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**NATIONAL SECURITY AGENCY/CENTRAL SECURITY
SERVICE**



**INSPECTOR GENERAL
REPORT OF INVESTIGATION**

27 May 2015

IV-14-0108

Alleged Violation of Impartiality

(U) This report might not be releasable under the Freedom of Information Act or other statutes and regulations. Consult the NSA/CSS Inspector General Chief of Staff before releasing or posting all or part of this report.

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(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.

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I. (U) SUMMARY

(U//FOUO) This investigation was conducted in response to a complaint alleging that [redacted] Senior Executive, [redacted] had direct involvement in Agency contracting activities with [redacted] a company that employed [redacted] sister, [redacted]. The complaint also alleged that [redacted] had "close ties" with [redacted] having attended annual [redacted] company picnics and that she "personally knows" both of the co-presidents of [redacted]

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(U//FOUO) After receiving the complaint, the OIG received a referral from the NSA Office of General Counsel (OGC), Administrative Law and Ethics practice group. This referral referenced a telephone conversation between an OGC attorney and [redacted] and concerns that [redacted] may have violated the "Impartiality Rule" by working on a contract award to the company for whom her sister worked. The referral stated that [redacted] told the OGC attorney that she would self-report her involvement with the [redacted] contract to the OIG.

(U//FOUO) Through witness testimony and document review, the OIG determined that [redacted] sister was an employee of [redacted] that [redacted] sister made [redacted] aware of the capabilities of [redacted] that [redacted] then made the Agency aware of the capabilities of [redacted] that [redacted] participated in pre-contract award discussions with [redacted] that [redacted] participated in performance discussions with [redacted] officials post-contract award, and that [redacted] was involved in approving funding for the contract with [redacted] on behalf of the Agency.

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(U//FOUO) 5 Code of Federal Regulations (CFR), Subpart A, Section 2635.101 (b)(8) requires employees to act impartially and not give preferential treatment to any private organization or individual. 5 CFR § 2635.502(a) prohibits employees from participating in a matter that is likely to have a direct and predictable effect upon the financial interest of a relative with whom the employee has a close personal relationship and where the participation would cause a reasonable person with knowledge of the relevant facts to question the employee's impartiality, unless authorization to participate has been received from the agency designee. NSA/CSS Personnel Management Manual, Chapter 366, Section 1-3 (G) requires employees to act impartially and not give preferential treatment to any private organization or individual. 5 CFR § 2635.101(b)(14) and NSA/CSS PMM Chapter 366 Section 1-2(J) require employees to avoid actions that would give the appearance of violating the law or regulations.

(U//FOUO) Based upon the preponderance of the evidence, the OIG concludes that [redacted] failed to act impartially toward, and gave preferential treatment to [redacted] by participating in Agency contracting activities with [redacted] who employed [redacted] sister in violation of 5 CFR § 2635.101(b)(8) and NSA/CSS PMM Chapter 366 Section 1-3(G). [redacted] actions included recommending [redacted] to the government, participating in pre and post contract award discussions with [redacted] officials, and approving funding for the government contract with [redacted]. [redacted] knew that her actions relative to the agency

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[redacted] never reported her involvement with the [redacted] contract to the OIG.

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contract with [redacted] were likely to have a direct and predictable effect on the financial interest of [redacted] and its employees, including [redacted] sister, yet she participated in the matter without informing the appropriate agency designee and getting prior authorization, in violation of 5 CFR §502(a). Finally, [redacted] activities related to the [redacted] contract created an appearance to other agency employees that she was violating the law or regulations requiring impartiality and prohibiting preferential treatment in violation of 5 CFR §2635.101(b)(14) and NSA/CSS PMM 366 Section 1-2(J).

(U//FOUO) A copy of this OIG report will be forwarded to MR, Employee Relations, and the Associate Directorate for Security and Counter Intelligence, (ADS & CI) for information and appropriate action.²

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² This report is classified ~~SECRET//NOFORN~~ due to the attachment at Appendix D.

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II. (U) BACKGROUND

(U) Introduction

(U//FOUO) [redacted] entered on duty with NSA on [redacted] [redacted] was assigned to the [redacted] office from June 2009 to February 2014. [redacted] initial assignment within this office was as the Deputy Chief. [redacted] became the Chief of the office in approximately December 2011. In February 2014 [redacted] was assigned to the position of [redacted]

(U//FOUO) The [redacted] office is within the [redacted] group and is responsible for the development of [redacted] in support of NSA's Computer Network Operations mission.

(S//NF) On 14 October 2011 NSA requested that [redacted] provide a fixed price, level of effort proposal. On 27 February 2012 [redacted] was awarded a firm fixed price, level of effort contract as a sole source small business set aside. The base contract amount was for [redacted] and there was one option year in the amount of [redacted]. The total amount of the contract was [redacted]. [redacted] was contracted to provide [redacted]

[redacted] This contract [redacted] was named [redacted]

(U//FOUO) [redacted] sister, [redacted] was employed as a software developer by [redacted] from approximately 2009 until summer 2013.

(U) Applicable Authorities

(U) The following authorities are applicable to this investigation. The details of the following authorities are included in Appendix A.

- (U) 5 Code of Federal Regulations, Subpart A, §§ 2635.101 (b) (8) and (b)(14)
- (U) 5 Code of Federal Regulations, Subpart E, § 2635.502 (a)
- (U) NSA/CSS Personnel Management Manual (PMM), Chapter 366, Sections 1-2(J) and 1-3 (G)

This page was modified from the original by changing the classification of the 3rd paragraph to ~~S//NF~~. [redacted] 13NOV2015

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III. (U) FINDINGS

~~(U//FOUO)~~ Issue: Did [redacted] fail to act impartially by involving herself in Agency contracting activities with [redacted]

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~~(U//FOUO)~~ CONCLUSION: Substantiated. The preponderance of the evidence supports the conclusion that [redacted] violated 5 C.F.R. §§ 2635.101 (b) (8) and (b) (14); 5 C.F.R. § 2635.502 (a) and the NSA/CSS PMM 30-2, Chapter 366, Sections 1-2(J) and 1-3 (G) by involving herself in Agency contracting activities with [redacted] a company that employed [redacted] sister.

(U) Documentary Evidence

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~~(U//FOUO)~~ NSA/CSS Contract [redacted] A review of this contract file shows that [redacted] was awarded a sole source small business 8(a) set aside firm fixed price, level of effort contract of [redacted] in the amount of [redacted]. The government received contract proposals from one company, [redacted] (Appendix B).

~~(U//FOUO)~~ Emails dated 24 August and 1 September 2011. On 24 August 2011 [redacted] sent an email to [redacted] NSA Acquisition Program Manager, regarding the contract proposal from [redacted]. On 1 September 2011 [redacted] was included on an email from [redacted] that contained their response to a request from [redacted] stating [redacted] wanted the work for the contract to be performed at the contractors designated location (Appendix C).

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~~(U//FOUO)~~ Email from [redacted] regarding the Agency's contract with [redacted]. On 14 February 2013 [redacted] sent an email to the NSA Contracting Officer and the Technical Contracting Officer's Representative in response to a cost analysis for the [redacted] contract. On 2 April 2013 [redacted] sent an email to the [redacted] Business Leader for the [redacted] contract to find out the risk to the contract deliverables in the event of a funding reduction due to sequestration. On 3 April 2013 [redacted] sent an email to the Technical Contracting Officer's Representative and the Technical Director for the [redacted] office, saying that she was "taking the money from some where else" to continue to fund the [redacted] contract. On 6 November 2013 [redacted] sent an email to the Business Manager for the [redacted] contract regarding the funding of a potential follow-on contract to [redacted] (Appendix D).

~~(U//FOUO)~~ Emails to [redacted] regarding the procurement process. On 9 December 2013 [redacted] received an email from [redacted] stating that she met with [redacted] to show him that all acquisition protocols were followed for the original award." Also on 9 December 2013 [redacted] received an email from [redacted] confirming that he had a conversation with [redacted] and did not believe that there was anything to be concerned about (Appendix E).

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(U//FOUO) Email from [redacted] regarding [redacted] last day of employment. On 21 April 2015, [redacted] told the OIG that [redacted] last day of employment with them was on [redacted]. (Appendix F).

(U) Testimonial Evidence

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(U//FOUO) [redacted] DISES, [redacted]

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(U//FOUO) [redacted] was interviewed on 6 May 2014 and 27 August 2014. [redacted] provided the following sworn testimony.

(U) 6 May 2014 Interview.

(U//FOUO) [redacted] has been in her current assignment since February 2014. For the previous five years she was assigned as the Deputy Chief, then Chief of the [redacted] office within [redacted].

(U//FOUO) [redacted] said that her sister, [redacted] resides with her and was employed by [redacted] as a software developer. Her sister had designed a tool on behalf of [redacted] that was being used on an [redacted] contract for the United States Census Bureau. [redacted] had heard some details about this tool from her sister and thought that the tool may have a use at the Agency. [redacted] recommended this software tool to co-workers within her office. She believes she mentioned this tool to [redacted] her former supervisor; [redacted] the Technical Director for [redacted] and others with whom she was working with at the time.

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(U//FOUO) [redacted] said that she met with [redacted] who was the business manager supporting [redacted] and told [redacted] that [redacted] had a product with a capability she wanted to bring to the Agency. She told [redacted] that her sister was a software developer for [redacted] but that her sister did not work in the area that would be covered by this effort. [redacted] believed that her sister was working on a different contract for [redacted] at the time. [redacted] told [redacted] that she should not be involved in the "contract part" of the effort with [redacted].

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(U//FOUO) [redacted] said that she attended pre contract award meetings on behalf of the government with [redacted]. She stated that she may have signed some contracting documents on behalf of the government with [redacted] and that all of the technical evaluations of the [redacted] product were done by [redacted] a member of the [redacted] office.

