its creation and subsequently became deputy chief of [redacted]. Under [redacted] [redacted] was in charge of [redacted] business operations, security, and [redacted] contracts.

(U//FOUO) [redacted] involvement in [redacted] contracts consisted solely of "management of the overall budgets." It was her responsibility to tell people the overall [redacted] budget and ask how much money they required for their programs. [redacted]

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subordinates "moved the money" for various [redacted] programs, including several involving [redacted]. She supervised their efforts. [redacted] never supervised [redacted].

(U//FOUO) While [redacted] was its chief, [redacted] oversaw a large program that had previously involved a major [redacted] acquisition; the program was "re-orged" into [redacted] after the acquisition. The [redacted] which was a [redacted]

[redacted] was required. [redacted] was not involved in the original program and contract and only peripherally involved, from an operations standpoint, in its modernization effort, known as [redacted] who worked for [redacted] was in charge of the money or budget component of [redacted]

[redacted] was the [redacted] who ran the day-to-day operations of the overall program.

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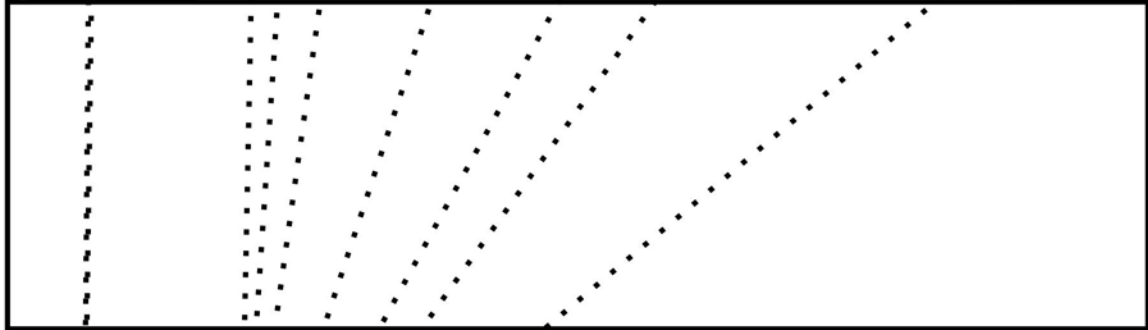
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(U//FOUO) [redacted] was the technical program manager for [redacted]. Although [redacted] managed [redacted] on behalf of [redacted] and worked with the CO on the [redacted] contract, it was [redacted] as the technical lead, who decided that it should be a sole source award to [redacted]. [redacted] had no direct involvement in either the [redacted] contract or any of [redacted] own [redacted] contracts.

(U//FOUO) According to [redacted] the [redacted] contract was known as [redacted]. Although he provided some requirements, [redacted] did not have direct involvement with either the original contract, which was a sole source support contract to [redacted] to [redacted] or its follow-on. However, he knew that they were managed by [redacted] former deputy in [redacted] while [redacted] handled the business operations. After [redacted] left the organization, [redacted] took over [redacted] business operations. [redacted] had no direct involvement.

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(TS//SI//NF) According to [redacted] the sole source contracts with [redacted] are justified. The [redacted]



(U//FOUO) According to [redacted] [redacted] has never been a COR on any [redacted] contracts. She never drafted any Statements of Work (SOWs), RFPs, or SSJs. [redacted] was shown the 10 February 2014 email in which [redacted] attached a draft SSJ for [redacted] and said she had taken it as far as she could. In response, [redacted] said that most of the text of the justification came from him; he borrowed

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much of it from the SSJ of another of his [redacted] related programs. [redacted] did not recall [redacted] having provided any input; her participation in the process was "peripheral."

(U//FOUO) [redacted] said that he was the [redacted] mentioned in the alleged 03 February 2012 email in which [redacted] suggested the possibility of combining [redacted] sole source [redacted] contract with his recently approved sole source [redacted] acquisition contract. The service contract referred to was [redacted] and the hardware contract was [redacted]. [redacted] did not recall details, but stated that although the idea was probably raised with BA3 in order to try and streamline processes, ultimately a decision was made to keep two contracts. [redacted] did not consider [redacted] suggestion to constitute personal and substantial involvement. Her business acumen caused her to constantly search for efficiencies and ways to streamline acquisition processes. The sole source contracts were going to happen anyway; from a business perspective, it made sense to try to and combine them into one contract if at all possible. "To me, that's just being a good manager."

