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NATIONAL SECURITY AGENCY  
CENTRAL SECURITY SERVICE  
OFFICE OF THE INSPECTOR GENERAL



To: [redacted] for Chief, D14

Date: 03 February 2016

From: [redacted] Senior Investigator [redacted]

Subject: [redacted] Hostile Work Environment

File No: IV-15-0045

Precedence: Routine

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

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Details:

I. (U) Background:

(U//FOUO) The mission and functions of [redacted]

[redacted]

(U//FOUO) [redacted] worked in [redacted] from 2007 to November 2014. [redacted] a part-time employee, served as [redacted] primary Contracting Officer's Representative (COR) on the Agency's Enterprise Licensing Agreement (ELA) [redacted] licensing contract that ended 30 June 2014 (a follow-on contract with [redacted] was subsequently put in place). [redacted] Program Manager, [redacted] was with [redacted] from June 2009 to September 2014 and was [redacted] supervisor from August 2012 through September 2014. [redacted] has been Chief, [redacted] since January 2014. [redacted] was the Chief [redacted] [redacted] from May 2011 to November 2014.

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## II. (U) Issue(s):

- (U//~~FOUO~~) On 17 September 2014, [REDACTED] GG-13, alleged to the Office of the Inspector General (OIG) that [REDACTED] had subjected her to a hostile work environment (HWE). In follow-up contacts, [REDACTED] provided additional details, alleging that [REDACTED]:
- (U//~~FOUO~~) Changed [REDACTED] part-time schedule without a mission need;
  - (U//~~FOUO~~) Mandated 0600 as the earliest start of the workday for all [REDACTED] employees;
  - (U//~~FOUO~~) Yelled for [REDACTED] to come into [REDACTED] office on 18 August 2014;
  - (U//~~FOUO~~) Told [REDACTED] to lower [REDACTED] performance rating;
  - (U//~~FOUO~~) Told [REDACTED] that she could not take Fridays off and thereafter denied some of her leave requests for Fridays;
  - (U//~~FOUO~~) Required [REDACTED] leave requests to go through her for approval;
  - (U//~~FOUO~~) Told [REDACTED] to speak to [REDACTED] on how to dress appropriately for a meeting;
  - (U//~~FOUO~~) Accused [REDACTED] of misconduct concerning the execution of her work responsibilities regarding the Agency's use of [REDACTED] licenses;
  - (U//~~FOUO~~) Accused [REDACTED] of misconduct concerning her participation in the Agency's STEM Education Partnership Program (MEPP)<sup>1</sup>; and
  - (U//~~FOUO~~) Sent [REDACTED] and other subordinates Facebook friend requests, which they felt obligated to accept.

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

- (U) NSA/CSS Policy 1-37, Annex D – Prohibition of Harassment
  1. (U//~~FOUO~~) NSA/CSS shall maintain a work environment free of conduct that interferes with another individual's performance or that creates an intimidating, hostile, or offensive environment. All NSA/CSS personnel are responsible for ensure a harassment-free workplace.
- (U) NSA/CSS PMM Chapter 366, Personal Conduct, Section 2 – Personnel and Security Standards
  - (U) Part 2-1 Work Environment.
 

(U//~~FOUO~~) Employees will not engage in any conduct that creates a hostile work environment and/or interferes with an individual's work performance.
  - A. (U//~~FOUO~~) Harassment/Intimidation - Employees will not use actions or words that denigrate or show hostility toward an individual for any reason, but especially because of race, color, religion, gender, national origin, age, or disability. Likewise,

<sup>1</sup> (U//~~FOUO~~) MEPP is NSA's Science, Technology, Engineering, and Mathematics (STEM) outreach program to promote STEM education at K-12 educational institutions. Agency employees who participate are authorized to use duty hours to provide STEM talks, judge science projects, and partner with local area schools on STEM education.

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employees will not use abusive or offensive language, gestures, or other conduct (e.g. display of offensive writings, objects or pictures) directed against other employees that could affect the individual's work performance or impact the work environment.

#### IV. (U) Investigative Activity:

##### A. (U) Documentary Evidence:

(U//FOUO) The OIG reviewed emails provided by [redacted], which she believed demonstrative of the HWE created by [redacted]. The OIG also reviewed emails provided by [redacted]. These emails disclosed that on 01 April 2014, [redacted] reported her MEPP duty hours to [redacted]; from October 2013 through March 2014, [redacted] spent a total of 17.25 hours on MEPP activities.<sup>2</sup> That same date, [redacted] forwarded the information to [redacted] ("Only two hours a month were used [by [redacted] on MEPP]"), who appeared to misunderstand; on 10 April 2014, [redacted] responded that she could not justify a part-time employee spending "what equates to one day a month" on MEPP, while also requesting additional duty hours to keep up with current mission demands. [redacted] told [redacted] that per their earlier discussion, further support to MEPP during this "contract-related critical time" was not approved, although [redacted] MEPP participation could be re-visited "when mission dictates the ability to do so." [redacted] responded that she had already told [redacted] that due to the approaching end of the ELA contract she could work no more MEPP hours.

(U//FOUO) Emails also disclosed that in May 2014, a [redacted] customer, [redacted] complained to [redacted], then Chief, [redacted] that in April 2014 their organization had submitted quick-turnaround, mission-critical ticket requests for [redacted] licenses necessary to complete a field computer system migration and had yet to receive a response from [redacted]. [redacted] forwarded the related emails to [redacted], who reached out to the [redacted] team for an explanation: "I am bothered by the fact that we've had two instances this week with poor responses/response times to our customers, especially since they were escalated to the next level. This needs to change...." A member of the team (not [redacted]) responded, informing [redacted] that [redacted] had placed the order for the licenses timely, but [redacted] had changed their ordering process, which caused delays despite [redacted] constant communication with the vendor: "The delay here is with [redacted] the Company, NOT [redacted]."

