



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

To: Chief, D14

Date: 8 February 2016

From: [redacted]

Subject: [redacted] Ethics Violation

File No: IV-14-0111

Precedence: Routine

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

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Details:

I. (U) Background

(U//FOUO) On 31 July 2014, NSA OIG Investigator [redacted] interviewed an Agency employee (complainant) who alleged that [redacted] had violated Agency policy that requires a one year "cooling off" period for new Agency employees previously employed by a contractor. According to the complainant, [redacted] has too much involvement with the contract under which she was previously employed. Specifically, the complainant alleged that [redacted] "runs the contract"; approves what the contractors do (including selecting their targets); releases the contractors' products; supervises contractors; "gets copied on" emails pertaining to all of the contractors' work, even for other teams; and attends all meetings concerning the contract. The complainant suspects that [redacted] attends meetings at [redacted] to dictate the terms and administration of the contract.

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(U//FOUO) The complainant did not know if [redacted] has any continuing financial interests in [redacted]. However, the complainant heard from [redacted] that [redacted] had "brought in a lot of money for [redacted]". However, [redacted] allegedly did not want anyone to know, lest it interfere with her ability to get hired at NSA. [redacted] has also allegedly recommended that [redacted] bring specific [redacted] employees onto the contract.

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~~TOP SECRET//SI//TK//REL TO USA, FVEY~~**II. (U) Issue(s)**

As an NSA employee, did [] have a covered relationship with []

If so, did [] have a personal or business relationship with []
[] after she became a government employee that would have a direct and
predictable effect on the financial interest of herself or []

III. (U) Applicable Standard(s)

5 CFR 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.

(b) Definitions. For purposes of this section:

(1) An employee has a covered relationship with:...

(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...

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IV. (U) Investigative Activity**A. (U) Document Review**

1. (U//FOUO) [] NSA Employee Profile was reviewed to confirm [] as the date she entered on duty (EOD) as an NSA employee.
2. (U//FOUO) The Annual Contribution Evaluation (ACE) Performance Plan for [] (08/01/2014-07/31/2015) was reviewed. The plan did not require any interaction, oversight or involvement with any contracts, or contractors of [] or any other company.
3. (U//FOUO) A review of [] Unclassified and Classified Email accounts did not contain evidence of an on-going relationship or involvement with her former employer [] nor did it contain evidence of contract oversight or involvement with matters affecting []

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4. (U//~~FOUO~~) The IG contacted the Agency Ethics advisor to determine if [] had filed an OGE450, *Confidential Financial Disclosure Report*, declaring a potential conflict of interest with her former employer, [] [] [] did not file an OGE450.

B. (U) Interviews

1. (U//~~FOUO~~) On 31 July 2014, NSA OIG Investigator [] interviewed the complainant who provided the following sworn testimony:

(U//~~FOUO~~) The complainant worked in [] for four years. The complainant made various statements alleging that [] had violated the "cooling off" period (a reference to 5 CFR Sec. 2635.502 *Personal and business relationships*), but was unable to provide first hand specific examples of actions or relationships, or other information in support of her general allegation. The complainant alleged that [] has too much involvement with the contract under which she was previously employed. Specifically, the complainant alleged that [] "runs the contract"; approves what the contractors do (including selecting their targets); releases the contractors' products; supervises contractors; "gets copied on" emails pertaining to all of the contractors' work, even for other teams; and attends all meetings concerning the contract. The complainant suspects that [] attends meetings at [] to dictate the terms and administration of the contract. The complainant also tended to present behavior observed while [] was a [] contractor as evidence of her involvement with [] as an NSA employee. For example, the complainant claimed that [] had mentored and counseled [] employees as well as created performance appraisals for them. When asked to confirm that [] had done this while employed by NSA, the complainant said that [] had taken these actions while she was employed by []. The complainant did not know if [] has any continuing financial interests in [].

2. (U//~~FOUO~~) On 11 February 2015 and 3 September 2015, NSA OIG Investigator [] interviewed [] branch chief, [].

(TS//SI) [] has been the branch chief of [] since 2009. [] began supporting [] in 2010 as a contractor with []. She was subsequently hired as a civilian in approximately January 2014 by [] or []. She was hired to be a SIGDEV analyst and the team lead of the [] branch. [] said he was not involved in the hiring process and was not sure if anyone coordinated with the Office of the General Counsel regarding hiring a contractor as a government employee. [] said he assumed the hiring manager and human resources conducted all of the necessary checks when they

¹ Other allegations made by the complainant were addressed in IV-14-0054. The interviews referred to in this memo were primarily conducted as part of that investigation.