(U//FOUO) As chief of [redacted], [redacted] had no involvement in decision-making processes related to [redacted]. [redacted] recalled that even as chief of [redacted], she handled all of the [redacted] and other contracts, while another individual handled the [redacted] contracts. [redacted] Management seemed to do all the right things to segregate that flow from her. [redacted] did not consider [redacted] role in overseeing the [redacted] contracts, budget and supervising individuals who ran programs and contracts involving [redacted] to constitute personal and substantial involvement in the contracting process itself.

(U//FOUO) Additionally, [redacted] was very overt about her husband's employment with [redacted]. "It takes about 20 minutes of conversation with her until you realize that she's married to somebody in [redacted]. And, she very quickly will tell you, 'I can't be involved.'" [redacted] walked out of rooms when [redacted] contracts were discussed. Further, she told people that she had a letter from NSA OGC banning her from involvement in matters involving [redacted] and that they must stop such discussions until she left the room. Therefore, when [redacted] learned from the OIG of the allegation against [redacted], he found it "funny"; [redacted] did not and does not have a conflict of interest related to her official duties and her husband's employment with [redacted].

(U//FOUO) Subsequent to his interview with the OIG, in an email dated 26 November 2014, [redacted] summarized his testimony as follows:

(U//FOUO) . . . The need to sole-source to [redacted] was never really [redacted] choice to make even when they had direct control over a contract. The sole-source contracts to buy and [redacted] [redacted] are all based upon the same basic justification and that work came out of [redacted] today). The program may have been managed from [redacted] for [redacted] but the sole-source justification came from [redacted]. The only sole-source contract that [redacted] organization had direct control over was the [redacted] contract and that was necessitated by the fact [that] [redacted] handed [redacted] that were sole-sourced and had proprietary support needs. [redacted] had no choice but to sole-source the [redacted] [redacted] once [redacted] decided to sole-source [redacted]. And to reiterate my statements

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earlier, in all of these sole-source contracts to [redacted] I have never witnessed [redacted] take an active role in the decision or even the discussion leading to the decision.

(U//FOUO) On 09 December 2014, [redacted] Deputy Chief, [redacted] was interviewed in [redacted] and provided the following sworn testimony:

(U//FOUO) [redacted] has known [redacted] since 2004, when they became work colleagues. At that time, [redacted] was in "one of the previous incarnations of [redacted] and already married to her husband, who worked for [redacted]. [redacted] has always been open about her husband's employment with [redacted]. [redacted] has supervised [redacted] directly since 2013. Previous to that, [redacted] deputy, [redacted] who has since retired, supervised [redacted]."

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(U//FOUO) [redacted] was responsible for managing the business side of [redacted]. [redacted] kept track of the money needed by each organization for their program-related contracts: "It's an enabling function, but the line organizations are the ones that decide what to buy [and] who to provide services contracts to, etc." Because she was very sensitive to the potential for conflicts related to her official duties and her husband's employment, [redacted] regularly recused herself from involvement in contracts involving [redacted]. "She manages the overall [redacted] budget, but doesn't make decisions on which contracts to let."

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(U//FOUO) During 2012, [redacted] managed the process of putting the [redacted] and [redacted] contracts together, on behalf of intra-Agency customers. The [redacted] contract and its [redacted] follow-on were owned by [redacted] the customer that used the services they provided. The bulk of the Agency's [redacted] and [redacted] had no involvement in the decisions to purchase them. Because these [redacted] systems used [redacted] [redacted] ran [redacted] on behalf of [redacted] and was eventually replaced by [redacted]. Because it involved a very important project for a mission customer and required focused management, the [redacted] contract was also under [redacted] and run by [redacted] and involved the acquisition of new [redacted]."

