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

To: for Chief, D14 [redacted] **Date:** 6 July 2016

From: [redacted]

Subject: [redacted] Labor Mischarging

File No: IV-16-0010

Precedence: Routine

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

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Details:

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I. (U) Background

(U//FOUO) On 3 August 2015, 26 October 2015 and 28 December 2015, the OIG received allegations that [redacted] may have billed more hours to an NSA contract than she actually performed. At the time of the allegation, [redacted] was an employee of [redacted] and assigned to the [redacted] contract, [redacted]. Prior to being contacted by the OIG, [redacted] resigned from her employment with [redacted] and began working for [redacted] on another NSA contract.

II. (U) Issue(s)

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

III. (U) Applicable Standard(s)

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

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

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- (B) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
 - (C) includes or is supported by any written statement that—
 - (i) omits a material fact;
 - (ii) is false, fictitious, or fraudulent as a result of such omission; and
 - (iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or
 - (D) is payment for the provision of property or services which the person has not provided as claimed, shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than \$5,000 for each such claim. Except as provided in paragraph (3) of this subsection, such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter to be in violation of the preceding sentence.
- (2) Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a written statement that –
- (A) the person knows or has reason to know—
 - (i) asserts a material fact which is false, fictitious, or fraudulent; or
 - (ii) (I) omits a material fact; and (II) is false, fictitious, or fraudulent as a result of such omission;
 - (B) in the case of a statement described in clause (ii) of subparagraph (A), is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and
 - (C) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty of not more than \$5,000 for each such statement.

IV. (U) Investigative Activity

A. (U) Document Review

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

(U//~~FOUO~~) Access Control records for [redacted] were obtained from Access Operations, Q123. The OIG compared [redacted] Access Control records and timesheets for the period covering 3 November 2014 to 30 October 2015. The analysis revealed 12 “no access days” ranging from .5 hours to 2 hours. Additionally, there were shortages resulting from mid-day gaps, both when she did not leave the “Big4 campus” and when she did; late arrivals and early departures. The initial analysis revealed 353 hours that [redacted] claimed on the [redacted] contract when she was not within Access Control spaces.

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

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

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

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

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

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

[Large redacted area]

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

(U//~~FOUO~~) [redacted] was provided an opportunity to review the OIG's analysis and provided written explanations for her absences from Access Control. She submitted a written statement that contained credible information, supported by witness testimony, that she performed contract related work at:

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(U//~~FOUO~~) Additionally, [redacted] wrote that she received numerous phone calls, pages and e-mails after-hours and that she was expected to be on-call 24 hours a day. Due to these credible justifications, the OIG was unable to determine whether any absences remained unaccounted for in the analysis.

B. (U) Interviews

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(U//~~FOUO~~) On 4 February 2016, [redacted] was interviewed and provided the following sworn testimony:

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(U//~~FOUO~~) [redacted] served as a System Administrator on the [redacted] contract from October 2014 until her resignation from [redacted] in January 2016. She is now employed by [redacted] on a different Agency contract. [redacted] was "shocked" and "caught off guard" by the OIG allegations because her integrity and work ethic has never been questioned before. She changed employers because [redacted] offered what she felt was a better opportunity to do work that she liked. She added that she is [redacted] and that there were significant amounts of stress in her previous position and that she was on-call, "24/7." [redacted] also stated that four people left the [redacted] contract in January 2016 because they were dissatisfied with contract management and the office environment.

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(U//~~FOUO~~) [redacted] was responsible for "everything" in her previous position. She performed the duties of a team of six people when the contract first began. She created policy and procedure documents, worked on programming, upgrades, fit-ups, and troubleshooting. She traveled to other NSA buildings, went on calls with technicians and performed after hours work at home. She was approved to work from home by [redacted] management, specifically [redacted]. She was issued a pager, phone and laptop by [redacted]. If she received a call before her arrival or after her departure, or performed other work at home, she added that to her work hours. She ate lunch at her desk and never included lunches or other breaks in her billable hours.

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

(U//~~FOUO~~) [redacted] is the Contracting Officer's Representative (COR) for the [redacted] contract. [redacted] joined the effort in October 2014 when [redacted] was awarded the contract. [redacted] is a Systems Administrator Level 2. She is responsible for programming servers and workstations in concert with the [redacted] [redacted] maintenance and troubleshooting. The majority of her work can be performed within NSA access control spaces, but she also performs tasks at new buildings that do not yet have access control. She is authorized and required to provide after-hours on-call support. There is not a call-log or record system for calls she may have received after hours. [redacted] also participated in weekly meetings which were held just outside of the access control turnstiles, in an office in [redacted]. The OIG analysis of [redacted] access control data compared to her hours submitted on the contract revealed 12 no-access days ranging from .5 hours to 2 hours. [redacted] felt that was a reasonable number of on-call hours for [redacted] to work in the course of a year.

