

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
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**QUESTIONABLE ACQUISITIONS:
PROBLEMATIC IT CONTRACTING AT THE IRS**

**STAFF REPORT
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES
113TH CONGRESS
JUNE 25, 2013**



“Men must turn square corners when they deal with the Government.”

– *Justice Oliver Wendell Holmes*

“It is very well to say that those who deal with the Government should turn square corners. But there is no reason why the square corners should constitute a one-way street.”

– *Justice Robert Jackson*

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II. Executive Summary

The Internal Revenue Service is the nation's tax collection agency, charged with collecting more than \$2 trillion annually from American taxpayers. At the end of 2012, the IRS reported that it has 97,717 employees spread across offices in each of the 50 states.¹ The IRS also has broad powers to investigate and prosecute tax cases. For fiscal year 2013, \$12.7 billion in funds appropriated by Congress will support IRS activities.²

A significant portion of IRS's appropriated funds are spent on contracts for a variety of goods and services. The IRS Office of Procurement administers the contracts, of which there are more than 1,000 with a reported lifecycle value of approximately \$39.2 billion.³ An investigation by the Committee on Oversight and Government Reform found weaknesses in the IRS contracting process that expose billions of taxpayer dollars to fraud and abuse. This report details the Committee's findings and makes recommendations to strengthen the IRS contracting process.

The IRS spends approximately \$2 billion every year on information technology (IT) alone. The agency has over 400 dedicated employees who work on IT acquisition. Many vendors compete to do business with the IRS. Considering the large annual IRS investment in IT, any advantage in the contracting process gained by a particular vendor could prove very lucrative. The Committee found that one company—Strong Castle, Inc.—gained precisely such an advantage based on the relationship between the company's CEO and an IRS contracting official. Strong Castle, Inc. was formerly known as Signet Computers. In January 2012 Braulio Castillo purchased Signet Computers and subsequently renamed the company Strong Castle, Inc. Except for specific references in documents, testimony, and discussion surrounding the purchase of the company, this report will refer to the company as Strong Castle.⁴

The Committee learned of allegations concerning a series of contracts, potentially worth more than \$500 million, awarded by the IRS to Strong Castle. Witnesses who contacted the Committee alleged that Strong Castle engaged in fraud to win those IRS contracts. Documents and testimony obtained by the Committee showed that a cozy relationship between Strong Castle President and Chief Executive Officer Braulio Castillo and IRS Deputy Director for IT Acquisition Greg Roseman may have influenced the selection process.

As a result of this relationship, Strong Castle received acquisition information faster and earlier than its competitors. For example, leading up to and during one particular IRS

¹ *A by-the-numbers look at the numbers people of the IRS*, WASH. POST, May 31, 2013, available at http://www.washingtonpost.com/business/a-by-the-numbers-look-at-the-numbers-people-of-the-irs/2013/05/31/da73a38e-ca26-11e2-9cd9-3b9a22a4000a_story.html.

² Internal Revenue Service, FY 2013 Budget in Brief, <http://www.irs.gov/pub/newsroom/budget-in-brief-fy2013.pdf> (last visited June 12, 2013).

³ TIGTA Report, "Contract Files Lacked Sufficient Information to Support Determinations of Present Responsibility," Ref. No. 2011-10-095 (Sep. 30, 2011).

⁴ In August 2011, Braulio Castillo also founded a company, Strong Castle LLC. This company, renamed Strong Castle Technologies LLC, was intended to be a holding company. The business is now dormant. When discussing Strong Castle LLC or Strong Castle Technologies LLC, this report will refer specifically to Strong Castle LLC.

acquisition, Castillo and Roseman exchanged 34 phone calls and 33 text messages.⁵ (Section IX(E)(4)-(5), p. 118). Text messages produced to the Committee show that Castillo and Roseman had a long-term friendship that extended well beyond a professional relationship. Many of the text messages contain vulgar material. (Section VII(A), p. 59).

At one point, Castillo told Roseman of his plan to purchase a small company. Roseman, who oversees hundreds of millions of dollars of IRS contract awards annually, responded in a text message on New Year's Eve 2011. He stated "Congrats on new company. U will be fortune 500 in no time."⁶ (Section VII(A), p. 62).



Roseman accurately predicted Strong Castle's rapid growth. As of New Year's Eve 2011, Strong Castle had never won a federal contract. In the last six months of 2012, Strong Castle won over a dozen contracts from the IRS alone, potentially worth more than \$500 million.

Strong Castle's rise occurred largely because the company had access to contracting set-asides for small businesses owned by service-disabled veterans and connections to economically disadvantaged neighborhoods. Documents and testimony obtained by the Committee show that Castillo and Strong Castle took advantage of weaknesses in the certification processes of these small business socioeconomic programs, and was therefore able to game the system to get a leg-up on competitors. Specifically, Strong Castle applied for—and received—certification as a Historically Underutilized Business Zone (HUBZone) firm and as a Service-Disabled Veteran-Owned Small Business (SDVOSB).