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(U//FOUO) In approximately October 2013, the new Contracting Officer's Representative for the [redacted] contract, [redacted] asked her if her sister was employed with [redacted]. [redacted] said that she told [redacted] that her sister had been employed with [redacted] but that she had left the company. [redacted] said that [redacted] suggested that she

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contact the NSA OGC or the OIG, she can't remember which, because of her sister having worked for [redacted] [redacted] said that she called either the NSA OGC or OIG; she can't remember which, and was told that if there was a reason to think something was wrong then she should call the OIG and self-report the matter. [redacted] said that prior to making a self-report, she received emails from [redacted] and [redacted] telling her that they saw no impropriety with her involvement in the [redacted] contract.

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(U//FOUO) [redacted] said that she met an [redacted] official at a [redacted] [redacted] on one occasion. [redacted] said that she and her sister have been [redacted] for years. [redacted] and her sister were [redacted] and her sister introduced her to an [redacted] official who happened to be attending the [redacted] [redacted] said that this was a brief encounter before the [redacted] and that she could only remember the person's first name. [redacted] said that this chance meeting took place before the award of the Agency contract with [redacted]

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(U//FOUO) [redacted] said that she attended a summer picnic sponsored by [redacted] on one occasion. [redacted] said that she went to this picnic at her sister's invitation. The picnic was held at a public park in Maryland. [redacted] said that she and her sister were at this picnic for about 30 minutes and then they left due to severe thunderstorms. [redacted] said that she attended this picnic prior to the award of the Agency contract with [redacted]

(U) 27 August 2014 Interview.

(U//FOUO) [redacted] said that her sister [redacted] was employed with [redacted] from approximately 2009 to summer 2013.

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(U//FOUO) [redacted] said that she was involved in funding decisions for the [redacted] contract. [redacted] said that she attended funding discussions on a quarterly basis along with someone from [redacted] contracting, the contract technical lead, the contracting officer's representative, and others involved with [redacted] [redacted] said that she made the decisions to fund [redacted]

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(U//FOUO) [redacted] said that she also attended progress meetings for [redacted]. The meetings were usually held on a quarterly basis at the contractor's facility. [redacted] said that other people attended these meetings with her. She recalled [redacted] from [redacted] attending as well as Agency employees from contracting, finance, project leaders, and members of her senior leadership team who would be using the [redacted]. [redacted] said that she and other government users of the [redacted] would tell the contractor what features they wanted included in or deleted from the [redacted]

(U//FOUO) [redacted] said that she called the Office of General Counsel after being asked if her sister had worked for [redacted]. [redacted] said that the person she talked with from OGC told

³ The OGC email to the OIG states: "I just took a call from [redacted]. She may have violated the Impartiality Rule in working on awarding a contract to the company for whom her sister worked at the time. The contract was awarded 2 years ago and it just came to her supervisor's attention that [redacted] sister worked there. She said she will be self reporting to your office, but I wanted to email you just in case."

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her that she could call the OIG and self-report her involvement with the [redacted] contract if she had any concerns about being involved in this contract. [redacted] said that shortly thereafter, she received an email from [redacted] the business manager who worked on the [redacted] contract award, that [redacted] had reviewed the original procurement process for the [redacted] contract and had concluded that all of the acquisition protocols had been followed. [redacted] said that she thought that this matter became a "non-issue" since she had received this information from [redacted] and was thirty days away from starting a new job in a different office.

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(U//FOUO) [redacted] said that she did not recall attending any social event sponsored by [redacted] beyond the one picnic she attended with her sister. Her office held an open house for her prior to starting her new job. The announcement and invitation was sent to the entire [redacted] email alias. The office had over one hundred contractors and many of those contractors attended the open house. She did not invite any particular contractor to this event.

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(U//FOUO) [redacted] DISL, Technical Director, [redacted]

(U//FOUO) [redacted] was interviewed on 5 September 2014 and provided the following sworn testimony.

(U//FOUO) [redacted] said that he was involved with the [redacted] contract from August 2011 through February 2014. He was responsible for establishing a statement of work, performing source selection review and performing quality control of the deliverables. [redacted] said that he does not know how [redacted] became known to the Agency. The contract with the Agency was a sole source, small business set-aside contract. [redacted] said that only one proposal was submitted for his review and that was the proposal submitted by [redacted]

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(U//FOUO) [redacted] said that [redacted] was his immediate supervisor while he was involved with the [redacted] contract until [redacted] left for her current assignment. [redacted] said that [redacted] was an active participant in the [redacted] contract. [redacted] said that [redacted] made decisions on the contract concerning features and deliverables, funding matters, contracting matters and that she participated in program reviews and project update meetings. [redacted] said that [redacted] was the "final authority" in adjudicating decisions regarding the [redacted] contract.

(U//FOUO) [redacted] said that in Fall 2011 or Spring 2012, [redacted] made a comment to him in passing that her sister worked for [redacted]. [redacted] said that [redacted] was not asking for advice, but merely made this comment in passing during one of their conversations. [redacted] said that this caused him to become "curious" as to whether [redacted] sister was working on the [redacted] contract. [redacted] said that he did not have any indication that [redacted] sister was supporting the [redacted] contract and he did not make any further inquiries on this matter.

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(U//FOUO) [redacted], GG-15, Chief, [redacted]

(U//FOUO) [redacted] was interviewed on 13 August 2014 and provided the following sworn testimony.

(U//FOUO) [redacted] said he was the Technical Contracting Officer's Representative for the [redacted] contract from approximately February 2013 until the contract ended in approximately January 2014. [redacted] said that he was responsible for providing technical taskings to the contractor, reviewing invoices, deliverables and reviewing requirements. [redacted] said that he did not have any involvement with the [redacted] contract until after it was awarded.

(U//FOUO) [redacted] said that the [redacted] contract was to develop a [redacted] software program and that [redacted] had come up with the initial idea for this tool. [redacted] said that [redacted] had a direct interest as a potential user once the [redacted] was created.

(U//FOUO) [redacted] said that [redacted] was "definitely involved" in the [redacted] contract after it had been awarded. [redacted] said that [redacted] was an "active decision maker" for this contract. [redacted] said that he attended meetings with [redacted] at her request, where he would provide updates on the progress of this contract to her. [redacted] said that, during these meetings, [redacted] would make decisions on what requirements would be included in the contract and that [redacted] would find organizational funding for those requirements. [redacted] said that he attended meetings with [redacted] and an [redacted] project manager, usually on a monthly basis or, at least quarterly, where [redacted] would provide input on the requirements and funding for [redacted].

(U//FOUO) [redacted] said that he thought that [redacted] relationship with [redacted] officials "didn't look good." [redacted] said that he saw [redacted] exchange a hug with the owner of [redacted] one time at the beginning of one of the [redacted] project meetings. [redacted] also heard [redacted] thank [redacted] for inviting her to an [redacted] company picnic. [redacted] said that he heard [redacted] tell [redacted] how much fun she had at this picnic.

(U//FOUO) [redacted] said that he had heard a rumor that [redacted] sister worked for [redacted]. [redacted] said that he did not know if this rumor was true. He did not ask [redacted] if her sister worked for [redacted].

(U//FOUO) [redacted], GG-14, Business Leader, [redacted]

(U//FOUO) [redacted] was interviewed on 21 August 2014 and provided the following sworn testimony.

(U//FOUO) [redacted] said that her duties as the Business Leader equates to "the one who keeps care of the checkbook" for contracts within [redacted]. [redacted] said that she started in this position in approximately 2011. [redacted] said that she became involved in the [redacted].

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contract after it had been awarded to [redacted] and remained involved with the [redacted] contract until it ended in approximately February 2014.

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(U//FOUO) [redacted] said that [redacted] had "direct involvement" in the [redacted] contract. [redacted] said that [redacted] requested and received quarterly briefings on the progress of this contract, was involved in making decisions about various aspects of this contract and that [redacted] directed and approved funding for this contract. [redacted] said that she attended various meetings regarding the [redacted] contract and saw [redacted] make these decisions.

(U//FOUO) [redacted] said that [redacted] routinely met with [redacted] who was the [redacted] project leader for the [redacted] contract. [redacted] said that these meetings were held to discuss what contract items would be funded by the government. [redacted] said that [redacted] relationship with [redacted] was such that [redacted] attended the office luncheon for [redacted] prior to [redacted] starting her new Agency assignment.

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(U//FOUO) [redacted] said that she had heard a rumor that [redacted] sister worked for [redacted] but that she did not have any information to confirm this rumor. [redacted] said that the [redacted] contract was the only contract [redacted] took an interest in although the [redacted] office had other, major contracts valued at millions of dollars.

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(U//FOUO) [redacted] GG-11, Project Manager, [redacted]

(U//FOUO) [redacted] was interviewed on 4 August and 30 October 2014 and provided the following sworn testimony.

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(U//FOUO) [redacted] said that he was the lead administrative Contracting Officer's Representative for the [redacted] contract from January 2012 through mid-July 2014. His duties included contract management, monitoring contract performance, deliverables and payments. This contract was issued through the [redacted] office and that [redacted] was a division chief within that office.

(U//FOUO) [redacted] said that in approximately January 2014, he had heard a rumor that [redacted] had a sister who had worked for [redacted]. After hearing this, he looked through the [redacted] contract file and found an email from a [redacted] an [redacted] employee pertaining to the [redacted] contract. [redacted] said that he then asked [redacted] if she had a sister who worked for [redacted]. [redacted] said that [redacted] told him that she did have a sister who was employed with [redacted] but that this sister no longer worked for that company. [redacted] said that he suggested to [redacted] that there may be an ethics issue due to her sister having worked for a company that the Agency contracted with and that she should contact the NSA Office of General Counsel for ethics advice. [redacted] said that he did not have any further discussions about this matter with [redacted].