(U//FOUO) Emails revealed that prior to [redacted] becoming chief of the office, all [redacted] personnel were on Alternative Work Schedule 5 and allowed to work any first-line supervisor-approved schedule between 0500 and 2100. On 20 May 2014, [redacted] notified all [redacted] personnel that because [redacted] was a "customer-focused/customer service organization," employees could no longer start

<sup>2</sup> (U//FOUO) The maximum allowable hours are 150 annually, for a full-time employee (as a part-time employee, [redacted] allowable hours were 90 annually).

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their workday before 0600 and that the change would be effective 29 June 2014. When [redacted] asked whether she could come in at 0500 in order to take time off later in the pay period, [redacted] reiterated that the new standardized start time was in support of the customer; [redacted] could earn extra hours by extending the end of her workday, "which would better support mission needs." On 25 June 2014, [redacted] deputy chief reminded the workforce about the new standardized start time.

(U//~~FOUO~~) Emails further revealed that during June 2014, [redacted] was willing to work 80 hours a pay period in order to help satisfy a surge in mission requests for licenses before the ELA ended on 30 June 2014. On 09 June 2014, [redacted] and [redacted] agreed upon a "summer [work] schedule" for [redacted] and [redacted] approved [redacted] request to be on annual leave at various times from 03 July through 21 August 2014. As of July 2014, [redacted] work schedule was 0600 to 1400 on Mondays, Tuesdays, and Thursdays.

(U//~~FOUO~~) On 15 July 2015, [redacted] notified [redacted] ([redacted], [redacted], and others were cc'd) that [redacted] would be sending the Agency a letter "accusing the Government of stockpiling [redacted] licenses that were requested in June 2014 and not installing all licenses by 30 June 2014 [as required by the contract]...?" [redacted] explained that although not all the [redacted] software had been installed, this was because NSA was "still waiting on [redacted] to provide us with the universal license keys that are needed to use the software."

(U//~~FOUO~~) On 12 August 2014, [redacted] emailed [redacted] to ask that she update her work schedule form; as of the first week in September, [redacted] was to work Wednesdays, Thursdays, and Fridays. Subsequent emails disclosed that [redacted] and [redacted] had differing recollections of the specifics related to their 09 June 2014 agreement regarding [redacted] work schedule. [redacted] recalled that [redacted] had agreed to start the new work schedule at the end of August. However, [redacted] recalled agreeing only to consider working it. [redacted] asked for the new schedule to be effective 07 September 2014 to allow her to adjust childcare arrangements and [redacted] agreed.

(U//~~FOUO~~) In an email dated 22 August 2014, [redacted] requested "help" from Human Resources (HR) for [redacted].<sup>3</sup> She explained that "for years" [redacted] had been on a Monday, Tuesday, Thursday work schedule in order to care for aging parents and children with disabilities. As necessary for mission, she would temporarily adjust her schedule to work other days. However, in approximately June 2014, [redacted] decided to allow a new full-time subordinate with a long commute to work four 10-hour days with Fridays off. In order to ensure full coverage on the ELA, [redacted] directed that, as of September 2014, [redacted] work Fridays and switch to a Wednesday through Friday schedule. [redacted] had considered the

<sup>3</sup> (U//~~FOUO~~) [redacted] referred to [redacted] as an "employee" throughout the email in order to preserve her anonymity.

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change, but “as the time gets closer is feeling overwhelmed about everything she juggles at home.”

(U//FOUO) In the email, [redacted] acknowledged that her staff was busy closing the old HP contract, getting the new HP contract in place, and dealing with a recently filed lawsuit on the contract. However, because [redacted] always came in whenever necessary, [redacted] did not see the need for a new work schedule. “I’m trying to understand how this fits into the Agency’s [call for] Work Life Balance and fulfilling mission.” [redacted] noted that [redacted] was on leave, but because of the lawsuit, [redacted] said she might revoke it. [redacted] had also upset [redacted] by summoning her to her office in front of others and by saying that she would not approve any requests from [redacted] to take leave on Fridays. [redacted] speculated that it upset [redacted] that [redacted] used her family as an excuse for not being more flexible. [redacted] was leaving [redacted] on 21 September 2014 and [redacted] had expressed concern for the work atmosphere after her departure.

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(U//FOUO) Emails and attachments revealed that because [redacted] had heard that [redacted] was disregarding supervisory direction to not begin work prior to 0600 and, with [redacted] knowledge, had been hiding her insubordination by intentionally putting false arrival and departure times on her timesheet, on 17 September 2014, she came in to work early and observed [redacted] arrive at 0520. At the end of that pay period, [redacted] checked [redacted] timesheet and found that [redacted] claimed to have arrived at 0600 on 17 September 2014. In a 24 September 2014 email to [redacted] management, [redacted] acknowledged the discrepancy and admitted to also having come in to work at 0530 on 19 September 2014 (on her original timesheet, she claimed for both dates to have started work at 0600); she also submitted a corrected timesheet as an attachment showing 0530 as her start time for both dates. In an email to the OIG dated 24 September 2014, [redacted] said that [redacted], who on 21 September 2014 left [redacted] for a position in another organization, had admitted to signing [redacted] timesheets while knowing them to be incorrect.<sup>4</sup>

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(U//FOUO) Emails disclosed that on 17 September 2014, [redacted] received an overall performance rating of 3.5 out of a possible 5.<sup>5</sup> On 19 September 2014, [redacted] sent an email to [redacted] and copied numerous other individuals, including the OIG and [redacted], in which she both notified [redacted] that she had met with the OIG and accused [redacted] of creating a HWE for her within [redacted].

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<sup>4</sup> (U//FOUO) On 16 September 2014, [redacted] reported her concerns regarding [redacted] time and attendance to the OIG. The resultant OIG inquiry focused on whether discrepancies existed between the number of hours [redacted] claimed to have worked each day and the number of hours she was actually within access control, rather than the accuracy of her work arrival and departure times. Because the inquiry revealed only minor discrepancies, the matter was resolved through a referral to [redacted] current management (not [redacted]) and the submission of corrected timecards.

<sup>5</sup> (U//FOUO) On 17 October 2014 through the informal reconsideration process, [redacted] overall performance rating was raised to 3.9.