Strong Castle was recently decertified as a HUBZone firm because the company provided inaccurate, unreliable, and misleading information to the U.S. Small Business Administration. (Section VII(C)(3), p. 54). To obtain HUBZone certification, Braulio Castillo rented an office in the Chinatown neighborhood of Washington, D.C., which is in a HUBZone, and claimed it as the company's principal office. He then hired full-time Catholic University students, who also lived in a HUBZone, to fulfill the residency requirements of the program. Because Castillo and his wife—who at the time were the company's top two executives—worked and resided in the wealthy Virginia suburbs, the company would not have met the HUBZone residency requirements if Castillo had not hired the college students, who lived in the HUBZone surrounding the Catholic University campus. (Section VII(B)(1), p. 26). When it was determined that one of Strong Castle's student employees did not in fact reside in the HUBZone, Castillo gave her an ultimatum—move or be fired. (Section VII(B)(2), p. 27).

⁵ Braulio Castillo AT&T Phone Records (June 6 – July 30, 2012) [SCI0135318-SCI0135327, SCI0135286-SCI0135295, SCI0135256-SCI0135265].

⁶ Text message from Greg Roseman to Braulio Castillo (Dec. 31, 2011, 9:55 a.m.).

To obtain SDVOSB status for the company, Castillo relied on a foot injury he suffered in 1984 at the U.S. Military Academy Preparatory School (USMAPS), which he attended for a single school year as a “redshirt” football player. (Section VII(A)(1)-(2), p. 17). His one year at USMAPS represents Castillo’s only connection to military service. At the start of the Committee’s investigation, Castillo represented to investigators that his injury occurred while playing football at USMAPS. During a subsequent transcribed interview with the Committee, however, his story changed. Castillo testified that he was injured while orienteering at the Prep School. The inconsistent stories about Castillo’s injury raised questions about its authenticity. Additional questions arose when Committee investigators learned that, after one year at the Prep School, Castillo enrolled in college in southern California and played quarterback and linebacker for several years—despite the foot injury that he would claim 27 years later should entitle him to be certified as a service-disabled veteran.

In an e-mail, Castillo described his service disability to a VA examiner during the SDVOSB certification process. He stated that his injuries—which did not prevent him from playing college football or softball as an adult—were “crosses that I bear due to my service to our great country. I would do it again to protect this great country.” (Section VII(A)(5), p. 23). Participating in the HUBZone and SDVOSB programs gave Strong Castle an advantage in numerous competitions for contracts with the IRS. This occurred to the detriment of Castillo’s competitors—companies playing by the rules of these programs.

The IRS is not blameless in this matter. The IRS single-handedly helped Strong Castle grow from a business with \$250,000 in annual revenue to one that won over \$500 million of potential awards in just six months. (Section IX(C), p. 94). In addition to concerns about the actions of Roseman, who helped steer contracts to Strong Castle through back channels (or provided Castillo with up-to-the-minute information on pending IRS acquisitions), the Committee also found that IRS contracting officials lack proper training on government ethics guidelines.

Perhaps most alarming of all is the fact that IRS officials—including Deputy Commissioner Beth Tucker—repeatedly denied a problem existed and failed to take action when Chairman Issa first raised these concerns in a February 2013 letter. Even after the IRS acknowledged a severe problem existed, the IRS has still failed to take substantive action. Despite a promise to the Committee by the Director of IT Procurement that he would “immediately cancel the award,” the IRS remains defiant in allowing a \$266 million contract with this questionable vendor to stand. (Section IX(G), p. 148). The Treasury Inspector General for Tax Administration (TIGTA) also failed to take prompt corrective action. Not until the Committee alerted TIGTA about the ongoing risk to taxpayer dollars did TIGTA finally jumpstart its investigation.⁷

The Committee’s findings regarding Strong Castle should serve as a deterrent for other current and prospective government contractors who may be considering ways to abuse set-aside programs established to benefit disadvantaged and underutilized populations. In addition, the

⁷ Although whistleblowers alerted TIGTA to possible improprieties in August 2012, TIGTA made minimal progress with its investigation until Chairman Issa’s letter.

findings of the Committee's investigation should also raise a red flag for taxpayers who have concerns about how the money that is collected by the IRS is eventually disbursed.

The IRS is slated to play a major role in the implementation of the Patient Protection and Affordable Care Act (PPACA). Sharp increases to IRS's total personnel and budget are imminent. According to the President's budget, in Fiscal Year 2014, the IRS will add nearly 2,000 new employees to work on implementation of PPACA.⁸ The IRS has requested an additional \$439 million for implementation in Fiscal Year 2014. In addition, recent reports indicate that the IRS will pay more than \$70 million in employee bonuses this year, in spite of sequestration and instructions to halt such bonus payments.⁹

Considering the findings of prior and ongoing Committee investigations of the IRS regarding improper targeting of certain groups seeking tax-exempt status, wasteful conference spending, and questionable contracting practices, further scrutiny of waste and abuse at the IRS is needed for the American people to have confidence that the agency charged with collecting their hard-earned tax dollars can responsibly manage a new infusion of staff and funds. This is especially true given that TIGTA failed to investigate these serious issues until after this Committee alerted them.