(U//FOUO) [redacted] said that he did not personally witness [redacted] having any direct involvement with the [redacted] contract. He said that the only evidence he had that there may have

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been an ethics issue was the one email he found in the [redacted] contract file from [redacted] sister, and [redacted] confirmation that her sister did work for [redacted]

(U//FOUO) [redacted] said that the [redacted] contract was a small business minority set-aside, sole-source contract to [redacted] [redacted] said that the [redacted] contract was relatively small in value and that the Agency is always looking to meet minority contracting goals. [redacted] said that the [redacted] contract has one outstanding invoice and will then be sent for closeout. [redacted] said that this contract is not being renewed because of a lack of funding.

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(U//FOUO) [redacted] said that he sent an email to [redacted] on 9 December 2013 wherein he told her that he did not "feel" as if there was any "wrong doing or anything to be concerned about" with the [redacted] contract. [redacted] said that, at the time he sent this email, he did not have any evidence that [redacted] was involved in the [redacted] contract. The only information that he had was a confirmation from [redacted] that her sister, [redacted] had at one time been an employee of [redacted]. The acquisition chief for [redacted] had told him that [redacted] was not involved in the awarding or supervision of the [redacted] contract and that the performance on the contract was being handled by [redacted] and [redacted]. He had promised [redacted] that he would get back to her after he looked into the degree of involvement she and her sister had with the [redacted] contract and, based upon the information that he could gather in December 2013, he thought that [redacted] sister's employment with [redacted] was a "non issue."

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(U//FOUO) [redacted] GG-14, Chief, [redacted]

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(U//FOUO) [redacted] was interviewed on 8 August 2014 and provided the following testimony.

(U//FOUO) [redacted] said that she was the deputy division chief for acquisition for the [redacted] group from June 2012 through October 2013. The [redacted] contract had already been issued when she started supporting [redacted] contracts. The contract with [redacted] was a small business contract.

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(U//FOUO) [redacted] said that she had heard a rumor that [redacted] had a sister who worked for [redacted]. She did not have any evidence to verify this rumor and could not recall who brought this matter to her attention. [redacted] said that it was out of "fear" that no one asked [redacted] about this rumor. [redacted] was viewed as a "tyrant" by the workforce who would "go on rants." She had a "very strong personality" and that "people were afraid of her."

(U//FOUO) [redacted] said that the Agency's contract with [redacted] should never have been awarded had it been disclosed that [redacted] had a sister who worked for [redacted]. NSA contracting should have been notified of the familial relationship and that an ethical breach would have occurred. Even if [redacted] was not directly involved in the contract, [redacted] supervised all of the government personnel who had oversight of the contract and the performance of [redacted] for this contract.

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

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

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

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

(U//FOUO) [redacted] GG-12, Staff Officer, [redacted]

(U//FOUO) [redacted] was interviewed on 5 August 2014 and provided the following sworn testimony.

(U//FOUO) [redacted] said that she was the business manager for the [redacted] [redacted] from approximately 2009 to June 2013. [redacted] said that the contract with [redacted] was very small in relation to the other contracts that she handled. The contract with [redacted] was a service contract that was issued as a sole-source to meet Agency small business set-asides.

(U//FOUO) [redacted] said that while working on the [redacted] contract, she had heard a rumor that [redacted] had a sister who worked for [redacted] [redacted] said that she did not have any information to confirm this rumor, that she did not know how this rumor started, and thought that it would have been inappropriate for her to make inquiries about [redacted] based solely upon a rumor.

(U//FOUO) [redacted] said that she thinks that [redacted] became known to the Agency by [redacted] bringing [redacted] to the attention of [redacted] who was the business manager chief for the [redacted] group. There would not have been any other way for [redacted] to have heard about such a small company [redacted] had a habit of going directly to individual managers when she wanted to get something done. She thinks that [redacted] went directly to [redacted] and instructed her to initiate contact with [redacted]

(U//FOUO) [redacted] said that she was not aware of [redacted] having any direct involvement in contract discussions or negotiations with [redacted] [redacted] said that there was one occasion where someone from [redacted] sent an email about the Statement of Work and included [redacted] on distribution. After that email was sent, [redacted] was contacted by [redacted] and was told that [redacted] was not to be included on emails about this contract or have any involvement in the [redacted] contract. [redacted] said that she did not know why [redacted] was supposed to be kept out of [redacted] discussions.

(U//FOUO) [redacted] GG-14, Deputy Chief, [redacted]

(U//FOUO) [redacted] was interviewed on 11 August 2014 and provided the following sworn testimony.

(U//FOUO) [redacted] said that she was the acquisition chief for [redacted] at the time the Agency contracted with [redacted] [redacted] said that her duties included the oversight of all contract acquisitions for the [redacted] group. [redacted] said that the [redacted] contract was to develop [redacted]

[redacted] said that the acquisition process identified three companies that could provide this

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(b) (3) - P.L. 86-36
Release 2022-8

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

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

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IV-14-0108

product but that she is not aware how [redacted] was ultimately awarded this contract [redacted] said that the allegation that [redacted] directed the [redacted] contract to be a sole-source to [redacted] is a "false statement." [redacted] said that she was involved in the contracting process and that a market survey was conducted. [redacted] said that the acquisition process was conducted with "integrity."

(U//FOUO) [redacted] said that [redacted] made the Agency aware of [redacted] and their capability to provide this [redacted] service. [redacted] had input during pre-solicitation meetings with [redacted] company officials and was also included on and provided input to various emails between NSA and [redacted] officials prior to the contract being awarded.

(U//FOUO) [redacted] said that [redacted] told her that she [redacted] had a sister working for [redacted] [redacted] said that she contacted the owner of [redacted] who confirmed that [redacted] was employed with [redacted] then told the [redacted] official that [redacted] could not have any involvement with the [redacted] contract, as this would create a conflict of interest. [redacted] received assurances from the [redacted] official that [redacted] would not support the [redacted] contract. Based upon this assurance and the fact that the contract with [redacted] contained the standard conflict of interest clause, she did not think that there was a breach of contract. She did not think that she needed to report the family connection between [redacted] and [redacted] to anyone.

(U//FOUO) [redacted] said that she did not suggest to [redacted] that she seek ethics advice from the NSA Office of General Counsel. From a contracting perspective, there didn't seem to be a problem because [redacted] had disclosed that her sister worked for [redacted] and an [redacted] official assured her that [redacted] the sister, would not be working on this contract. [redacted] said that there are many Agency employees who have family members who work for contractors and the Agency has contracts with the companies that employ those family members. [redacted] said that there is no contractual conflict of interest as long as the family member does not support a contract within the same organization that employs the other family member.

(U//FOUO) [redacted] GG-13, [redacted]

(U//FOUO) [redacted] was interviewed on 4 December 2014 and provided the following sworn testimony.

(U//FOUO) He was the Contracting Officer for the [redacted] contract prior to this contract being awarded and was the first Contracting Officer for this contract post-award. He was involved with the [redacted] contract from approximately November 2011 to June 2012, at which time this contract was reassigned to a new Contracting Officer [redacted]

(U//FOUO) A Market Survey was not conducted prior to the award of the [redacted] contract. A Market Survey was not required as this contract amount was under \$5M and was being sole-sourced as a small business set-aside contract.

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

(U//FOUO) [redacted] GG-13, [redacted]

(U//FOUO) [redacted] was interviewed on 4 December 2014 and provided the following sworn testimony.

(U//FOUO) [redacted] currently has Contracting Officer authority for contracts under \$25 Million and has Contracting Specialist authority for contracts over \$25 Million.

(U//FOUO) [redacted] was the Contracting Specialist for the [redacted] contract prior to this contract being awarded. He was the Contracting Specialist for the [redacted] contract from approximately November 2011 to September 2012.

(U//FOUO) As the Contracting Specialist for the [redacted] contract, he would have known if a Market Survey was conducted. A Market Survey was not conducted for the [redacted] contract. A Market Survey was not required as the contract amount was under \$5 Million and the award was being processed as a small business set-aside contract.

(U//FOUO) [redacted] GG-14, Chief, [redacted]

(U//FOUO) [redacted] was the Contracting Officer for the [redacted] contract from approximately December 2012 until the [redacted] contract ended in approximately April 2014. On 4 December 2014 [redacted] was asked to review the [redacted] contract file to determine if a Market Survey was conducted by the Agency prior to the [redacted] contract being awarded to [redacted]. [redacted] review of the contract file failed to show any evidence of a Market Survey being conducted by the Agency prior to the contract being awarded as a sole source, small business set aside.

(U//FOUO) [redacted] DISES, Chief, [redacted]

(U//FOUO) [redacted] was contacted via email due to being located at a remote NSA facility [redacted]. [redacted] agreed to answer questions submitted to him by the OIG via secure email. On 3 April 2015 [redacted] responded to the OIG and affirmed that his answers were true to the best of his knowledge.

(U//FOUO) [redacted] was the chief of the [redacted] office from [redacted] to [redacted]. He was "aware of the contract [redacted] during the period up to the end of my tour." [redacted] had "no direct involvement" with the [redacted] contract but "was briefed on the process regularly."

(U//FOUO) [redacted] heard about [redacted] through a conversation with [redacted]. "As I remember the conversation, she told me about a capability (software) that [redacted] developed for another company. I don't remember her "recommending" [redacted] in the sense of hiring them. It was more that she recommended we see what capability they have and if it would work for us." [redacted] recalled this conversation with [redacted] taking place "around a year" before the contract with [redacted] was signed. [redacted] does not remember [redacted] recommending a product capability review from any other company.