(TS//SI//NF) At the time that [redacted] became chief of [redacted] in November 2011,



(TS//SI//NF) At the time, both [redacted] and [redacted] had concerns about the ability to [redacted]



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(U//FOUO) [redacted] recalled the circumstances related to the alleged February 2012 email in which [redacted] suggested that two sole source contracts with [redacted] be combined into one. The [redacted] project had decided to award a sole source contract for [redacted]. It would involve less paperwork to combine that contract with a [redacted] contract that was also to be awarded to [redacted]. The suggestion] was an efficiency." However, [redacted] took too long to award and a decision was made to keep the contracts separate. According to [redacted] the suggestion to combine the contracts probably originated with her and was passed along by [redacted] it did not constitute personal and substantial involvement in a matter affecting [redacted]

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(U//FOUO) [redacted] was asked about the 17 July 2012 email in which [redacted] said that she had briefed [redacted] on the status of [redacted] and requested that [redacted] escalate within Contracting the release of the RFP to [redacted]. According to [redacted] towards the end of FY2012, she became concerned about the execution of funds. Through [redacted] bi-weekly finance reports, she was aware that [redacted] was one of several efforts having difficulty being finalized; it was marked in red in the report. Because [redacted] involved "the largest chunk of money" in the [redacted] budget, every two weeks [redacted] told [redacted] to tell her if and when she needed to get personally involved in pressuring Contracting to get the sole source contract in place before the end of the FY. [redacted] simply followed [redacted] direction and in looking at all of [redacted] line items told [redacted] when it was time for her to step in to ensure that [redacted] would be finalized in a timely manner. [redacted] was looking at [redacted] solely from a budget perspective; such involvement was not personal and substantial.

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(U//FOUO) [redacted] took the necessary steps to avoid even the appearance of a conflict of interest related to [redacted]. She filed disqualification memorandums and recused herself from direct involvement with [redacted] contracts. Although [redacted] was a COR, she never had that duty on a [redacted] contract and had no involvement in drafting SSJs, RFPs, or SOWs for contracts related to [redacted]. No one ever expressed concern regarding [redacted] official duties relating to matters involving [redacted]. This may be because [redacted] was concerned about appearances and made a point to always step aside in regard to [redacted] related matters. According to [redacted] [redacted] did not have a

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conflict of interest related to her official duties and her husband's employment with [redacted]. Further, a person with knowledge of the facts would not reasonably think that such a conflict existed.

(U//FOUO) On 19 November 2014, [redacted] Deputy Chief, [redacted] was interviewed in [redacted] and provided the following sworn testimony:

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(U//FOUO) [redacted] has been an OGE450 filer since she first started managing contracts and budgets in approximately 2005. She declared her husband's employment with [redacted] on every OGE450 and included a corresponding memorandum disqualifying herself from official involvement in acquisition-related matters that could affect [redacted]. Because [redacted] was "alpbst paranoid" about appearances, she went out of her way to inform colleagues about her husband's employment: "I hand my disqualification memo out like some people hand out Halloween candy." However, because she was also one of the rare individuals who understood mission and could translate technical requirements into "acquisition-speak," [redacted] was sometimes asked by colleagues to help them with contracting matters that might potentially raise a conflict. She actively avoided such situations: "And, so, oftentimes I've had to say, 'Wait, is this [a matter involving] [redacted]. You can't talk to me.'"

(U//FOUO) [redacted] denied participating personally and substantially in contracts in which [redacted] had a financial interest. In her position as chief of [redacted] [redacted] managed the spend plan for [redacted]. Her subordinates and other [redacted] personnel determined how much money was needed for various programs/contracts and she planned the budget and tracked the spend plan accordingly. [redacted] was also a COR on several contracts. However, never on one in which [redacted] was either a prime contractor or a subcontractor. She has never been involved in developing acquisition paperwork or making a source selection related to [redacted].

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(U//FOUO) According to [redacted] while chief of the organization, her involvement in [redacted] contracts was peripheral; she supervised [redacted] who was the business manager and original COR for the [redacted] contract and its follow-on [redacted] and [redacted] who was the program manager and COR of [redacted]. After [redacted] left [redacted] in 2012, [redacted] took over his COR responsibilities. [redacted] was assigned to [redacted] the organization that used the services provided through [redacted] and its original contract. In approximately September 2012, [redacted] left [redacted] to shadow the retiring deputy chief of [redacted] (who she was chosen to replace).