⁸ Internal Revenue Service, FY 2014, President's Budget, at IRS-169, <http://www.treasury.gov/about/budget-performance/CJ14/10.%20IRS%20CJ%20FINAL%20v2.pdf> (last visited June 12, 2013).

⁹ Jennifer Liberto, *IRS to pay \$70 million in bonuses*, FORTUNE (June 19, 2013), available at <http://money.cnn.com/2013/06/19/news/economy/irs-bonus/> (last visited June 20, 2013).

III. Table of Names

IRS Office of Information and Technology Acquisition

Bobby McCane

Director, Office of Information and Technology Acquisition

Bobby McCane is the director of the Office of Information Technology Acquisition. He has almost thirty years of experience in the IT procurement field. McCane approved the final decisions to award the Personal Computer Equipment and Accessories (PCEA) Blanket Purchase Agreement (BPA) and IBM Enterprise Software and Services Opportunity (ESSO) BPA to Strong Castle.

Greg Roseman

Deputy Director, Enterprise Networks and Tier Systems Support

Greg Roseman is the Deputy Director for Enterprise Networks & Tier Systems Support. He served on the acquisition strategy team for the PCEA BPA that was awarded to Strong Castle, and served on the Contract Review Board for the IBM ESSO BPA. Roseman first met Braulio Castillo in 2003, and the two are close friends.

Patricia Hoover

Branch Chief, Enterprise Systems Support Branch

Patricia Hoover is the Branch Chief for Enterprise Systems Support. She supervised the IBM BPA that was awarded to Strong Castle and communicated frequently with Braulio Castillo during that acquisition process. Hoover frequently exchanges texts with Braulio Castillo about IRS acquisitions. She reports directly to Greg Roseman.

Paula Cheetham

Branch Chief, Tier 2/3 Support Branch

Paula Cheetham is the Branch Chief for Tier 2/3. She was involved in the solicitation of the HP Superdome Contract that was awarded to Strong Castle. A significant number of IRS contracts awarded to Strong Castle were within her branch. Cheetham reports directly to Greg Roseman.

Karen Parrish

Section Chief, TCV Acquisitions and Services

Karen Parrish is the Section Chief for TCV Acquisitions and Services. She also serves in an unofficial capacity as a small business specialist for OITA at the behest of Bobby McCane. This unofficial role allows Parrish to have contacts with Braulio Castillo that would otherwise be deemed inappropriate.

Stephanie Bracey
Contracting Officer

Stephanie Bracey was the contracting officer responsible for the PCEA BPA awarded to Strong Castle for \$80 million in December 2012. Strong Castle's offer of \$80 million was 4.5 percent higher than the lowest offer.

Brian Carper
Contracting Officer

Brian Carper was the contracting officer responsible for the IBM ESSO BPA awarded to Strong Castle. Greg Roseman directed this BPA to be HUBZone-preferred.

Strong Castle, Inc.

Braulio Castillo
President and Chief Executive Officer

Braulio Castillo purchased Signet Computers, Inc. with his wife, Michelle Castillo, in January 2012. Prior to the purchase, the company averaged \$250,000 in annual revenues. Since then, the IRS has awarded the company dozens of contracts with a potential value of over \$500 million. Braulio Castillo is close friends with Greg Roseman, Deputy Director for Enterprise Networks and Tier Systems Support.

Michelle Castillo
Chief Operating Officer

Michelle Castillo purchased Signet Computers, Inc. with her husband in January 2012. Before she stepped down from her role as Chief Operating Officer earlier this month, her primary responsibilities were invoicing, accounting, and employee timekeeping.