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

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

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

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

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

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

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(U//FOUO) [redacted] was asked if he remembered [redacted] having any participation in any aspect of the [redacted] contract, such as meetings, discussions and product evaluations. [redacted] recalled that [redacted] "did participate with the contracts office in discussions" regarding the [redacted] contract while he was the chief of the [redacted] office.

(U//FOUO) [redacted] told him that her sister [redacted] was employed with [redacted] "I think the first time she described the software she told me her sister worked at the company but was leaving in the next few months. I don't remember what I said to her about her sister. I would most likely have said to declare her sister to the contracts people although I don't remember, for sure. I am pretty certain she did talk to the contracting office about it. I was aware of her sister's affiliation with the company. It is my belief that all the appropriate people in the [redacted] contracting office were also aware and therefore took the appropriate measures [to] eliminate any conflict of interest. At no time did anyone suggest that we might have an issue."

(U) ANALYSIS AND CONCLUSION

(U//FOUO) 5 CFR § 2635.101(b)(8) and NSA/CSS PMM, Chapter 366, Section 1-3 (G), require employees to act impartially and not give preferential treatment to individuals or organizations. Agency Office of General Counsel guidance on preferential treatment cautions employees that "[n]o outside party has a unique entitlement to a relationship with the Agency, and any appearance of such a relationship could be detrimental to the Agency by leading to consternation, or even ill-will, from competitors of the favored entity."⁴

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

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

(U//FOUO) While her sister was employed with [redacted] [redacted] became aware of an [redacted] product, through discussions with her sister [redacted] testified that [redacted] "had a capability that they had developed . . . that I wanted to try to get in. So what I did was, I called someone else from the company and had them come in." Rather than informing the agency of this desired capability or tool (that she knew of only due to her sister's employment with [redacted] and then allowing the agency's procurement process to obtain the capability or tool, [redacted] told her supervisor, her division's Technical Director, and Agency contracting officials about the existence of [redacted] and their specific product. [redacted] then asked that Agency contracting representatives contact [redacted] so that the government could solicit a proposal from [redacted]. [redacted] did not suggest any other company to Agency contracting officials nor was any market survey done to determine whether this capability or product was available from any other company. [redacted] actions were responsible for [redacted] receiving a contract with a total value of more than [redacted], with no other company being given a similar opportunity. Therefore, [redacted] provided preferential treatment to [redacted] in violation of 5 CFR § 2635.101(b)(8) and NSA/CSS PMM, Chapter 366, Section 1-3 (G).

(U//FOUO) 5 CFR § 2635.502 states that:

⁴ Preferential Treatment - Summary of Rules, [redacted]

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

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

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

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

(U//FOUO) The contract between NSA and [redacted] was a particular matter involving specific parties. Awarding a contract with a total value of more than [redacted], then ensuring it gets and remains funded will have a direct and predictable effect⁵ on [redacted] a small business, as well as its employees - including [redacted] sister. [redacted] sister is both a member of her household and a person with whom she has a covered relationship. A reasonable person with knowledge of the relevant facts would question [redacted] impartiality in the matter - therefore [redacted] should not have participated in the matter without informing the agency designee and receiving authorization - which she did not do. [redacted] did inform her supervisor and [redacted] that her sister worked for [redacted], although neither is the agency designee. [redacted] admitted that she was warned by [redacted] to not have anything to do with the "contract part" because [redacted] sister worked for [redacted] but [redacted] did not follow this advice. Multiple witnesses testified that [redacted] was actively involved in the matter including making decisions concerning features and deliverables, funding matters, and contracting matters and that she participated in program reviews and project update meetings.

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

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

(U//FOUO) The Agency ultimately entered into a sole source contract for over [redacted] with [redacted] a small business. Although [redacted] testified that the Agency conducted a market survey prior to contract award and that the [redacted] contract was competed, she could provide no documentary evidence to support her claim. The Contracting Officer [redacted] and the Contracting Specialist [redacted] both testified that a Market Survey was not conducted. Further, the [redacted] contract file was reviewed by another Contracting Officer [redacted] who was involved with the [redacted] contract. This additional review found no evidence that a Market Survey was ever conducted at any time during the life of this contract. Witness testimony from [redacted] and [redacted] also supports the fact that the Agency's contract with [redacted] was not competed.

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

(U//FOUO) Despite [redacted] warning to [redacted] that she should not be involved in the contract, [redacted] was actively involved. She approved funding for the contract, reviewed and approved deliverables, was described as the "final" Agency authority on decisions regarding this contract, and ensured that the [redacted] contract funding would not be affected by potential budget cuts related to sequestration. Additionally, email evidence shows that [redacted] sister, [redacted] had direct involvement in [redacted] contracting efforts with the Agency.

(U//FOUO) [redacted] testified that she relied upon the conclusions reached by [redacted] and [redacted] regarding any potential ethics violation on her part (see Appendix E) [redacted]

⁵ See 5 C.F.R. § 2635.402(b)(1)

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

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

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

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

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IV-14-0108

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

[redacted] did question [redacted] about having a relative working for [redacted] and suggested to her that she seek ethics advice, but this didn't occur until months after [redacted] sister stopped working for [redacted] and after all of the contracting actions initiated and approved by [redacted] were completed. Although [redacted] testified that the procurement process was conducted with "integrity", another witness testified to receiving direction from [redacted] that [redacted] was not to be involved in matters relating to the [redacted] contract after [redacted] was included on an email regarding that contract. Contrary to [redacted] belief, a market survey was not conducted and the [redacted] contract was a sole source award.

(U//FOUO) Based upon the preponderance of the evidence, the OIG concludes that [redacted] failed to act impartially toward, and gave preferential treatment to [redacted] by participating in Agency contracting activities with [redacted] who employed [redacted] sister, in violation of 5 CFR § 2635.101(b)(8) and NSA/CSS PMM Chapter 366 Section 1-3(G). [redacted] actions included recommending [redacted] to the government, participating in pre and post contract award discussions with [redacted] officials, and approving funding for the government contract with [redacted]. [redacted] knew that her actions relative to the agency contract with [redacted] were likely to have a direct and predictable effect on the financial interest of [redacted] and its employees, including [redacted] sister, yet she participated in the matter without informing the appropriate agency designee and getting prior authorization, in violation of 5 CFR § 502(a). Finally, [redacted] activities related to the [redacted] contract created an appearance to other agency employees that she was violating the law or regulations requiring impartiality and prohibiting preferential treatment in violation of 5 CFR § 2635.101(b)(14) and NSA/CSS PMM 366 Section 1-2(J).

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

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

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

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IV. (U) RESPONSE TO TENTATIVE CONCLUSION

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

(U//FOUO) The OIG's Tentative Conclusion was sent to [redacted] on 22 January 2015. [redacted] response to the OIG's Tentative Conclusion, which she provided on 12 February 2015, is attached at Appendix G.

(U//FOUO) In summary, [redacted] disagreed with the tentative conclusions, stating that she notified the appropriate personnel, including her supervisor and the BA/Acquisition and Contracting specialist, of her sister's employment with [redacted] and then recused herself from matters relating to the contract. She also stated that she was not required to, nor did she, make any funding decisions on the contract until March 2013, which was [redacted] after her sister departed [redacted]. Finally, she asked that we interview [redacted] which we did.

(b) (6)

(U//FOUO) As indicated in the report, however, testimony received from multiple witnesses and [redacted] herself demonstrate that she had not recused herself and played a significant role in the contract and funding processes. Furthermore, [redacted] sister worked for [redacted] until [redacted] - a fact that [redacted] testified to during her interviews and confirmed by [redacted]. The email attachment at Appendix D shows that [redacted] was involved in the funding of the [redacted] contract in April 2013. The information provided by [redacted] was consistent with other testimony we received.

(U//FOUO) In conclusion, [redacted] response to the tentative conclusions did not provide any information that resulted in a change to our findings.

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

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

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IV-14-0108

V. (U) CONCLUSION

(U//FOUO) The preponderance of the evidence supports the conclusion that [redacted] failed to act impartially by involving herself in Agency contracting activities with [redacted] a company that employed [redacted] sister. We found that [redacted] actions were in violation of 5 C.F.R., Subpart A, § 2635.101 (b) (8) (14); 5 C.F.R., Subpart E § 2635.502 (a) and the NSA/CSS PMM 30-2, Chapter 366, Section 1-3 (G).

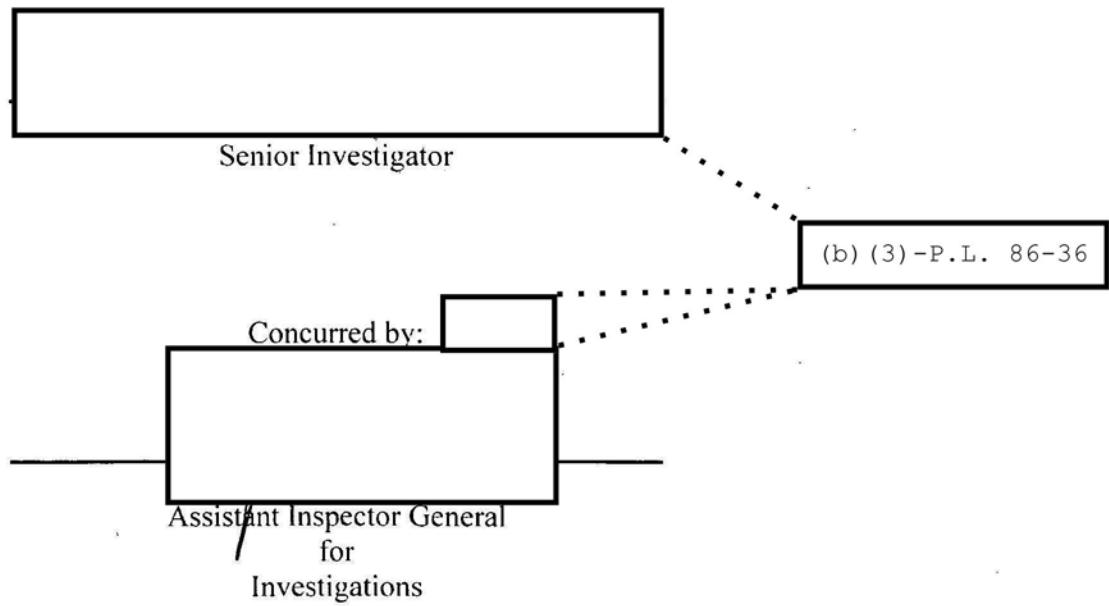
(b) (3) - P.L. 86-36
(b) (6)

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

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VI. (U) DISTRIBUTION OF RESULTS

(U//FOUO) This report of investigation will be provided to M/ER and the Associate Directorate for Security and Counter Intelligence for information and appropriate action.