(U//FOUO) Although [redacted] recalled suggesting to [redacted] in early 2012 that two upcoming sole source contracts with [redacted] be combined into one, she did not consider this suggestion to constitute personal and substantial involvement in the contracting process. The decisions to sole source to [redacted] had already been made by others; she had no involvement. Her suggestion was simply an attempt at efficiency: It would be easier to manage one contract rather than two.

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(U//FOUO) In regard to the 10 February 2012 email in which [redacted] attached a draft [redacted] SSJ and said she had taken it as far as she could, [redacted] stated that she did not recall its context. However, she did not write the SSJ. It was drafted by [redacted] technical point of contact on the [redacted] contract. The only reason [redacted] would have seen the SSJ would have been to obtain the monetary figures for budgetary planning purposes. According to [redacted] drafting an SSJ would constitute personal and substantial involvement in a contract.

(U//FOUO) In hindsight, [redacted] regretted sending two particular emails, as they could possibly give the appearance of a conflict of interest to a reader without knowledge of the facts. In a July 2012 email, [redacted] said that she had asked [redacted] to "escalate within contracting" the release of the [redacted] RFP, to [redacted] explained that she had "an available pot of money" earmarked for [redacted] which others had decided was to be sole sourced to [redacted]. However, the end of the fiscal year was approaching and the funds had yet to be committed. Given her responsibility for the budget and awareness that another organization was "trolling for" non-obligated dollars that it could use for other purposes, [redacted] needed to inform her supervisor and obtain her assistance in making the obligation of [redacted] funds a priority for Contracting: "[The other organization] had a corporate bill that they were looking for money to pay. And, our [redacted] amount of money was exactly what they needed. So, I go to [redacted] and I say, [redacted], we're gonna lose our money, unless something gets escalated for the award." Although [redacted] July 2012 request to [redacted] was purely budget-based and unrelated to the earlier decision to sole source to [redacted] the intent could be misinterpreted.

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(U//FOUO) Similarly, an email [redacted] sent on 04 September 2012 related to [redacted] could also potentially give the appearance of personal and substantial involvement in a contract. In the email, [redacted] told [redacted] in response to his inquiry, that because [redacted] did not require [redacted] the number of [redacted] required could be reduced from four to 3.5. According to [redacted] [redacted] is a "finance guy," who lacks a technical mission background. Therefore, although he was aware that her husband worked for [redacted] and that she had disqualified herself from matters involving that company, [redacted] reached out for advice. Although her advice would not have changed the SOW and would only potentially lower the contract cost, in hindsight, she should have asked [redacted] to respond to [redacted] inquiry, rather than doing so herself.

#### V. (U) Analysis

(U//FOUO) We did not substantiate the allegation. Although some documentary evidence obtained by the OIG appeared, on its face, indicative of a conflict of interest, witness testimony was consistent in explaining that [redacted] involvement in contractual matters related to [redacted] was peripheral, rather than personal and substantial, and therefore did not meet the threshold for constituting a conflict of interest.

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(U//FOUO) According to [redacted] and [redacted] it was [redacted] decision to sole source [redacted] to [redacted]. While this contract and [redacted] were administered, from a business operations perspective, by [redacted] personnel supervised by [redacted] they were controlled, from a technical decisions perspective, by other organizations. Because of other organizations' decisions to contract for [redacted] the [redacted] contract to [redacted] was by necessity sole sourced to [redacted]. Both [redacted] and [redacted] described [redacted] as having performed an enabling function related to programs involving [redacted] she handled the consolidated [redacted] budget and administered the spend plan. [redacted] had no active or direct involvement in either decision-making or the drafting of acquisition documents related to contracts with [redacted].

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(U//FOUO) In light of this information and additional testimony, the intent and meaning of emails obtained from [redacted] classified OUTLOOK email account and provided by the complainant become clear. According to [redacted] and the other witnesses interviewed, [redacted] February 2012 email suggestion that [redacted] and [redacted] sole source contracts be combined into one was an effort at increasing efficiency in contracting and would have had no effect on [redacted] and therefore [redacted] husband's financial interests. She had no involvement in the decisions to sole source; those decisions had already been made by others.