IV. Glossary

ACA – Patient Protection and Affordable Care Act

BPA – Blanket Purchase Agreement

FAR – Federal Acquisition Regulation

GAO – Government Accountability Office

GSA – U.S. General Services Administration

HUBZone – Historically Underutilized Business Zone

IRS – Internal Revenue Service

OITA – IRS Office of Information Technology Acquisition

PCEA – Personal Computer Equipment and Accessories

RFP – Request for Proposal

RFQ – Request for Quotation

SBA – U.S. Small Business Administration

SDVOSB – Service-Disabled Veteran-Owned Small Business

TET – Technical Evaluation Team

USMAPS – U.S. Military Academy Preparatory School

VA – U.S. Department of Veterans Affairs

V. Findings

- Braulio Castillo injured his ankle while playing sports during a nine-month stint at the West Point Military Academy Preparatory School. This injury was the basis of Strong Castle's designation as a service-disabled veteran-owned company. Castillo subsequently played quarterback and linebacker in college for the University of San Diego, and has no other military service.
- For 27 years, Castillo lived with his prep school injury without relying on government support. Just months before he started his business, however, he applied for—and received—service-disabled status from the VA. This entitled Castillo to monthly disability payments of over \$450, and made his company eligible for lucrative set-aside contracts worth millions of dollars.
- Instead of hiring unemployed or disadvantaged citizens to support underdeveloped areas, Strong Castle employed full-time college students from the Catholic University of America—a private university with annual tuition exceeding \$36,000. These students apparently squeezed in 40 hours per month at Strong Castle amid heavy academic workloads and varsity athletic commitments.
- When Castillo discovered that two of his Catholic University employees did not live in a HUBZone, he offered them a choice: move or leave the company. Castillo forced one student out of the company, while the other was forced to move out of a rental shared with his brother and move into a HUBZone area in order to keep his job.
- Strong Castle deliberately concealed employees from the SBA in an effort to maintain its HUBZone residency requirement. Strong Castle claimed these employees were consultants and independent contractors. The SBA disagreed.
- Strong Castle lacked any type of internal controls. This led to payroll discrepancies and critical errors on timesheets.
- On May 23, 2013, the SBA decertified Strong Castle as a HUBZone small business.
- Braulio Castillo and Greg Roseman have been friends since 2003. The two are close friends. Castillo and Roseman talk frequently and exchange hundreds of text messages and phone calls. Many of Roseman's texts include homophobic slurs and other explicit language.
- Greg Roseman called on old friends at GSA to help Strong Castle obtain its GSA Schedule 70 contract in record time. Braulio Castillo relied heavily on Roseman's expertise to navigate this complicated process.

- The IRS IT acquisitions division designated an “unofficial” small business representative. In this “unofficial” capacity, the representative had communications with Braulio Castillo that otherwise might be considered inappropriate.
- Gregory Roseman failed to recuse himself from any acquisition on which Strong Castle, his close friend’s company, submitted a bid. Roseman successfully hid his friendship with Castillo from other IRS employees.
- Before 2012, Strong Castle had won \$0 in federal contracts. On December 31, 2011, Greg Roseman told Braulio Castillo that his company would be “Fortune 500 in no time.” In 2012, Strong Castle won over a dozen contracts from the IRS with a potential value in excess of \$500 million.
- The IRS uses socioeconomic status of prospective contractors as the primary evaluation factor in determining what companies will win a contract. This contracting process, seemingly unique among federal agencies, significantly favors Strong Castle, and occurs in a way that avoids scrutiny by SBA or the VA.
- IRS officials e-mailed Castillo with information about upcoming acquisitions—some of which were worth millions of dollars—at a critical time when Castillo was beginning to grow his business using IRS contracts and contacts
- Braulio Castillo successfully altered the language—literally overnight—of IRS Requests for Quotations so that Strong Castle would be in a much stronger position to win. Without these alterations, Strong Castle likely would not have won several IRS contracts.
- Despite no history of past performance at the IRS, Strong Castle won a highly-competitive \$80 million BPA in December 2012. Highly unusual circumstances surrounded the solicitation and award of this contract.
- Immediately after the IRS released the PCEA BPA RFQ, Castillo and Roseman engaged in several lengthy phone conversations. Within hours of the RFQ release, Castillo and Roseman had already discussed the specific language—buried deep in the RFQ—that would later be the cause of an award protest.
- The Technical Evaluation Team initially rated Strong Castle’s Past Performance as “Good.” After being prodded by the contracting officer and her supervisor—both of whom work for Greg Roseman—the Technical Evaluation Team changed Strong Castle’s Past Performance to “Excellent.”
- Though Strong Castle admittedly had no past performance, and IRS contracting officials gave the company an inferior rating on the technical portion of its proposal, Strong Castle won the “biggest [contract] coming out of the IRS in the past 15 years.”
- Greg Roseman wanted a HUBZone contractor to win the IBM BPA—and Strong Castle was at the top of his list. Braulio Castillo also solicited Greg Roseman’s help in

modifying Strong Castle's GSA Schedule so that Strong Castle could "successfully compete" on the IBM acquisition.

- Since the Committee's investigation began and the IRS was made aware of the contracting improprieties, the IRS has awarded nearly \$4 million in contracts to Strong Castle. Last month, the IRS awarded Strong Castle its first task order for work under the Affordable Care Act.
- A senior IRS procurement official testified that if Strong Castle "misrepresented some facts ... I would immediately cancel the award, and then I would go out and re-solicit for those requirements." Although Strong Castle intentionally deceived at least the SBA, the IRS will not cancel the \$266 million contract.
- Strong Castle is a prime example of the unintended consequences of small business socioeconomic programs.
- The Committee's investigation has identified a significant need for enhanced training of acquisition professionals in the government.