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IV-14-0108

Appendix A

Applicable Authorities

(U) 5 Code of Federal Regulations, Subpart A, § 2635.101 (b)

(8) (U) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(14) (U) 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) 5 Code of Federal Regulations, Subpart E, § 2635.502 (a)

(U) Considerations 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 a matter, and where the employee determines that the circumstance 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 receive authorization from the agency designee in accordance with paragraph (d) of this section.

(U) NSA/CSS Personnel Management Manual (PMM) 30-2, Chapter 366

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

(U) Generally, every employee is expected to:

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

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~~SECRET//NOFORN~~

IV-14-0108

Appendix B

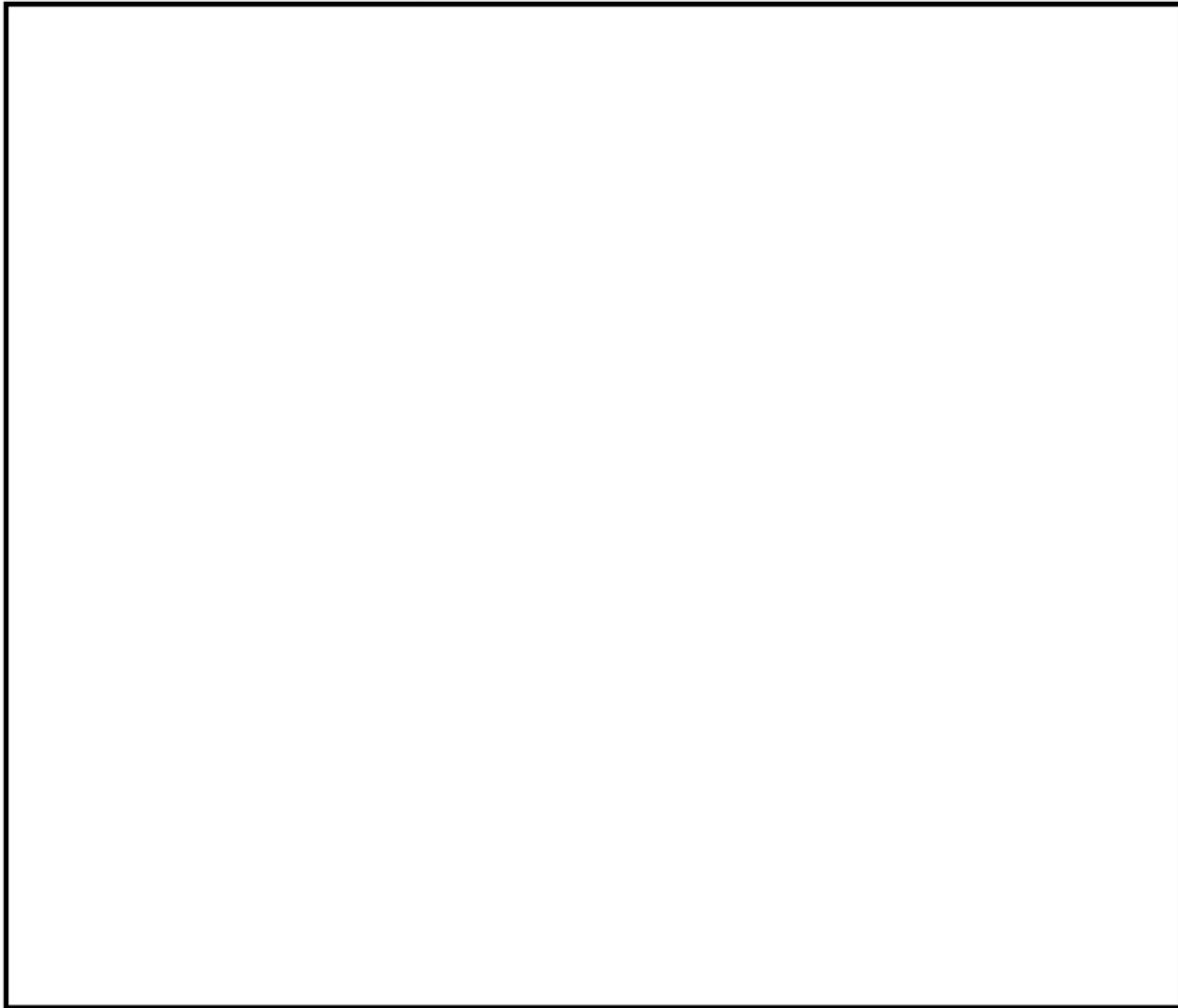
(U//~~FOUO~~) NSA/CSS Contract Documents

~~SECRET//NOFORN~~

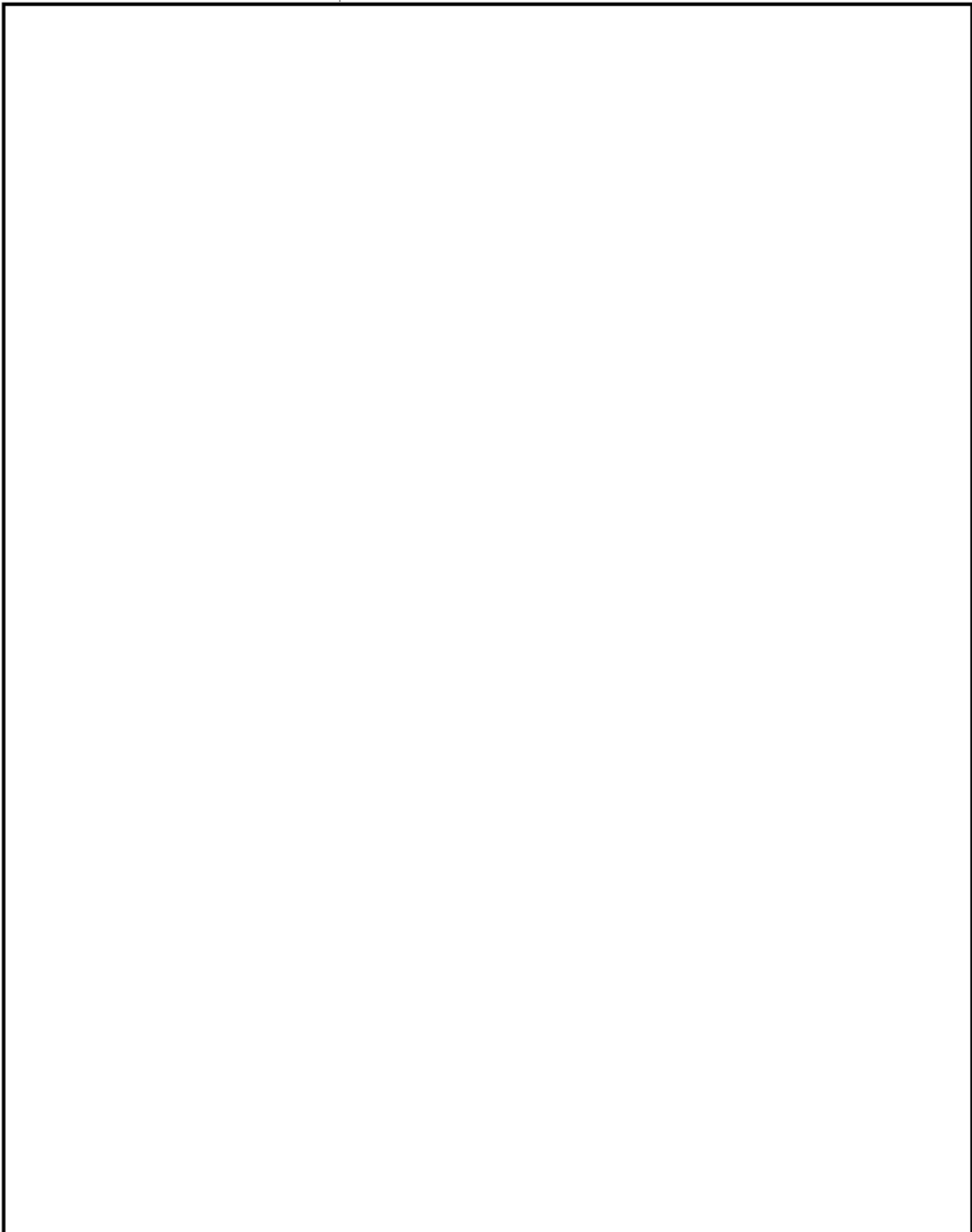
~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~

(b) (3) - P.L. 86-36
(b) (4)

CONTRACTING OFFICER'S DETERMINATION
OF
REASONABLENESS OF PRICE



~~UNCLASSIFIED//FOR OFFICIAL USE ONLY~~



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IV-14-0108

Appendix C

(U//~~FOUO~~) Emails regarding [redacted] involvement

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

~~SECRET//NOFORN~~

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

[Redacted]
From: [Redacted]
Sent: Thursday, September 01, 2011 5:59 PM
To: [Redacted]
Subject: FW: Voicemail left
Attachments: [Redacted]