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In the email, [REDACTED] said that she was writing in response to [REDACTED] "recent allegations" that she had been non-compliant with the ELA by not knowing its terms and conditions; in her defense, she included a 12 September 2014 email from [REDACTED] praising her risk-reduction work on the contract.

[REDACTED] wrote that she could no longer work in an environment in which

- (U//FOUO) Made "constant threats" to revoke [REDACTED] approved use or lose annual leave;
- (U//FOUO) Denied [REDACTED] use or lose leave requests because they fell on a Friday;
- (U//FOUO) Mandated a new work schedule for [REDACTED]; and,
- (U//FOUO) Required [REDACTED] to obtain "special permission" from her to take a Friday off; a requirement levied on no other [REDACTED] employee.

(U//FOUO) Emails further revealed that on 24 September 2014 [REDACTED] met with [REDACTED] regarding the issues outlined in the 19 September 2014 email. That same date, [REDACTED] emailed him a document summarizing [REDACTED] "inappropriate management practices," which, among other things, included:

- (U//FOUO) In February 2014, sending Facebook friend requests to [REDACTED] and other subordinates that they felt compelled to accept;
- (U//FOUO) On 01 April 2014, falsely accusing [REDACTED] of abusing MEPP hours;
- (U//FOUO) On 21 May 2014, asking [REDACTED] to consider changing her work schedule to Wednesday through Friday in order to accommodate another employee's approved schedule change, although there were neither standing meetings on Fridays nor a mission requirement for Friday coverage;
- (U//FOUO) On 29 May 2014, after asking [REDACTED] why [REDACTED] had left work early and being told that [REDACTED] was maxed out on credit hours and had the most leave in the organization, stating that for [REDACTED], "mission was not first [priority]";
- (U//FOUO) On 04 June 2014, telling [REDACTED] that she felt mission was not the first priority for [REDACTED] - home life was much more important;
- (U//FOUO) On 04 June 2014, changing [REDACTED] summer work schedule (under which [REDACTED] worked until noon, Monday, Tuesday, and Thursday), because she needed [REDACTED] to work late at least one afternoon a week;
- (U//FOUO) On 28 July 2014, refusing [REDACTED] request to meet regarding changes within [REDACTED], despite meeting with several other employees that same date;
- (U//FOUO) On 18 August 2014, yelling across [REDACTED] office spaces for [REDACTED] to come to her office after receiving [REDACTED] email request that her new Wednesday through Friday work schedule not take effect until 07 September, and then telling [REDACTED] that she was tired of hearing about childcare issues and that [REDACTED] could never plan to take leave on a Friday;

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- (U//FOUO) On 19 August 2014, threatening to cancel [redacted] leave for the remainder of the week in front of others and then telling [redacted] that the ELA problems would "take [redacted] down" and that if [redacted] mentioned childcare again, then [redacted] would need to go to counseling;
- (U//FOUO) That same date, questioning [redacted] as to whether she had inappropriately given out [redacted] licenses directly to customers;
- (U//FOUO) On 26 August 2014, initially denying [redacted] use or lose annual leave request for 17 and 31 October 2014 because the dates fell on Fridays ([redacted] subsequently granted the leave for 17 October);
- (U//FOUO) That same date, bringing up possible wrongdoing by [redacted] on the ELA by stating that "[redacted] could take [redacted] down" and that, as COR, [redacted] "would have to answer to the IG" and be prepared to defend her actions on the contract;
- (U//FOUO) On 02 September 2014, telling [redacted] that [redacted] was dressed inappropriately had she had a meeting with [redacted] that day and should wear a particular suit to a such a meeting on 05 September 2014, while advising [redacted] to be careful in how she presented the request in order to avoid an Equal Employment Opportunity complaint; and,
- (U//FOUO) On 20 September 2014, "blocked" [redacted] on Facebook.

(U//FOUO) Subsequent emails revealed that as a result of a 26 September 2014 meeting between [redacted] and [redacted], [redacted] work schedule was changed to allow her to work from 0600 to 1400 on Mondays, Tuesdays, and Thursdays.

#### B. (U) Interviews:

(U//FOUO) [redacted], DISES, Chief [redacted] [redacted] was interviewed on 05 August 2015 and provided the following sworn testimony:

(U//FOUO) [redacted] was the Chief [redacted] from May 2011 to November 2014. During that time, [redacted] became one of his direct reports after a reorganization. [redacted] operated in a legacy environment and was outdated in its approaches and methods. [redacted] was tasked to update [redacted] into a more modern and collaborative organization. As a result, [redacted] hired [redacted]. He wanted someone with vision and energy and he charged her with making necessary changes; she was under pressure "to make [redacted] viable." [redacted] needed to change its business model or it would be abolished.

(U//FOUO) Before [redacted] 19 September 2014 email to [redacted], [redacted] was unaware of any concerns with either [redacted] performance/conduct or her treatment by [redacted]; he considered the matter "a clash of two personalities." He was familiar with the [redacted] issues within [redacted], but not in detail. They were indicative of the sloppy way [redacted] used to be run (for example, there

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was a lack of accountability regarding licenses). [redacted] ran the ELA for [redacted]. Although she did not do anything wrong, as gatekeeper of an old methodology for doing business, [redacted] was caught in the middle of the change process.

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(U//FOUO) [redacted] never heard any disparaging remarks about [redacted]. However, [redacted] had mission-based concerns regarding her schedule. Although others in [redacted] worked the ELA effort, [redacted] was the subject matter expert (SME). She worked a part-time schedule that did not include Fridays and there had been an important meeting on a Friday at which she had been needed. Further, [redacted] was required to be at work more often during the contract reconciliation process.

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(U//FOUO) [redacted] did not target [redacted] employees in a hostile or malicious manner; rather, she ensured that they did their work in such a way as to accomplish mission. [redacted] employees who did not want to do the work received her attention. [redacted] management efforts were effective; [redacted] currently has the right mix of people, better customer service, and license accountability.

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(U//FOUO) [redacted] GG-15, Deputy Chief, [redacted] was interviewed on 27 May 2015, and provided the following sworn testimony.