VI. Recommendations

Based on its investigation, the Committee identified several recommendations that, if implemented, would assist the IRS and other federal departments and agencies in avoiding a recurrence of the problems uncovered:

- Training for acquisition professionals on identifying instances of both fraud and conflicts of interest would help employees avoid difficult situations in which they have no available guidance.
- Formalizing the processes and procedures for recusal when conflicts arise, as well as for reporting wrongdoing to the appropriate authorities, such as TIGTA, would go a long way in avoiding impropriety.
- A robust review of the statutory and regulatory authority governing the SDVOSB program would ensure that bad actors are unable to game the system to get ahead.
- Requiring more detailed information up front from companies attempting to take advantage of socioeconomic programs would discourage these companies from submitting inaccurate and misleading information to obtain certifications.
- Contracting officers need additional training and guidance directing that they engage in a FAR Part 9 responsibility determination on all contracts valued at \$10 million or more annually regardless of whether they are Federal Supply Schedule awards.

VII. Strong Castle – The Company

Braulio and Michelle Castillo founded Strong Castle LLC, now named Strong Castle Technologies LLC, in August 2011. The two intended for Strong Castle LLC to be a holding company and to either start or acquire companies underneath it.¹⁰ While Strong Castle LLC is now dormant, Braulio Castillo at one point also intended for it to be the “services” wing of his business.¹¹

Shortly after the Castillos founded Strong Castle LLC, they began searching for a small business that they could purchase. Specifically, they were looking for a company that had the past performance and record that Strong Castle LLC was lacking.¹² When they identified Signet Computers as a potential candidate for purchase, they noted that it came with other benefits as well – namely, active subcontracts and a Top Secret clearance.¹³

The Castillos finalized the purchase of Signet Computers, Inc., now named Strong Castle, Inc., on January 31, 2012. Braulio Castillo described Signet at the time they purchased it as follows:

And then we came across Signet, and it was one of those – we found it on broker.com or something. And so here's a company that's been around 18 years. It was relatively affordable. It did not have schedules, but in looking at it and part of the due diligence, they had many of the past performances that we thought we could leverage to get a schedule, and more importantly their D&B rating was 97 percent out of 100, which is unheard of for a small business.

* * *

So we looked at multitude of companies. We acquired Signet largely because of its past performance history, it had a Top Secret clearance, and it allowed us to have the past performances to go after other schedules.

[P]art of kind of a barrier entry to many small businesses for schedules is they must have 2 years past performance of doing X amount of dollars with the Federal Government as a prime. Well, many times as a small business, when you start your – many times a sub, I mean, more times than not, so you don't have that prime – that prime contractor experience. So we paid for it, in short. So that's why Signet. And it was relatively

¹⁰ H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Braulio Castillo, at 38 (June 12, 2013) [hereinafter B. Castillo Tr.].

¹¹ *Id.* at 39.

¹² H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Michelle Castillo, at 34 (June 3, 2013) [hereinafter M. Castillo Tr.].

¹³ *Id.* at 36-37.

affordable. Probably more than we should have paid per the models, but it was still a small dollar amount.¹⁴

The Castillos closed Signet’s former office and moved the company to H Street NW in Washington, D.C.—then a designated HUBZone area—shortly after finalizing the purchase.

A. Strong Castle’s Service-Disabled Veteran-Owned Small Business Status

FINDING: Braulio Castillo injured his ankle while playing sports during a nine-month stint at the West Point Military Academy Preparatory School. This injury was the basis of Strong Castle’s designation as a service-disabled veteran-owned company. Castillo subsequently played quarterback and linebacker in college for the University of San Diego, and has no other military service.

Executive Order 13360, which President Bush signed in 2004, directs all federal contracting agencies to establish a goal of at least 3 percent of federal contracting dollars to go towards Service Disabled Veteran Owned Small Businesses (SDVOSB). The Order also allows agency contracting officials to establish set-aside procurements for SDVOSBs. The impetus behind the SDVOSB program and the 2004 Executive Order—signed during the height of the wars in Iraq and Afghanistan—was to provide disabled veterans benefits in federal contracting to help mitigate the harm caused by their disabilities as a result of their service to our country. The SDVOSB program allows companies to “self-certify” as a SDVOSB.

1. Castillo’s Military Career

High school football players who are recruited to play at the U.S. Military Academy are occasionally enrolled at the U.S. Military Academy Preparatory School (USMAPS) for a fifth year of high school, or a “redshirt year,” to mature and prepare to play college football.¹⁵ Braulio Castillo attended USMAPS for that purpose during the 1984-85 school year.¹⁶ In November 1984, Castillo injured his left foot during an orienteering exercise in the woods.¹⁷ He returned home to San Diego in 1985, enrolled in San Diego City College, and eventually enrolled at the University of San Diego, where he played quarterback and linebacker for the football team.

A 1985 *Los Angeles Times* article describes Castillo’s quarterback exploits at San Diego City College. Impressively, Castillo ran for 70 yards and a touchdown:

Quarterback Braulio Castillo passed for 90 yards and one touchdown for San Diego City (1-4, 1-6). He also rushed for 70 yards and one

¹⁴ B. Castillo Tr. at 41-42.