[Redacted]

(b) (3) - P.L. 86-36
(b) (4)

From: [Redacted]
Sent: Thursday, September 01, 2011 7:24 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Voicemail left

[Large Redacted Area]

[Redacted]

From: [Redacted]
Sent: Wednesday, August 24, 2011 12:00 PM
To: [Redacted]
Subject: Fw: Voicemail left

(b) (3) -P.L. 86-36
(b) (4)

[Redacted] Please see the update proposal that was sent early this morning

Sent from my Verizon Wireless BlackBerry

From: [Redacted]
Date: Wed, 24 Aug 2011 08:22:02 -0400
To: [Redacted]
Reply To: [Redacted]
Cc: [Redacted]
Subject: RE: Voicemail left

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

[Redacted]

From: [Redacted]
Sent: Tuesday, August 23, 2011 11:30 AM

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

To: [redacted]
Cc: [redacted]
Subject: RE: Voicemail left

From: [redacted]
Sent: Tuesday, August 23, 2011 11:28 AM
To: [redacted]
Cc: [redacted]
Subject: Re: Voicemail left

Is there a number I can reach you on

[redacted]

(b) (6)

[redacted]

Please consider the environment before printing this e-mail

From: [redacted]
Date: Tue, 23 Aug 2011 11:28:10 -0400
To: [redacted]
Cc: [redacted]
Subject: RE: Voicemail left

[redacted]

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

From: [redacted]
Sent: Tuesday, August 23, 2011 8:43 AM
To: [redacted]
Cc: [redacted]
Subject: Re: Voicemail left

Good morning [redacted]

(b) (3) - P.L. 86-36
(b) (4)

What's a good time to catch you. I'd like to call you and discuss this request

[redacted]

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

[Redacted]

(b) (6)

[Redacted]

[Redacted]

Please consider the environment before printing this e-mail

(b) (3) - P.L. 86-36
(b) (4)

From: [Redacted]

Date: Tue, 23 Aug 2011 08:39:33 -0400

To: [Redacted]

Cc: [Redacted]

Subject: RE: Voicemail left

[Redacted]

From: [Redacted]

Sent: Monday, August 01, 2011 7:10 PM

To: [Redacted]

Cc: [Redacted]

Subject: FW: Voicemail left

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

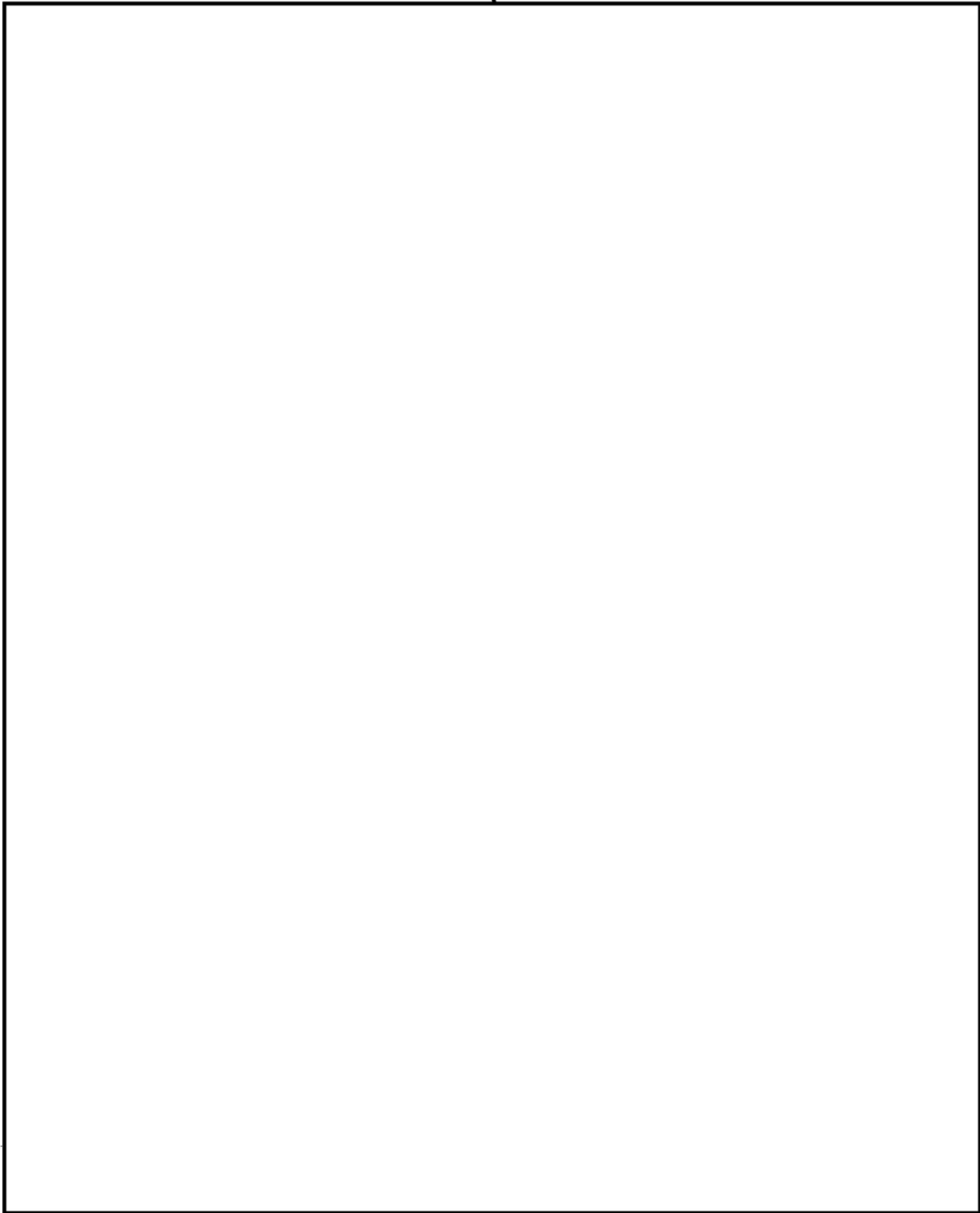
[Redacted]

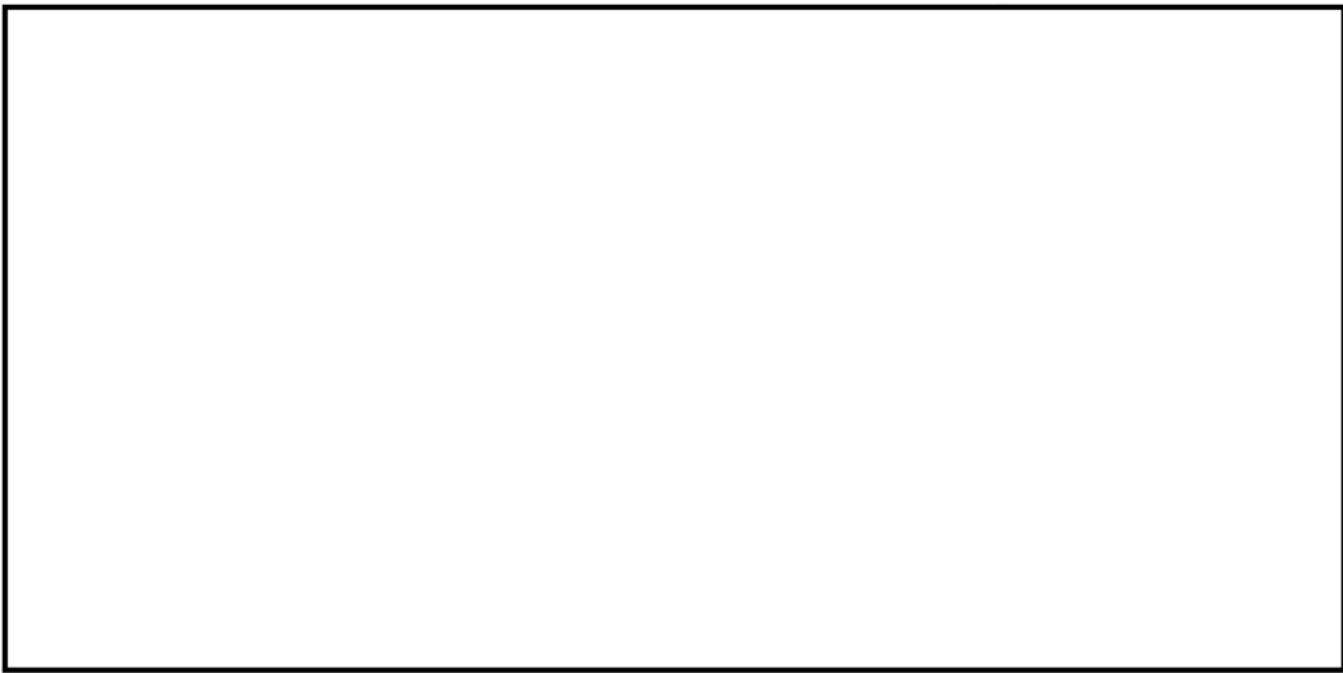
Please find the response to the questions submitted on Thursday. If you have questions, or would like clarifications, please don't hesitate to call me.

[Redacted]

(b) (3) - P.L. 86-36
(b) (4)

(b) (3) - P.L. 86-36
(b) (4)





- Original Message -

From: [redacted]
Sent: Friday, July 15, 2011 5:41 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Voicemail left

(b) (3)-P.L. 86-36
(b) (4)

[redacted]

Please find the Draft SDW.

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

Question:
Where is [redacted] SCIT located?
Can we also get site tickets for [redacted]

[redacted]

(b) (6)

[redacted]

[redacted]

This electronic message transmission contains information from the consulting firm of [redacted] which may be confidential or privileged.