(U//FOUO) [redacted] became [redacted] deputy chief of in May 2013. She did not often interact with [redacted], but was aware that she was the COR for a very large contract with HP and did good work. However, there was a big problem with the disbursement of licenses related to the contract. Although [redacted] personnel did not make decisions as to what HP licenses were needed and by whom, [redacted] should have known how they needed to be given out and by when based on the terms and conditions of the contract. An issue arose when the licenses had to be "in use" by a certain time and were not; [redacted] may have made errors in this regard.

(U//FOUO) Although there were many meetings with [redacted] and the Office of the General Counsel (OGC), [redacted] was unsure whether there was any final, definitive answer as to the propriety of the Agency's actions concerning the provision of the HP licenses. However, [redacted] believed that [redacted] had done something wrong: "she wasn't happy and was quite upset." To [redacted] knowledge, any mistakes made by [redacted] would have been unknowing ones.

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(U//FOUO) [redacted] changed [redacted] personnel's earliest arrival time from 0500 to 0600 so that they would be present later in the day when their customers needed them. Similarly, after the HP license issues surfaced, [redacted] changed [redacted] work schedule to ensure coverage for the ELA effort on Fridays. [redacted] had no knowledge of [redacted] denying [redacted] requests to take leave on Fridays. It would have been unusual for leave requests to go through [redacted]; in general, it was immediate supervisors who approved leave requests.

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(U//FOUO) [redacted] paid attention to what her subordinates wore. However, [redacted] did not have a dress code and [redacted] did not speak to employees directly about her concerns with their attire. [redacted] frequently mentioned to [redacted] that [redacted], who had lost a lot of weight, continued to wear clothes that were too big. [redacted] was unaware of any decision to revoke [redacted] MEPP hours. However, there were times when [redacted] was away for MEPP when [redacted] work needed to be done.

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(U//FOUO) Although [redacted] told [redacted] that [redacted] had cried during private discussions with [redacted], [redacted] was unaware of any inappropriate action taken against [redacted]. However, [redacted] was oblivious to the effects of her behavior on the [redacted] workforce; her "very confrontational" management style intimidated [redacted] and others. Additionally, [redacted] direction was very chaotic and some people handled it better than others.

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(U//FOUO) Certain personnel told [redacted] that they felt targeted by [redacted] and, although [redacted] never said so directly, [redacted] believed that [redacted] wanted to convince certain employees, including [redacted], to leave [redacted]. "The feeling in the office was 'Who's next on the chopping block,'" [redacted] management style was the reason two [redacted] employees retired and part of the reason that [redacted] is retiring at the end of May 2015. Four other [redacted] employees accepted positions in different organizations because of [redacted].

(U//FOUO) [redacted] GG-14, Acting Deputy Chief, [redacted] was interviewed on 11 August 2015 and provided the following sworn testimony:

(U//FOUO) [redacted] joined [redacted] in November 2012 as a Project Director/COR/Technical Advisor. In May 2014 he was selected as the acting technical director (TD) for [redacted]. The position became permanent in November 2014.

(U//FOUO) Within [redacted], which had been in "state of funk for a long time," there was the standard nervousness associated with the arrival of a new boss when [redacted] arrived. She tried to change and fix things and did not appreciate when employees commonly responded to her requests with, "Well, that's the way we've always done it." [redacted] told [redacted] personnel that such an answer was no longer acceptable. Although morale was the same or better after her arrival, there were some people unwilling to make or accept changes.

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(U//FOUO) [redacted] did not target individuals in [redacted] as a part of her efforts to change the organization. Rather, "People were held accountable for doing the jobs they were assigned to do ... people were held to task for not doing their jobs." She did not accept inadequate excuses. Upper management was aware that [redacted] had a "retired in place" problem, and [redacted] was there to, among other things, clean up the office, improve its image, and better satisfy its customers.

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(U//~~FOUO~~) There is ongoing litigation concerning the ELA. [redacted] sat next to [redacted] and was one of the CORs for the contract when he came to [redacted]. [redacted] did not effectively execute her responsibilities concerning [redacted] and she was one of the reasons he asked to be removed from the ELA. [redacted] was the "keeper of the keys" for the [redacted] licenses, although the approval to provide licenses to Agency customers came from outside of [redacted]. At the end of the contract, there was a lack of documentation identifying where the [redacted] licenses were; maintaining such documentation was [redacted] responsibility.

(U//~~FOUO~~) [redacted] approved the provision of the licenses and then [redacted], as the main COR, passed the requests to [redacted]. [redacted] maintained their own database of licenses, while [redacted] had a database of what licenses were given to Agency customers. However, when [redacted] reviewed [redacted] database, he found, and told management, that it was missing a field for and information about which license went to which Agency person. For months, every Tuesday and Thursday, [redacted] and an [redacted] contractor reviewed spreadsheets for hours trying to address the existing issues. However, [redacted] made no effort to correct the overall license accountability problem. She also spent a lot of time on non-work related matters. Working next to [redacted], [redacted] could tell the time of day by her actions (i.e., being on the phone with her children at home or on the phone with their school complaining).

(U//~~FOUO~~) The [redacted] license situation was complex. Separate from the accountability issue, during the last 30 days of the contract, there were hundreds of thousands of licenses being processed. The ELA prohibited the stockpiling of licenses and required that they be sent, installed, and in use by the last day of the contract. Despite this, licenses were still being requested at 2200 on the last day of the contract, which meant that they could not be installed that day; it took [redacted] seven to ten days just to process a request. Although some of the license decisions may have been pressured by the [redacted] customer, [redacted] should have declined such last-minute requests.

(U//~~FOUO~~) There were numerous occasions when ELA-related issues needed to be addressed on a Friday. Because [redacted] normally worked a Monday, Tuesday, and half-day Thursday schedule and sometimes took Mondays off to make sure she used her leave, this had been problematic for [redacted] in terms of covering said issues.

(U//~~FOUO~~) [redacted] was unaware of whether [redacted] ever threatened [redacted] with repercussions due to her role in the ELA problems. However, [redacted] did not think that [redacted] effectively managed the contract effort. [redacted] never heard [redacted] make a disparaging remark concerning [redacted] or anyone else in [redacted] and [redacted] did not have a threatening work environment. Although [redacted] was a demanding manager, she treated [redacted] employees with courtesy and respect.