¹⁵ Mike Belter, *Army Football, A Proposal to the Superintendent, Part 6 of 6*, GoBlackKnights.com (Dec. 29, 2012).

¹⁶ B. Castillo Tr. at 53.

¹⁷ *Id.* at 109-110.

touchdown. The Pirates outgained San Diego City in total yards, 296 to 285, but stopped itself with eight turnovers.¹⁸

A 1987 article discusses Castillo's transfer to the University of San Diego to play quarterback:

The key to USD's offense will be how well its new quarterback, Braulio Castillo, a transfer from San Diego City College, plays. Castillo is replacing Pat Dixon, who passed for 1,727 yards and 15 touchdowns last year.

"I think he gives us more options than last year," Fogarty said. "**Pat was more of a drop-back passer whereas Braulio can move around and run better.**"¹⁹

For 27 years after Castillo's stint at USMAPS, he asked for no compensation from the government for his injury. He lived without a service-disabled designation, and without making a claim that he needed compensation from the VA as a result of his service-disability. Just months before he found his company and bought Signet Computers, however, Castillo believed that the pain in his foot was so significant that it entitled him to a monthly paycheck from the VA and all of the opportunities and advantages that came with the SDVOSB program. Castillo then filed a disability claim with the U.S. Department of Veterans Affairs (VA). His claim was approved. Castillo then became eligible to receive hundreds of dollars worth of monthly benefits from the VA. Castillo's status as a disabled veteran also made Strong Castle eligible to receive government-wide contracting set-asides through the SDVOSB program.

2. Castillo's One Year of Military Prep School Qualified Him as a Veteran

Braulio Castillo would not have been considered a veteran had he completed his year at USMAPS without injury. Normally, a cadet is not considered a veteran until he or she graduates from West Point, enters active duty, and subsequently leaves active duty.²⁰ Time spent at USMAPS and West Point is considered training, not active duty.²¹ However, if a person is injured at either school, he or she becomes a veteran due to the service-connected disability.²² This policy is codified with respect to service at the academies, and is extended in the Code of Federal Regulations to include prep schools.²³

Castillo was not aware that, but for the fact that he injured himself while at USMAPS, he would not be considered a veteran of the U.S. Army. He stated:

¹⁸ *San Diego City Beats Orange Coast, 24-14*, L.A. TIMES, Nov. 3, 1985, available at http://articles.latimes.com/1985-11-03/sports/sp-4129_1_san-diego-city-college (emphasis added).

¹⁹ *Fresh Start Doesn't Help at USD: Three Years After Big Freshman Class, Team's Still Young*, L.A. TIMES, Sept. 4, 1987, available at http://articles.latimes.com/1987-09-04/sports/sp-3988_1_usd (emphasis added).

²⁰ Briefing with Brad Flohr, Senior Advisor, Veterans Benefits Administration (Mar. 28, 2013) [hereinafter Flohr Briefing].

²¹ *Id.*

²² *Id.*

²³ 38 U.S.C. § 101(22); Title 38 CFR § 3.6(c)(5).

Q. My question is, are you aware that if it were not for the injury you sustained at the preparatory academy, had you gone through the 9-month program and not been injured, you would not be considered a veteran under the laws of this country?

A. No. I think I would be a veteran.

Q. No, you would not.

A. I don't know that. I don't know that, so I do not know that.²⁴

3. Castillo's High School Orienteering Injury Was Considered Service-Connected

Any injury is considered service-connected as long as it occurred “in the line of duty.”²⁵ This category is very broad and covers any injury that occurs during service—the only exclusion being for injuries that occur during criminal activity.²⁶ For example, a person enrolled at USMAPS could injure himself playing pick-up basketball on Sunday morning, and that injury would be considered to have occurred “in the line of duty.” The key determination is whether the disability was incurred or aggravated while in service, not that the injury was caused by service.²⁷

According to the VA, Castillo provided the required documentation.²⁸ He provided current medical records and opinions about his foot problems; medical records from his time at USMAPS that showed an injury, and; a letter from the VA stating that the two are connected.²⁹

To support his application, Castillo provided a letter from his doctor that described “increasing pain and deformity” in his left foot. The letter described Castillo’s injury as a football injury.³⁰ The letter stated:

Braulio related that when at the West Point Preparatory School in 1984 for which he had been admitted as a high school quarterback for training to come into the army and meeting all admission requirements, **injured his foot at practice and after a brief period of rest, he was subsequently treated with shoe inserts and then returning to play ball.** He had no previous injuries.³¹

²⁴ B. Castillo Tr. at 125.

²⁵ Flohr Briefing, *supra* note 20.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ Dept. of Veterans Affairs Rating Decision for Braulio Castillo (Dec. 21, 2011).