The information is intended to be for the use of the individual or entity named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited.

Please consider the environment before printing this e-mail.

- Original Message -

From: [redacted]
Sent: Friday, July 15, 2011 11:27 AM
To: [redacted]
Cc: [redacted]
Subject: RE: Voicemail left

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

(b) (3)-P.L. 86-36
(b) (4)

[Redacted]

yet started initiating the contract.
My business manager, [Redacted] will be facilitating the process from here.

Also, we need answers to a couple of questions

1. Can you confirm that your company has an approved accounting system? I believe you said yes at our last meeting.
2. Please confirm that your company will not require permanent desk space while completing this task? Per our last meeting, I believe [Redacted] is tasked to complete the portal at your facility and then deliver to the government. Is that correct?

Please provide your responses as soon as possible. We have a meeting with the Contracts Office at 12:30pm today, and I would like to have these answers available.

Thanks!

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

[Redacted]

Original Message

From: [Redacted]
Sent: Thursday, July 14, 2011 1:55 PM
To: [Redacted]
Subject: Voicemail left

[Redacted]

Just following up per our conversation yesterday, it is 2pm, and I haven't received a call from [Redacted] as of yet.

[Redacted]

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

[Redacted]

(b) (6)

[Redacted]

Please consider the environment before printing this e-mail.

~~SECRET//NOFORN~~

IV-14-0108

Appendix D

(U//~~FOUO~~) Emails regarding involvement

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

~~SECRET//NOFORN~~

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

[Redacted]

From: [Redacted]
Sent: Wednesday, April 03, 2013 8:32 AM
To: [Redacted]
Cc: [Redacted]
Subject: RE: (U) [Redacted]

Follow Up Flag: Follow up
Flag Status: Flagged

Classification: ~~SECRET//NOFORN~~

Not to worry, I am taking the money from some where else

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

[Redacted]

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

From: [Redacted]
Sent: Tuesday, April 02, 2013 4:31 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: (U) [Redacted]

[Redacted]

[Redacted] Hopefully the above can help you answer [Redacted] question. What I don't know (with [Redacted] but) is how much you did have before the proposed [Redacted]

I labeled the [Redacted] because I forget what number we are currently on.

[Redacted]

(U//FOUO)

[Redacted]

717-4133s, [Redacted]

[Redacted]

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

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

From: [redacted]
Sent: Tuesday, April 02, 2013 1:02 PM
To: [redacted]
Cc: [redacted]
Subject: (U) [redacted]
Importance: High

Classification: ~~SECRET//NOFORN~~

[redacted]
Because of sequestration, we may [redacted] I need you to lay out the risk and/or what will not get done if we have to take this [redacted]
The Options year is still a work in progress.

Thx. [redacted]

[redacted]

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

Classified By: [redacted]
Derived From NSA/CSSM 1-52
Dated 20070108
Declassify On ~~20380401~~

Classification: ~~SECRET//NOFORN~~

Classified By: [redacted]
Derived From NSA/CSSM 1-52
Dated: 20070108
Declassify On ~~20380401~~

Classification: ~~SECRET//NOFORN~~

Classified By: [redacted]
Derived From NSA/CSSM 1-52
Dated 20070108
Declassify On ~~20380401~~

Classification: ~~SECRET//NOFORN~~

[Redacted]

From: [Redacted]
Sent: Thursday, February 14, 2013 8:31 AM
To: [Redacted]
Cc: [Redacted]

Subject: RE: (U) [Redacted] Cost Analysis
Categories: ACTION

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

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

Thanks [Redacted]
I think I understand better now. I will talk to [Redacted] and [Redacted] as soon as she get back off leave and make a decision of where we want to go from here.

[Redacted]

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

From: [Redacted]
Sent: Tuesday, February 12, 2013 4:29 PM
To: [Redacted]
Cc: [Redacted]

Subject: RE: (U) [Redacted] Cost Analysis

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

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

Good afternoon [Redacted]

I verified some of the history of this contract with [Redacted] since I only began working on [Redacted]

[Redacted]

[Redacted] We just aren't able to extend it further.

[Redacted]

[Redacted] I hope this information is helpful, please let me know if you have further questions.
Thank you

v/c,
[Redacted]

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

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

[Redacted]

From: [Redacted]
Sent: Tuesday, February 12, 2013 12:56 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: (U) [Redacted] Cost Analysis
Importance: High

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

[Redacted] is on leave today and tomorrow. So could you help me understand

- Base year CANNOT be extended past 31 March
- The options year can ONLY go until 31 Dec?
- Highlight in pink - I do not understand. Could you please clarify

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

Thanks

[Redacted]

From: [Redacted]
Sent: Tuesday, February 12, 2013 8:03 AM
To: [Redacted]
Cc: [Redacted]
Subject: RE: (U) [Redacted] Cost Analysis

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

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

Good morning [Redacted]

Yes, the base year can't go past 31 March, because the [Redacted]

[Redacted]

[Redacted]

From: [Redacted]
Sent: Tuesday, April 02, 2013 3:34 PM
To: [Redacted]
Subject: (U) [Redacted] - what's next

Follow Up Flag: Follow up
Flag Status: Flagged
Categories: TO DOs

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

Classification: ~~CONFIDENTIAL//NOFORN~~

I talked to [Redacted] today about laying out my options for getting additional contract time out of [Redacted] I know the current option year takes us well into FY14, but what are my options to keep them on for an additional 6-12 months.

Please reach out to him and understand those options. As we start planning out FY14 spend plan - I do not want to lose that fact that we may need [Redacted] to do some maintenance/changes/bug fixes. Because the option year now is really much more of a development year.

So please work with [Redacted] to get my Options laid out and defined.
thanks

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

[Redacted]

Classified By: [Redacted]
Derived From: NSA/CSSM 1-52
Dated 20070108
Declassify On ~~20380401~~

Classification: ~~CONFIDENTIAL//NOFORN~~

[Redacted]

From: [Redacted]
Sent: Wednesday, November 06, 2013 1:49 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: (U) [Redacted] funding profile update

Follow Up Flag: Follow up
Flag Status: Flagged

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

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

Yes, but I will need to see the entire [Redacted] list to figure out where I want to put it

[Redacted]

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

From: [Redacted]
Sent: Wednesday, November 06, 2013 12:21 PM
To: [Redacted]
Cc: [Redacted]
Subject: FW: (U) [Redacted] funding profile update

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

[Redacted]

Below is the 5 year funding profile for the [Redacted]. Note that year 1 is an FY14 outlay of [Redacted]. Do you want to rack and stack this figure with our other priorities?

v/r,

[Redacted]

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

From: [Redacted]
Sent: Wednesday, November 06, 2013 11:02 AM
To: [Redacted]
Cc: [Redacted]
Subject: (U) [Redacted] funding profile update

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

All,

I have adjusted the funding profile slightly. The total is the same [Redacted] but the only change is a [Redacted] Year Over Year. Please let me know if you have any objections to this. Making the change because the PEO on other contracts wanted to "see" some thought accounting for inflation etc!.



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

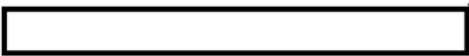
Thank you.



Secure: 961-1758



DropBox:



(b) (6)

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

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

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

APPENDIX E

(U//~~FOUO~~) Emails to [redacted] regarding the procurement process

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

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

[Redacted]

From:
Sent:
To:
Subject:

[Redacted]

Monday, December 09, 2013 12:30 PM

[Redacted]

All is Well

[Redacted]

[Redacted] and I spoke this morning. I walked him through the original procurement process, of which I led, to show him that all acquisition protocols were followed for the original award. At the conclusion of our conversation, he said he didn't see any indiscretions and would "put the matter to bed". He said he would contact you to provide the same information.

Everything is ok now. Should you need me, I'm only an email or phone call away. Take care - good luck in your new job. I will definitely get over to [Redacted] to see you after the holidays!

Regards,

[Redacted]

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

[Redacted]

966-2475s [Redacted]

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

[Redacted]

From: [Redacted]
Sent: Monday, December 09, 2013 12:23 PM
To: [Redacted]
Subject: (U) follow up

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

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

Good afternoon [Redacted]

I had a conversation with [Redacted] today and she walked me through the solicitation and I don't feel that there is any wrong doing or anything to be concerned with. I believe this is a non issue and we will proceed forward without any concern on any end.

If you like I can stop by to fill you in.

Hope you had a great weekend

Thank you,

[Redacted]

Secure: 961-1758 [Redacted]

DropBox: [Redacted]

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

APPENDIX F

Email from [redacted] regarding [redacted] last day of employment

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

[Redacted]

From: [Redacted]
Sent: Tuesday, April 21, 2015 11:52 AM
To: [Redacted]
Subject: RE: Test email

(b) (6)

Hello [Redacted]

I apologize, I thought I had already responded to your inquiry. I have the last day for [Redacted] listed as [Redacted]

Please let me know if you need any other information.

Warm Regards,

[Redacted Signature Block]

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

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

From: [Redacted]
Sent: Tuesday, April 21, 2015 9:12 AM
To: [Redacted]
Subject: RE: Test email

Hi, [Redacted]

I was wondering if you were able to find the year that [Redacted] stopped working for [Redacted]

Thanks,

[Redacted]

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

[Redacted]
NSA/CSS Office of the Inspector General
[Redacted]

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

From: [Redacted]
Sent: Wednesday, April 15, 2015 1:29 PM
To: [Redacted]
Subject: RE: Test email

Hello [redacted]

Yes, I have received the email.

Warm Regards,

[redacted]

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

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

From: [redacted]

Sent: Wednesday, April 15, 2015 1:26 PM

To: [redacted]

Subject: Test email

[redacted]

Please let me know you received this before I send details to you.