(U//~~FOUO~~) [redacted] received complaints about [redacted] to include concerns about her work ethic and work hours. He reported the concerns to [redacted] management in approximately November 2014, but does not know if [redacted] took any action. Additionally, [redacted] has difficulty getting along with her coworkers. He noticed that she rarely arrives in the office at 0600 hours, but is usually gone by 1400 or 1430 hours, which has made him question whether she claimed more hours than she actually worked.

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

(U//~~FOUO~~) [redacted] estimated that [redacted] should have performed 90% of her job at her desk. She also worked building fit-ups, where there would not have been access control yet. He rated [redacted] performance "pretty high," and he had "no problem with her work ethic." He did feel that she "overstepped her bounds" a little bit and took on responsibilities and tasks that she was not asked to do.

(U//~~FOUO~~) On February 26, 2016, [redacted] System Administrator, was interviewed a second time and provided the following testimony.

(U//~~FOUO~~) Prior to the interview, she had the opportunity to thoroughly review the OIG spreadsheet provided to her during the previous interview. As discussed previously, [redacted] attended [redacted] and [redacted] meetings in the [redacted] [redacted]. She also went to the [redacted] to

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retrieve equipment. She stated that when records indicated that she left the buildings, but did not leave the campus through a pedestrian gate, those were likely areas where she was performing work related duties. Additionally, she noted times that she badged in through vehicle gates, which indicated that she was in an [redacted] vehicle and was working with a technician.

(U//~~FOUO~~) [redacted] identified additional locations she went where there were not [redacted] building fit-ups.

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

(U//~~FOUO~~) [redacted] was the Program Manager on site for the [redacted] contract from September 2014 to December 2015. The place of performance for the contract is at government facilities in the NSA local area and involved travel to other sites. [redacted] was responsible for overseeing all activities and staff on the contract. It was an effort that had up to 40 individuals assigned, but was understaffed and should have been staffed with up to 80 individuals.

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(U//~~FOUO~~) [redacted] was responsible for [redacted] at NSA facilities. [redacted] had assigned contract duties that she performed at several building fit-ups in the area. She also worked on-call hours where she provided support over the phone after-hours and occasionally had to report to work to troubleshoot issues. She received many of the after-hours calls because she lives closer to NSA than other personnel. On-call hours were billed to the contract under the same code as regular work hours, and there was no standardized routing or records for calls.

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(U//~~FOUO~~) [redacted] completed some paperwork tasks at home, and [redacted] was aware of that work. She was not required to do the work at home and [redacted] never discussed with [redacted] whether or not she was allowed to bill that time to the contract. [redacted] characterized [redacted] performance on the contract as average; "she tried to help, but we were just too short handed." When asked why [redacted] left the contract he stated "probably a lot of the same reason I did, these people [the government customer] are really extremely hard to work with... it was the worst job I ever had and I've been in this business for 42 years." He stated there was a lot of tension and animosity in the office towards contractors and "everybody got beat down pretty bad."

V. (U) Analysis

(U//~~FOUO~~) 31 U.S.C. § 3802 prohibits any person from making, presenting or submitting a claim that the person knows or has reason to know is false, fictitious, or fraudulent. Under applicable legal standards, a person "knowingly" makes a false statement

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whenever he or she acts with knowledge of its falsity or acts with reckless disregard of whether the statement is true.

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

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(U//~~FOUO~~) In addition to her duties in and around NSA facilities, [redacted] was required to take telephone calls on an on-call basis, and was frequently called because she lived closer to NSA W. than other personnel and could report to work, if necessary. This is supported by middle of the night arrivals evidenced in access control records, as well as witness testimony and contract documents. Because the on-call hours were charged to the same charge codes, and there are no standardized records for after-hours calls, the ~~OIG cannot distinguish on-call hours from other direct labor hours~~ [redacted] claimed. While [redacted] may have performed work out of scope, by working at her home, it is not possible for the ~~OIG to quantify such hours or distinguish any potentially fraudulent hours from hours that were performed at non-Access Control locations.~~ Based on the above, there is evidence to support that during the times [redacted] was outside of access control, she was conducting contract related duties, and there is insufficient evidence to indicate that she knowingly submitted false labor hours on an NSA contract.

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VI. (U) Conclusion(s)

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

VII. (U) Recommendation(s)

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

VIII. (U) OGC Concurrence (as appropriate)

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

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