³¹ Letter from Dr. Sam Wilson Jr., Arthritis & Sports Orthopedics & Physical Therapy, to Whom It May Concern (May 26, 2011) (emphasis added).

Castillo testified, however, that the injury had actually occurred during orienteering. Castillo testified:

I was just running through the field and stepped on -- off of something or hurt my foot. I remember stopping, I remember being taken to Patterson Health, being X-rayed and then being casted and then what the treatment was.³²

Castillo testified that he knew the doctor's letter advising was inaccurate at the time he submitted it to the VA, but chose not to correct the record. He testified:

Q. And why did you choose not to contact the VA to correct the information provided in the letter?

A. So I was extremely grateful that he took the time to do it, first and foremost. **I didn't think it was important, something to correct it, you know. I don't think it's germane . . .** what – what he had stated how I was hurt, and that the VA was very clear that they had their own records. **So I didn't provide a DD-214, I didn't provide any medical records.**³³

Castillo submitted inaccurate information to the VA—and subsequently this Committee.³⁴

Nevertheless, based on Castillo's doctor's letter and related medical records, the VA declared Castillo "a veteran of the Peacetime" and determined that there was a service connection for the injuries to his left foot.³⁵

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³² B. Castillo Tr. at 116.

³³ B. Castillo Tr. at 335 (emphasis added).

³⁴ 18 U.S.C. § 1001 states, in pertinent part:

a) Except as otherwise provided in this section, **whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—**

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) **makes any materially false, fictitious, or fraudulent statement or representation; or**

(3) **makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;**

shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.

³⁵ U.S. Dep't of Veterans Affairs Rating Decision for Braulio Castillo (Dec. 21, 2011).

DEPARTMENT OF VETERANS AFFAIRS
Roanoke Regional Office
116 N. Jefferson St.
Roanoke, VA 24016

BRAULIO CASTILLO

VA File Number
[REDACTED]

Rating Decision
December 21, 2011

INTRODUCTION

The records reflect that you are a veteran of the Peacetime. You served in the Army from July 29, 1984 to March 29, 1985. You filed an original disability claim that was received on June 24, 2011. Based on a review of the evidence listed below, we have made the following decision on your claim.

DECISION

- 1 . Service connection for scars, status post left foot fusion is granted with an evaluation of 20 percent effective June 24, 2011.
- 2 . Service connection for left foot status post fusion with pes planus, and heel spurs, (also claimed as mid foot pain, lack of mobility, and arthritis), is granted with an evaluation of 10 percent effective June 24, 2011.

Despite the fact that Castillo went 27 years playing college football, participating in other sports, and never feeling like he needed government support for his injury, just one month before Castillo purchased Signet Computers, the VA was satisfied with the representations of Castillo and his doctor regarding the ongoing nature of his injury. The VA decided Castillo has a 30 percent disability from the injury to his left foot.³⁶ The highest disability possible for an injury below the knee is 40 percent.³⁷ A 40 percent disability describes an amputation.³⁸ Multiple injuries may also total up to 40 percent.³⁹ The VA's Rating Decision stated:

We have reviewed all available evidence and **despite no objective evidence of painful motion**, we find that you have a history of ongoing treatment for your left foot and that you consistently report pain on the use of the foot. You are competent to testify regarding your pain and we find your statements to be credible.⁴⁰

³⁶ U.S. Dep't of Veterans Affairs Rating Decision for Braulio Castillo (Dec. 21, 2011).

³⁷ Flohr Briefing, *supra* note 20.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* (emphasis added).

4. Castillo's Service-Disabled Veteran Status Made Him Eligible for Benefits

FINDING: For 27 years, Castillo lived with his prep school injury without relying on government support. Just months before he started his business, however, he applied for—and received—service-disabled status from the VA. This entitled Castillo to monthly disability payments of over \$450, and made his company eligible for lucrative set-aside contracts worth millions of dollars.

In addition to a \$469 monthly benefit that Castillo was entitled to as a result of his service-disability, Castillo's new status also granted him access to millions of dollars in set-aside contracts and "preferred" status as a SDVOSB company.⁴¹

Your Award Amount and Payment Start Date
Your monthly entitlement amount is shown below:

Monthly Entitlement Amount	Payment Start Date	Reason For Change
\$453.00	Jul 1, 2011	Original Award
469.00	Dec 1, 2011	Cost of Living Adjustment
435.00	Jul 9, 2022	Minor Child Turns 18 and Taken off Award

Testifying to Castillo's business interests regarding his service-disability, Castillo said that he was not aware that his application would entitle him to compensation. He stated:

- Q. All right. So this letter from the colonel May 26th, 2011, you injured your ankle 27 years old earlier, 1984.
- A. Yes.
- Q. It wasn't until May 2011 that you applied for your disability. Why did you apply for your disability in May 2011 as opposed to any time in the interim 27 years?
- A. So it was around this time -- it was around this time that I went through the major surgeries that were going to have lasting permanent disability-like things, so . . . that was kind of the final verdict.
- Q. You receive compensation for your disability, correct?