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(U//FOUO) We also found credible [redacted] explanation for another February 2012 email, in which she included a draft SSJ for [redacted] that she asked others to review. According to [redacted] she required access to the SSJ for budget planning purposes. However, it was drafted by [redacted]. This was corroborated by [redacted] who said that he borrowed much of the text from the SSJ of one of his own [redacted] programs. He did not recall [redacted] having any input. Her access to the SSJ had no impact on the contracting process or on [redacted] and her husband's financial interests.

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(U//FOUO) [redacted] explanation for asking [redacted] to push Contracting for the release of the [redacted] RFP in July 2012 - that it was near the end of the fiscal year and there was concern about the obligation of program funding - was also credible. According to [redacted] at the time, she was aware through [redacted] bi-weekly finance reports that [redacted] was having difficulty being finalized and had asked [redacted] to tell her when she needed to get involved in order to ensure its completion before the end of the fiscal year. [redacted] finance slides for July 2012 partially corroborated [redacted] testimony; [redacted] was listed as one of three current or planned contracts with financial execution issues. [redacted] notification to [redacted] that she should intervene was based on [redacted] previous direction. Further, it was [redacted] not [redacted] who had directed that the contract be finalized before 01 October 2012. [redacted] involvement was peripheral.

(U//FOUO) Emails revealed that in August 2012, [redacted] learned of a potential problem related to [redacted] proposal on [redacted] that might affect its finalization, she informed [redacted] leadership that two organizations that would use the services it would provide, [redacted] and [redacted] were balking at paying their share of the cost. Subsequently,

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when [ ] informed [ ] and [ ] that he had learned that [ ] would not require the contract's support, [ ] responded that [ ] analyst support should be reduced accordingly.

(U//FOUO) [ ] regretted the optics created by this email and testified that it would have been more prudent for [ ] to have responded. However, we found that her response did not rise to "personal and substantial" involvement in the contract. Although [ ] understandably sought his leadership's concurrence, the decision to reduce the bases of estimate by eliminating potentially unnecessary analyst support was a reasonable one that anyone with full knowledge of the facts would have made. It is also noteworthy that such a decision would ultimately adversely affect [ ] financial interests in that it would reduce the price of the overall contract.

(U//FOUO) According to all witnesses interviewed, [ ] efforts to avoid even the appearance of a conflict were overt. She told work colleagues that she was married to a [ ] employee and had disqualified herself from official actions related to [ ]. Additionally, [ ] left meetings in which contracting matters involving [ ] were discussed and told other attendees why [ ] attempts to avoid a conflict were further corroborated by emails from fall 2012, in which she informed others that upon [ ] departure from [ ] would serve as the COR on the [ ] service contract and she would serve as the COR on several other contracts not involving [ ].

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(U//FOUO) 18 U.S.C. § 208 prohibits a Government employee from participating personally and substantially in a contract in which that employee's spouse has a financial interest. It defines personal and substantial participation in broad and somewhat vague terms that are defined more specifically in the FAR. Such participation includes active and significant involvement in drafting, reviewing, or approving the SOW, preparing the RFP, evaluating bids, selecting a source, negotiating the price or terms of a contract, and reviewing and approving the award of the contract. Based on the evidence obtained in the investigation, [ ] was neither actively nor significantly involved in any of these duties related to [ ] or [ ]. Rather, her involvement in these and other contractual matters related to [ ] was peripheral; she supervised individuals who served as CORs on contracts sole sourced to [ ] and maintained and tracked the budget and spend plan for all of [ ]. Finally, we found no evidence that [ ] provided preferential treatment to [ ] or used her office for the private gain of her husband. The evidence was clear that she endeavored to avoid any actions or circumstances that would create the appearance of a conflict of interest. A reasonable person with knowledge of the relevant facts would not question her impartiality.

#### VI. (U) Conclusion(s)

(U//FOUO) Based on a preponderance of the evidence, we concluded that [ ] did not have a conflict of interest related to her official duties as a Government civilian and her husband's employment with [ ].

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

(U//~~FOUO~~) That this case be closed as unsubstantiated.

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

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



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