(U//~~FOUO~~) [redacted] GG-13, Chief [redacted] [redacted] was interviewed on 30 July 2015 and provided the following sworn testimony:

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(U//FOUO) [redacted] worked in [redacted] from 2011 through December 2014 and was a branch chief from 2012 until her departure. She had very limited and solely non-work-related interaction with [redacted] prior to becoming [redacted] supervisor for several months after [redacted] left.

(U//FOUO) [redacted] had a very different management style than [redacted] previous chief and it lowered the morale of employees within [redacted]. She was very controlling and a micro-manager. Despite this, [redacted] sent [redacted] a Facebook friend request shortly after arriving at the office.

(U//FOUO) [redacted] never saw [redacted] be hostile or offensive towards [redacted]. Although she heard that [redacted] told [redacted] to dress in a certain manner for meetings, [redacted] was not the only [redacted] individual who [redacted] had directed to "dress nicely." Because she sat close to [redacted], [redacted] was also aware that [redacted] had restricted [redacted] from taking leave on Fridays. However, that was not the case while [redacted] was [redacted] supervisor.

(U//FOUO) During the September 2014 timeframe, [redacted] may have begun treating [redacted] differently than other [redacted] employees by requiring [redacted] to keep [redacted] informed of her exact whereabouts at all times. [redacted] also "attacked" [redacted] concerning [redacted] role on the ELA, telling her that too many licenses were given out. Although [redacted] and [redacted] repeatedly told [redacted] that [redacted] actions had been appropriate, [redacted] continued to believe otherwise.

(U//FOUO) [redacted] GG-13, Program Manager and Technical COR, [redacted] was interviewed on 04 May 2015 and provided the following sworn testimony:

(U//FOUO) [redacted] started in [redacted] in June 2009 and became a branch chief in January 2013, a position in which she supervised [redacted] and six other individuals until her departure in September 2014.

(U//FOUO) [redacted] managed the ELA for [redacted] licenses. The organization did not establish license contracts; it implemented them as written. [redacted] provided [redacted] licenses only upon receipt of guidance, tasking, and approval from personnel outside of [redacted]. [redacted] personnel were the "counters" who "ran the ledger" so that the Agency knew how many licenses were in use. A different organization approved their distribution.

(U//FOUO) After [redacted] arrival, [redacted] received less feedback and felt less informed than under the previous chief. Although she, [redacted], and others received unsolicited Facebook friend requests from [redacted] ([redacted] and others wanted to share pictures taken at an office Morale Building Event), at work [redacted] and [redacted] office door was frequently closed. [redacted], who

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had had access to the previous management team, was upset with the work environment in part because she, like [REDACTED], no longer had access to management.

(U//FOUO) [REDACTED] questioned why and how [REDACTED] provided the [REDACTED] licenses, particularly toward and after the 30 June 2014 end of the contract. She believed that [REDACTED] should have stopped giving out licenses 30 days before it ended. However, it was another organization and not [REDACTED] that approved their provision. Further, the ELA did not contain language about closing one month early. Although [REDACTED] tried to explain this on numerous occasions, [REDACTED] never changed her opinion.

(U//FOUO) Another issue was the installation aspect of the [REDACTED] licensing; [REDACTED] may have wanted an early stop date to ensure there was enough time for customers to install their licenses before the 30 June 2014 contract expiration date. The OGC became involved, based in part on concerns that people were hoarding licenses.

(U//FOUO) [REDACTED] criticized [REDACTED] actions on the ELA directly and through [REDACTED]. [REDACTED] told [REDACTED] that [REDACTED] "went out on a limb" concerning [REDACTED] execution of her related responsibilities. [REDACTED] agreed with [REDACTED]. Both told [REDACTED] that her performance rating would be lowered due to her handling of ELA issues.

(U//FOUO) In approximately June 2014, [REDACTED] and [REDACTED] began to treat [REDACTED] differently than her coworkers and she began to be "picked on." Because [REDACTED] felt that [REDACTED] would use her leave to get the days off that [REDACTED] wanted regardless of [REDACTED] interests, [REDACTED] leave had to be approved by [REDACTED]. [REDACTED] was present when either [REDACTED] or [REDACTED] told [REDACTED] that they would take the matter to Employee Relations (ER) if she brought up childcare as a reason she required leave. The two managers did not behave similarly with regard to [REDACTED]'s other subordinates.

(U//FOUO) [REDACTED] also wanted [REDACTED] to work on Fridays and used the need for ELA coverage as justification. [REDACTED] and/or [REDACTED] told [REDACTED] that she was not allowed to take leave on Fridays, although everyone else could and [REDACTED] back-up on the contract was allowed to work a Monday through Thursday schedule. According to [REDACTED], [REDACTED] absence on a Friday would not have been an issue, as she or others could have covered any issue that arose. However, given the contract workload at the time, [REDACTED] decision to discontinue [REDACTED] participation in MEPP was reasonable.

(U//FOUO) According to [REDACTED], [REDACTED] attire was always appropriate. However, on one occasion when she and [REDACTED] were scheduled to have a high-level meeting with [REDACTED], [REDACTED] told [REDACTED] to ensure that [REDACTED] wore something presentable. When [REDACTED] asked [REDACTED] what she intended to

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wear to the meeting, [redacted] correctly inferred both that [redacted] had instigated the question and the particular outfit that [redacted] wanted her to wear.

(U//FOUO) Although [redacted] originally wanted to give [redacted] an overall rating of 4.0 on her performance appraisal, [redacted] told her to reduce it to 3.8. [redacted] thought that the 3.8 was not a bad score. However, this rating was further reduced to 3.5 during the performance appraisal normalization process by [redacted]. None of [redacted] other subordinates' scores were lowered to the extent that [redacted] was.