Thanks,

[redacted]

[redacted]


NSA/CSS Office of the Inspector General

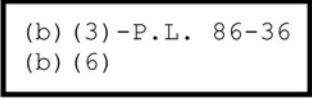
[redacted]

~~SECRET//NOFORN~~

IV-14-0108

APPENDIX G

 response to the tentative conclusions


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

~~SECRET//NOFORN~~

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

[Redacted]

From: [Redacted]
Sent: Thursday, February 12, 2015 10:20 AM
To: [Redacted]
Cc: [Redacted]
Subject: RE: (U) NSA/CSS Office of the Inspector General (OIG) tentative conclusions

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

[Redacted]

Please see my rebuttal to the OIG tentative finding below.

R [Redacted]

Your conclusions are in Blue and my response is in Red

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

(U//FOUO) Based upon the preponderance of the evidence, the OIG is tentatively concluding that you failed to act impartially toward, and gave preferential treatment to [Redacted] by participating in Agency contracting activities with [Redacted] who employed your sister, in violation of 5 Code of Federal Regulations § 2635.101 (b)(8) and NSA/CSS Personnel Management Manual Chapter 366 Section 1-3(G).

The Tentative OIG findings do not include an interview with the [Redacted] office Chief, [Redacted] who was both the decision maker for this contracting process and my supervisor during the time in question. Upon receiving the OIG tentative findings, I reach out to [Redacted] (Jan 27 2015) via email, he had not been contacted by the OIG nor was he aware that there was an IG issue concerning the [Redacted] contract.

- In January 2011, I briefed my supervisor [Redacted] about a technology that met a requirement he had to develop a [Redacted] I informed him that [Redacted] was an SA-small minority owned business, had a contract with the Census Bureau and that my sister worked on the Census Bureau contract in support of the 2012 Census.
- I met with the BA/Acquisition Division Chief [Redacted] briefed her on of the same facts and recused myself from the contracting process. In accordance with 5 Code of Federal Regulations 2635.502 (a)(1). I did notify my supervisor [Redacted]. I also notified the Acquisitions and Contracting Officials and recused myself with the BA/Contracting process, to avoid any appearance of impropriety based on the noted familial relationship. I specifically informed both [Redacted] and [Redacted] that my sister worked for [Redacted] at the Census Bureau in support of the 2012 census, was not doing any DOD or IC contracts work, and carried no clearance. Both my supervisor and the BA/Contracting Specialist acknowledged my recusal and noted no appearance of Conflict Of interest (COI), because I was not the decision authority in the contracting process.

Your actions included recommending [Redacted] to the government, participating in pre and post contract award discussions with [Redacted] officials, and approving the funding for the government contract with [Redacted].

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

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

- I did not "recommend" [redacted] to the government as a contractor. I brought to the attention of my supervisor [redacted], a technology that met a requirement that he had, to create a [redacted].
- BA process is an independent process. In doing their diligence it took over a year to award the [redacted] contract. I had no involvement or influence in that BA process.
- The contract was awarded Feb 2012, over a year after I brought this technology to my supervisors attention [redacted] was the decision authority.
- [redacted] approved all pre and post contract award decisions up until he PCSed in April 2012.
- [redacted] (TD) reviewed and provided comments for the [redacted] Proposal.

You knew that your actions relative to the agency contract with [redacted] were likely to have a direct and predictable effect on the financial interest of [redacted] and its employees, including your sister, yet you participated in the matter without informing the appropriate agency designee and getting prior authorization, in violation of 5 Code of Federal Regulations § 502(a).

- In accordance with 5 Code of Federal Regulations 2635.502(a)(1) I notified my supervisor that my sister worked for [redacted] on a Census Bureau contract in support of the 2012 Census. I also notified BA/Contracting Office and recused myself. Neither authority expressed any perceived or actual COI issues as I was not a decision authority.
- I brought a technology to the attention of my supervisor, I had no way of knowing, if [redacted] would meet all of the NSA or BA requirements to actually be awarded a contract. I had no way of knowing if they would win any competitive selection process. The BA contracting process is such, that I had absolutely no input into [redacted] awarded decision.
- There was no potential or actual financial benefit to my sister who only worked on an [redacted] contract for the Census Bureau in support of the 2012 Census.
- My sister had departed [redacted] by [redacted].

(b) (6)

Your activities related to the [redacted] contract created an appearance to other agency employees that you were violating the law or regulations requiring impartiality and prohibiting preferential treatment in violation of 5 Code of Federal Regulations § 2635.101(b)(14) and NSA/CSS Personnel Management Manual 366 Section 1-2(J).

- I did everything in accordance with policy and training to prevent the appearance of any COI. I notified my supervisor, went one step further and personally notified the BA/Acquisition and Contracting specialist.
 - All contracting issue were approved by the Office Chief [redacted] approved [redacted] dollars covering a Period Of Performance (POP) though 31 March 2013.
 - After the [redacted] contract award, the day to day guidance, tasking and project oversight was performed by [redacted] the [redacted] Technical Director.
 - I became the [redacted] Office Chief, after [redacted] departure in April 2012.
- It was not until after March 2013 that I had to make any financial decisions for funding on the [redacted] contract. This was to fund the contract option year One, that would begin in April 2012. The base year was funded by [redacted] and covered March 2012 March 2013.

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

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

- o These decisions for the option one year, were made based on recommendation from my technical leadership team and based on the work and progress [redacted] had accomplished over the previous year. That assessment and follow-on recommendation were made by the project lead - the [redacted] TD ([redacted]). No financial decisions for the option year one was made in a vacuum or by me alone, but based on recommendation by my technical team.
- c My sister had departed [redacted] by [redacted].

(b) (6)

Additional note: A copy of these Dec 2013 email was provided you.

In Nov 2013 "someone" asked the new BA Business Manager [redacted] if there was any COI. He contacted [redacted] who walked him through the procurement process, that she lead. She showed him that all acquisition protocols were followed for the original award. [redacted] pushed this up his chain to the Program Executive Officer (PEO) [redacted] everyone agreed there was no perceived or actual COI.

[redacted]

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

From: [redacted]
Sent: Wednesday, January 28, 2015 8:51 AM
To: [redacted]
Subject: RE: (U) NSA/CSS Office of the Inspector General (OIG) tentative conclusions

Classification: UNCLASSIFIED//FOR OFFICIAL USE ONLY

[redacted]

Your request for an extension to reply to the OIG's tentative conclusions has been approved. Your response date is now 6 March 2015.

Your request to review the OIG investigative file has been denied.

Regards,

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

[redacted]
NSA/CSS Office of the Inspector General

[redacted]

963-0928s.

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

From: [redacted]
Sent: Monday, January 26, 2015 2:03 PM
To: [redacted]
Cc: [redacted]
Subject: RE: (U) NSA/CSS Office of the Inspector General (OIG) tentative conclusions

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

Good Afternoon [redacted]

I am requesting 30 business days to properly reply to your tentative conclusions. (Friday 6 March)

Justification: This matter is somewhat dated and now that your inquiry is concluded. I will require time to refresh myself on the specifics of the facts and properly respond to ensure that you have all the information you require. Is it possible to request an appointment to review the IG file and findings that were gathered during your administrative inquiry, which created this tentative decision? I want to ensure complete understanding; this request includes formal review of the letter or other correspondence that predicated this inquiry.

Due to the nature of the inquiry, and the potential jeopardy involved I am requesting a reasonable abeyance of action that fits within the operational tempo of my current assignment which has me detailed to [redacted]

[redacted]

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

From: [redacted]
Sent: Thursday, January 22, 2015 11:53 AM
To: [redacted]
Subject: (U) NSA/CSS Office of the Inspector General (OIG) tentative conclusions

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

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

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

[Redacted]

(U//FOUO) Below are the tentative conclusions reached by the OIG regarding the allegation that you had direct involvement in Agency contracting activities with [Redacted] a company that employed your sister. You may respond to the tentative conclusions. If you choose to respond, please do so by reply email no later than 30 January 2015. If you choose to not respond, your response will be considered and will be included in the final report of investigation.

(U//FOUO) Based upon the preponderance of the evidence, the OIG is tentatively concluding that you failed to act impartially toward, and gave preferential treatment to [Redacted] by participating in Agency contracting activities with [Redacted] who employed your sister, in violation of 5 Code of Federal Regulations § 2635.101 (b)(8) and NSA/CSS Personnel Management Manual Chapter 366 Section 1-3(G). Your actions included recommending [Redacted] to the government, participating in pre and post contract award discussions with [Redacted] officials, and approving the funding for the government contract with [Redacted]. You knew that your actions relative to the agency contract with [Redacted] were likely to have a direct and predictable effect on the financial interest of [Redacted] and its employees, including your sister, yet you participated in the matter without informing the appropriate agency designee and getting prior authorization, in violation of 5 Code of Federal Regulations § 502(a). Your activities related to the [Redacted] contract created an appearance to other agency employees that you were violating the law or regulations requiring impartiality and prohibiting preferential treatment in violation of 5 Code of Federal Regulations § 2635.101(b)(14) and NSA/CSS Personnel Management Manual 366 Section 1-2(J).

(U//FOUO) 5 Code of Federal Regulations § 2635.101(b)(8) and NSA/CSS Personnel Management Manual 366 Section 1-3(G) require employees to act impartially and not give preferential treatment to individuals or organizations. 5 Code of Federal Regulations § 2635.502 requires that 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 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.

(U//FOUO) 5 Code of Federal Regulations § 2635.101(b)(14) and NSA/CSS Personnel Management Manual 366 Section 1-2(J) require employees to avoid actions that would give the appearance of violating the law or regulations.

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

Regards,
[Redacted]

NSA/CSS Office of the Inspector General

[Redacted]

963-0928s.

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

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

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

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