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made [redacted] the job offer. [redacted] continues to work on matters related to the [redacted]. For instance, she coordinates with [redacted] attends meetings with them; and helps them understand NSA support capabilities. She directs the work of the contractors on the [redacted]. [redacted] has wanted to divest [redacted] of her [redacted] portfolio since she arrived, but hasn't found anyone with the capability to do it. While working as a government employee in [redacted] [redacted] was the team chief for several months before she became the operations officer. [redacted] is not involved with the administration of any contracts; that is handled at the division level. [redacted] does not know if [redacted] has continued contact with [redacted] or has financial interests in [redacted]. She did not have any contracting duties; she was not responsible for recommending contractors, processing invoices or securing any procurement with [redacted]. [redacted] was not involved with securing funding for [redacted] on the contract. [redacted] is not a contracting officer's representative (COR) on the [redacted] contract. He was unsure if [redacted] retired from [redacted] prior to accepting the government position. He believed that she resigned her position. He was unaware if [redacted] has any financial holdings with [redacted] i.e. 401K. [redacted] was unaware if [redacted] received any type of financial compensation from [redacted]. [redacted] said at no time did [redacted] make recommendations to him or the division to hire [redacted] or steer contracts towards [redacted]. There was no mandate from anyone on [redacted] for [redacted] to interact with contractors outside of her team.

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3. (U//FOUO) On 1 December 2015, NSA OIG Investigator [redacted] interviewed [redacted] Deputy Branch Chief, [redacted] regarding the allegation that she had violated ethics rules. She provided the following sworn testimony:

(U//FOUO) [redacted] is a deputy branch chief in [redacted]. She previously worked as a [redacted] employee from 2005 through 2014, supporting various NSA organizations. In 2014 she was hired as an NSA employee working in [redacted]. She resigned from [redacted] effective [redacted] prior to EOD with NSA on [redacted].

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(U//FOUO) [redacted] testified that she has no stock options with [redacted] but has a 401K account with [redacted]. She plans to "roll it over" to her Federal TSP due to her employment with NSA. [redacted] stopped making contributions to the account when she resigned from [redacted]. She has remained friendly with a former [redacted] contractor, but has had no contact of any kind with [redacted] - she "severed all ties" once she was hired as an NSA employee. [redacted] stated "we made a firewall" between her and all [redacted] employees in her organization. As Team Chief (prior to her move to Deputy Branch Chief), [redacted] had nothing to do with [redacted] contracts, such as writing TTOs, requirements, invoicing etc. She has had nothing to do with any aspects of contracting or contract oversight. She has never advocated for [redacted]. Her team was composed mostly of military analysts, some contractors, and one NSA employee. [redacted] is responsible for all contracting matters and contract oversight for [redacted].

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(U//FOUO) [redacted] does not recall if her recruiter discussed ethics rules with her during the application and hiring process, but she might have received relevant ethics training during her New Employees' Orientation. She was aware of the "one year cooling off" period (but was unsure of how she was aware). She believes she complied with all "cooling off" requirements.

V. (U) Analysis

(U//FOUO) As an employee of NSA, did [redacted] have a covered relationship with [redacted]?

(U//FOUO) [redacted] testified that she had been employed by defense contractor [redacted] from 2005 until she became an NSA employee in January 2014. A review of her NSA Employee Profile confirms that she entered on duty with NSA on [redacted].

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(U//FOUO) As defined by 5 CFR Sec. 2635.502 *Personal and business relationships*, an employee has a covered relationship with any person for whom the employee has within the last year served as a contractor or employee. Based on this definition, [redacted] had established a covered relationship with [redacted] through January 2015.

(U//FOUO) Based on the covered relationship, did [redacted] have a personal or business relationship with [redacted] after she became a government employee that would have a direct and predictable effect on the financial interest of herself or [redacted]?

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(U//FOUO) Despite the fact that the complainant's testimony did not include any credible evidence that [redacted] was involved in matters affecting her former employer [redacted] or its interests, the IG thoroughly reviewed the matter to include collection of testimony and documentary evidence.

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(U//FOUO) A review of [redacted] unclassified and classified email accounts did not reveal any coordination or plan to maintain, or evidence of, any kind of relationship with [redacted] or its affiliates once she resigned from [redacted]. Additionally, the review did not reveal any evidence of contact or communication with any [redacted] affiliates after [redacted] resigned from [redacted] and began employment with NSA in January 2014. Finally, [redacted] testified that after her resignation from [redacted] she had no personal relationship with [redacted] or its affiliates and that her only business relationship or tie to [redacted] was ownership of a 401K retirement account created during her employment with [redacted].

(U//FOUO) [redacted] supervisor subsequent to her employment with NSA in January 2014, testified that [redacted] was not involved with the administration of contracts, that she did not have any contracting duties; she was not

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responsible for recommending contractors, processing invoices or securing any procurement with [redacted] He stated that all contracting oversight and responsibility was executed at the division level. Further, he stated that [redacted] was not a contracting officer's representative (COR) on the [redacted] contract.

VI. (U) Conclusion(s)

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(U//FOUO) Although [redacted] had established a covered relationship with former employer [redacted] for the first year of her employment with NSA, the IG did not uncover any evidence that [redacted] maintained either a personal or business relationship with [redacted]. Absent that relationship, we determined that [redacted] did not exert a direct or predictable effect on the financial interest of herself or [redacted].

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VII. (U) Recommendation(s)

(U//FOUO) In accordance with the information contained herein, this case should be closed.

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