(U//FOUO) [redacted] could provide no specific examples of offensive behavior displayed by [redacted] towards [redacted]. However, she noted a general fear of [redacted] on the part of [redacted], who was intimidated by [redacted] yelling for [redacted] to come to her office, as well as [redacted] body language, voice level, and general questioning of [redacted] performance. [redacted] also saw [redacted] in tears due to management decisions. [redacted] sent an email to HR on 22 August 2014 regarding her related concerns; she received no response.

(U//FOUO) [redacted], was interviewed on 12 February and 12 March 2015 and provided the following sworn testimony:

(U//FOUO) [redacted] worked in [redacted] from July 2007 to November 2014. After [redacted] arrival in [redacted], [redacted] found several of her actions odd. [redacted] sent [redacted] and several other [redacted] employees Facebook friend requests. [redacted] had never before received a friend request from an Agency supervisor. Although it made her uncomfortable, [redacted] accepted it. [redacted] was also caught off-guard when on 01 April 2014 [redacted] accused her of misusing MEPP hours and revoked her participation in the program. [redacted] was unaware of any other [redacted] employees being involved in MEPP. However, she had participated with supervisory approval for seven years and had not exceeded the allowable number of hours.

(U//FOUO) [redacted] job duties included serving as the ELA COR. [redacted] was the "keeper of the licenses" and [redacted] gave them out pursuant to the direction and approval of the Contracting Officer's Technical Representative (COTR). Because the ELA COR position was a very busy one, [redacted] did not understand why it was filled by a part-time employee. [redacted] offered to step down and assume a different work role, but [redacted] declined the offer.

(U//FOUO) HP accused the Agency of improperly moving legacy systems under the contract. Because there was a lot of pressure to resolve the problem, in April 2014 [redacted] briefed [redacted] about it. He was satisfied and gave positive feedback about [redacted] performance on the contract to [redacted]. However, prior to [redacted] return from the briefing, [redacted] both noted on the office whiteboard and told [redacted] colleagues that she needed to see [redacted]

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immediately upon her return, leading [ ] staff members to mistakenly believe that her meeting had gone poorly. [ ] told [ ] that [ ] and [ ] had deliberately set-up the scenario to scare [ ]

(U//FOUO) On one occasion in May 2014, a particular meeting was scheduled for approximately 1000 on [ ] day-off. Although [ ] was willing to come to work, she had a conflict with a school award ceremony for her son and asked that the meeting be held later that day. It made [ ] uncomfortable when [ ] asked for additional information about the ceremony, including whether it was for a school award or specifically for her son. On 29 May 2014, [ ] also questioned [ ] about [ ] summer leave plans and work schedule; on 20 February 2014, [ ] had approved [ ] requests to depart work at noon and take leave in the afternoons during the summer. On 04 June 2014, [ ] denied [ ] summer leave schedule and previously approved leave requests and directed that she work one afternoon per week.

(U//FOUO) [ ] told [ ] on several occasions, sometimes in a public setting, that she needed to increase her hours. These requests usually pertained to her ELA duties; there was a lot of work to do with regard to that effort. As a result, [ ] did so for May and June 2014. Another [ ] employee who was full-time and worked eight-hour days five days a week was made [ ] back-up on the contract. [ ] asked that employee whether she wanted to change her schedule to ten hours a day, Monday through Thursday. There were no regularly scheduled ELA actions that occurred on Fridays. Further, if [ ] and her back-up both were out on a Friday, contractors supporting [ ] on the contract could give out licenses on their behalf. Additionally, [ ] allowed both of her subordinate team chiefs to take off on Fridays. Despite all of this, [ ] eventually changed [ ] part-time work schedule to be Wednesday through Friday and did not allow her to take leave on Fridays.

(U//FOUO) In July 2014, [ ] had notified personnel that the [ ] staff meeting was being moved from Tuesdays to Wednesdays, which conflicted with [ ] Monday, Tuesday, Thursday work schedule. In August 2014, [ ] returned from leave to find an email from [ ] stating that starting the first week of September [ ] work schedule would be changed to Wednesday through Friday. When [ ] requested a delay in order to accommodate childcare issues, [ ] yelled for her to come to her office (according to [ ] [ ] frequently called across numerous rows of desks for specific employees to come to her office). [ ] appeared angry and said that she did not want to hear about such issues and would send [ ] to ER if [ ] brought them up again.

(U//FOUO) At a meeting earlier in the year, [ ] had told [ ] that [ ] schedule would not change until the new contract with [ ] went into effect. Because it had not yet been signed, [ ] did not think her schedule would be changed. However, [ ] denied that there was connection between

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her schedule changes and the contract. [redacted] told [redacted] that she was not allowed to take leave on Fridays and [redacted] would deny any related leave requests. [redacted] also accused [redacted] of giving out licenses when she should not have done so and said that "the [redacted] effort would take [redacted] down."

(U//FOUO) At the end of August 2014, [redacted] initially denied [redacted] formal leave requests for 17 and 31 October 2014 (which fell on Fridays). Additionally, she again accused [redacted] of misconduct regarding the [redacted] licenses. However, [redacted] did not understand the process. [redacted] had relied on guidance from the COs and [redacted] in distributing the licenses, which had been approved by the CTOR. She gave them out pursuant to appropriate approvals. The Agency downloaded over [redacted] licenses in the last two months of the contract. Although [redacted] thought the Agency was stockpiling the licenses, in actuality the situation related to the timing of Agency needs (the issue was worsened when an [redacted] contractor mistakenly placed a large order six times).

(U//FOUO) Given her position, [redacted] found it insulting that on 27 August 2014, [redacted] added contract invoicing to [redacted] job duties; a mundane clerical duty typically given to newer employees.

(U//FOUO) [redacted] told [redacted] that on 02 September 2014, [redacted] said that [redacted] attire that day would not have been appropriate for a meeting with [redacted] ([redacted] sometimes wore business casual when she did not have a meeting scheduled). [redacted] asked [redacted] about the suitability of a particular outfit she had worn previously and [redacted] confirmed that was the outfit [redacted] wanted [redacted] to wear to an upcoming meeting with [redacted]. Although unaware of any similar conversations concerning other [redacted] employees, [redacted] recalled [redacted] telling one employee that he could not wear jeans.

(U//FOUO) According to [redacted], [redacted] initially scored her a 4.0 on her performance rating, which was lowered to a 3.9. The pay pool manager approved the 3.9, but it was somehow dropped to a 3.5. [redacted] score was raised back to 3.9 through the informal reconsideration process and she received a bonus. However, based on the written comments in [redacted] reconsideration decision, [redacted] believed that [redacted] did not think that she had a good work ethic.<sup>6</sup>

(U//FOUO) [redacted] actions impacted or interfered with [redacted] work performance in that she initially received a lower performance rating than she should have and had to challenge it in order to receive the appropriate rating. Aside from her rating, [redacted] actions also made [redacted] job "more challenging" in general.

<sup>6</sup> (U//FOUO) All negative comments in [redacted] decision related to [redacted] handling of the ELA. For example, in explaining why she did not raise [redacted] rating for the performance element "Accountability for Results," [redacted] noted that [redacted] failed to accept accountability for the problems on the contract and instead blamed them on others, including the customer and [redacted], even though "a COR is ultimately responsible for their contract and understanding it fully."

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Personnel from [ ] had to serve as a "buffer" between her and [ ] with regard to matters such as the HP licensing issue. [ ]'s actions also made [ ] more self-conscious regarding her co-workers' opinions of her and her work ethic: "Some days I didn't feel like I was getting any work done for HP because I felt like I was CYAing all the time and trying to defend what my actions were and who I needed to respond to."

(U//FOUO) [ ] admitted to [ ] many times that she did not read most of the emails [ ] sent her regarding ELA issues. Rather, [ ] "had in her mind that I was non-compliant." [ ] never knew what her days were going to be like or what would be acceptable to [ ] in regard to her work schedule, leave, or MEPP participation. When asked whether she ever felt threatened or intimidated by [ ], [ ] stated that she felt intimidated in that she could never meet [ ]'s expectations. According to [ ], [ ]'s actions were harassing and not motivated by concern for the well-being of the ELA effort.

(U//FOUO) [ ] GG-15, Chief, [ ], was interviewed on 20 January 2016, and provided the following sworn testimony.

(U//FOUO) [ ] did not create a HWE for [ ]. Rather, she was given the task of improving [ ] and its customer service and some of the changes she implemented, including holding people accountable for their performance, were disliked by several long-term [ ] employees, including [ ] and her supervisor, [ ]. [ ] mandated 0600 as the earliest start of the workday for [ ] employees in order to better meet customer needs: "It was a totally mission-based reason." Prior to this change, employees other than [ ] also had work schedules with start times earlier than 0600; she was not the only employee impacted.

(U//FOUO) Although supportive of MEPP, [ ] discontinued [ ] participation in the program so that her time could be focused on her ELA duties at a contact-critical time. According to [ ], although [ ] had averaged less than three work hours a month in support of MEPP, she had been inappropriately approved by [ ] up to spend two hours a week on it. [ ] told both [ ] and [ ] that would be too many hours for a part-time employee.

(U//FOUO) Similarly, [ ] changed [ ] part-time work schedule from Monday, Tuesday, and Thursday to Wednesday through Friday in order to ensure coverage on the ELA (although [ ] may not have specifically discussed the matter with [ ], the contract's back-up COR had a terminally ill sister and needed to be off on Fridays to provide coverage at the hospital). After [ ] repeatedly came into [ ]'s office in tears to talk about her childcare issues, her parents' medical appointments, and the longevity of her work schedule being reasons not to change it, [ ] told her that everyone had such issues and she needed to stop crying; while at work, [ ] needed to make mission, not her home life, her priority.

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(U//FOUO) [ ] denied telling [ ] that if [ ] brought up childcare issues again, she would send her to counseling or ER. Rather, because [ ] was so distressed (“[she became] emotionally upset at any type of change at all”), [ ] would have told her that Employee Assistance Service was a resource available to her and might also have said that [ ] could call ER to obtain information regarding work schedule requirements.

(U//FOUO) [ ] monitored both [ ] and [ ] back-up COR's use of leave because of ongoing issues with the old HP contract and the work involved in getting the follow-on contract in place; she wanted to ensure that at least one was present each day. Because [ ] attempted to get around her new work schedule by taking leave every Friday ([ ] learned that [ ] had submitted the leave requests to [ ] for months in advance), [ ] told [ ] that she would have to approve any Friday leave requests. [ ] did not deny all such requests.

(U//FOUO) [ ] also did not adhere to [ ] mandated earliest start time. [ ] heard from other employees that despite her direction [ ] began work earlier than 0600. Further, [ ] did not indicate her true start time on her timesheet. After she personally confirmed the information and confronted [ ] about the misconduct, [ ] told her that [ ] had allowed her to come in early and claim a different start time on her timesheet: [ ] never ever ever accepted accountability for her own actions.” [ ] told [ ] that coming in early in order to leave early defeated the entire purpose of the new schedule, which was office coverage for customers. This was the only incident in which [ ] accused [ ] of intentional misconduct.

(U//FOUO) [ ] did not recall ever yelling at [ ] let alone yelling for her to come to [ ] office. However, in order to warn an employee that she was coming, [ ] might call the employee's name while walking down the aisle to his or her workspace. That way, if engaged in some sort of personal business, the employee would have time to stop before she arrived. Specifically in regard to [ ], [ ] had received multiple complaints about such conduct: “she had quite a history of being on the telephone [making personal calls] and I didn't want to put her in a bad situation.”

(U//FOUO) [ ] does not have an official dress code. However, there was one pre-litigation meeting between [ ] personnel and HP attorneys for which [ ] specifically asked that [ ] dress professionally. According to [ ], over 10 years ago [ ] lost a significant amount of weight. However, she never replaced her clothes and most were baggy and worn out. Further, [ ] usually wore jeans, shirts, and the “tennis shoes [she] cut the grass in” to work. Because [ ] did not always present a professional appearance in the workplace and would be representing the Agency to HP, [ ] considered her request to be justified and [ ] complied, although “she didn't have to.”

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(U//~~FOUO~~) According to [REDACTED], a modification of the ELA required that all HP licenses acquired under the contract be in use as of the end of the contract on 30 June 2014. As primary COR, [REDACTED] was responsible for knowing her contract and ensuring that all its terms and conditions were met. However, because [REDACTED] did not read the modification, she continued issuing HP licenses through the last date of the contract, which meant that not all of them were installed and in use by the contract's end. As a result, HP initiated pre-litigation action against the Agency. [REDACTED] error was made more egregious by her refusal to accept responsibility; she denied any personal accountability, instead blaming the COTR, who, as the technical SME, simply validated that a particular license was a mission requirement. [REDACTED] should have stopped accepting license approvals early enough to ensure that all those obtained under the ELA were in use by the contract's end.

(U//~~FOUO~~) [REDACTED] never threatened [REDACTED]. However, [REDACTED] probably felt threatened and intimidated by being held accountable for her role in the ELA problems. [REDACTED], who previously had been satisfied with [REDACTED] performance as a COR, was direct and matter-of-fact about [REDACTED] failure to fulfill her responsibilities and told it to her like it was: "[REDACTED], didn't like that. She was used to being pampered and getting her way." [REDACTED] intent was not to threaten, but to make clear the problems and their need to be resolved (licenses had to be returned to HP), so that litigation could be avoided. [REDACTED] also told [REDACTED] that because [REDACTED] had signed the contract and its modifications, she might be liable for failing to enforce its terms and conditions. However, [REDACTED] never told [REDACTED] that the ELA would "take her down" or that she would "have to answer to the IG" about it.

(U//~~FOUO~~) [REDACTED] described [REDACTED] as "ultra-sensitive." However, according to [REDACTED], [REDACTED] frequent tears during meetings were always either in response to [REDACTED] directness or in an effort to manipulate [REDACTED] regarding management decisions she made; they were not due to hostile or offensive behavior on the part of [REDACTED].

(U//~~FOUO~~) [REDACTED] directed [REDACTED] to lower [REDACTED] performance rating because [REDACTED] had not held [REDACTED] accountable for not properly performing her duties on the ELA. [REDACTED] informally requested reconsideration of the 3.5 performance rating she received and provided written justification in support of a higher rating. [REDACTED] raised [REDACTED] overall rating to 3.9 based on this additional information. Higher management did not direct that the rating be raised.

(U//~~FOUO~~) [REDACTED] held [REDACTED] accountable for her performance; she was never abusive or denigrating towards [REDACTED], nor did she "target" [REDACTED] in an effort to get her to leave [REDACTED]. Although [REDACTED] did not specifically recall sending [REDACTED] a Facebook friend request, she was Facebook friends with several [REDACTED] employees because of activities that they engaged in as a group outside the workplace. [REDACTED] blocked [REDACTED] and others in [REDACTED] from seeing her Facebook

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posts after [redacted] "filed the charges [that [redacted] had created a HWE within [redacted]], because I didn't want any problems."

#### V. (U) Analysis

(U//FOUO) The OIG found that many of [redacted] actions that [redacted] considered unnecessary and harassing were allowable and appropriate, given the circumstances and [redacted] position. Email and testimony disclosed that [redacted] was concerned about [redacted] and its mission and had been directed by [redacted] to make any changes necessary to improve the organization. Further, [redacted] had the authority to set later workday start times, change work schedules, and deny and/or cancel leave and MEPP participation to accommodate mission and did so. [redacted] was not singled out; several of these changes (such as the later allowable start time and close leave monitoring) applied to and affected others. Although [redacted] may not have perceived the actions as necessary to mission, her manager, [redacted], did.

(U//FOUO) Additionally, while it is true that some of the decisions [redacted] made impacted [redacted] directly, there was no indication of malice. Rather, such decisions were indicative of [redacted] attempts to ensure [redacted] success on contract performance. [redacted] position on the ELA was a high profile one given the legal problems that arose in 2014. Further, as [redacted] acknowledged, the end of the old contract and set up of a new one required a great deal of extra work and she had extensive related experience; it was reasonable for [redacted] to closely monitor her leave and work schedule to help ensure mission success and avoid litigation.

(U//FOUO) Further, although [redacted] may have questioned the appropriateness of [redacted] actions on the contract with HP and, as a result, directed that she receive a lower performance rating than suggested by her rater, we found no evidence that in doing so [redacted] used language that was offensive, denigrating, or otherwise demonstrated hostility towards [redacted]. Rather, the evidence was clear that [redacted] considered it [redacted] responsibility to have imposed a contractually compliant license ordering cut-off date that would have ensured that the requirement that licenses be in use on the last day of the contract was met. Because [redacted] failed to do so, [redacted] initially believed that she deserved a lower rating. Just because [redacted] did not agree with [redacted] verbal and written comments about her performance on the contract did not mean that such comments were "offensive" and indicative of a HWE.

(U//FOUO) The OIG also found no evidence that other comments made and actions taken by [redacted] were severe and pervasive enough to have created a HWE for [redacted]. A single incident of [redacted] yelling for [redacted] to come to her office, if it occurred, was not demonstrative of hostility or harassment; nor was [redacted] expression of concern to [redacted] direct supervisor regarding the appropriateness of [redacted] attire for a meeting. Further, we found no evidence that [redacted]

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ever used abusive or offensive language or gestures towards [redacted]; Facebook friendships with subordinates, while perhaps inadvisable, are not abusive.

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(U//~~FOUO~~) Finally, although [redacted] found [redacted] to be demanding and therefore intimidating, she was unable to articulate how [redacted] actions and comments adversely impacted her ability to perform. While there was clear evidence that [redacted] personality made [redacted] more self-conscious and her job "more challenging," the situation did not equate to the creation of a HWE as defined in NSA/CSS Policy 1-37 and the NSA/CSS PMM, Chapter 366.

**VI. (U) Conclusion:**

(U//~~FOUO~~) Based on a preponderance of the evidence, we concluded that [redacted] did not create a HWE for [redacted].

**VII. (U) Recommendation:**

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

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

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

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