⁴¹ Letter from the U.S. Dep't of Veterans Affairs to Braulio Castillo (Dec. 21, 2011).

A. I do.

Q. Did you know when you applied for the disability that you would receive compensation from it?

A. No. No.⁴²

5. Castillo Exaggerated His Military Service

To be deemed a SDVOSB, a small business must meet two criteria through a “self-certification process.” First, the business must be at least 51 percent owned by one or more service-disabled veterans. Second, the one or more service-disabled veterans must control the management and daily business operations of the business.⁴³

A few months after being declared a service-disabled veteran, Castillo attempted to qualify Strong Castle for SDVOSB set-asides. In an e-mail to a VA examiner who was reviewing Strong Castle’s qualifications for SDVOSB preferences, Castillo described the company’s ownership structure. He stated, “I am a service disabled veteran” and explained that he owned 81 percent of the company’s stock.⁴⁴ Castillo—who was injured on an orienteering run during his “redshirt” year at the U.S. Military Academy Preparatory School and never actively served in the military—also included an incomplete description of his service and the extent of his injury. Castillo represented to a government official the hardships he suffered for his country:

My family and I have made considerable sacrifices for our country. My service connected disability status should serve as a testimony to that end. I can’t play with my kids because I can’t walk without pain. I take twice daily pain medication so I can work a normal day’s worth. These are crosses that I bear due to my service to our great country. I would do it again to protect this great country. Part of my reasoning for my line of work is that I can continue to support the US federal government. My ask is that you certify me, my company, so that my sacrifices and investments are for not [sic] and that I can provide for my family.⁴⁵

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⁴² B. Castillo Tr. at 117.

⁴³ U.S. Dept. of Transp., Off. of Small and Disadvantaged Bus. Utilization, <http://www.osdbu.dot.gov/Related/SBA.cfm> (last visited June 21, 2013).

⁴⁴ E-mail from Braulio Castillo to Gina Mou (July 3, 2012).

⁴⁵ *Id.*

From: Braulio Castillo [mailto:braulio.castillo@signet-computers.com]
Sent: Tuesday, July 03, 2012 03:31
To: Verification Followup
Cc: Braulio Castillo
Subject: Signet Computers, Inc Follow up
ATTN: Gina Mou

It was great talking to you earlier today. I wanted to follow up our conversation regarding our office location.

I am a disabled veteran. I am the majority owner of Signet Computers, Inc. My wife and I purchased Signet on January 31st. I own 81% of all of the stock. My wife owns 19% of the stock. There are no other owners of Signet stock. I am a 30% disability rating for my service connected disability.

I am a disabled veteran who owns a majority stake in a company. I run the day to day, month to month, and year over year operations of the company.

In a relatively short timeframe, we have made a considerable investment in acquiring a firm, growing our work force from 3 people when we bought the company in late January to almost 20 people today. Signet had one location in Arlington, VA when we purchased it. We have a lease that expires in October 2012. We will not renew that lease. We have been in that location for approximately 10 years. We still receive mail there. I live in Ashburn, VA. Our corporate headquarters is now in 202 Church St SE, Ste 200, Leesburg, VA 20175 at the George Mason Business Enterprise. George Mason, Loudoun Small Business Development Center, and Leesburg Development Council support small businesses like mine out of the center. I informed CVE of this move a long time ago when I proved them our Town of Leesburg business license.

I am going after two \$150M programs with the IRS where one is a SDVOSB set aside and the other is SDVOSB preferred. The programs are called IRS IT Services BPA and IRS PC Equipment and Accessories. Their restive solicitation number s are: TIRNO-12-R-00019 and TIRNO12Q00083. We are also chasing a Printer BPA at Bureau of Public Debt RFQ RFQ-CFP-12-0015. We are also partnering with Deloitte for a GWAC with GSA RFP #GS10F12LPQ0001. GSA is encouraging large firms to add SDVOSB's to the team via CTA. As we are a GSA schedule holder and SDVOSB, we have been approached by Deloitte as a sub for their team. Without SDVOSB, we will not be able to support their team. Our getting our GSA schedule was supposed to be the hard part. I never imagined that I would not be SDVOSB certified this fiscal year. This kills us in the market. Also, I met with USDA and they asked me about my CVE certification. They mentioned that they have a few SDVOSB set asides that were coming out where I would be qualified to participate if I was CVE certified. I informed them that I was a service disabled veteran and was the majority owner of Signet. They informed me that without the CVE certification, they did not consider our firm as a SDVOSB. I tried to state that their position was out of scope to the actual rules of the CVE program and they said that without the certification, they had no way to insure that firms claiming to be SDVOSB's were indeed SDVOSB's and said that was within their authority to use the CVE certification process in that way. This greatly raises the bar for the CVE program and for quickly certifying companies as SDVOSB's.

If I have to withdraw and reapply, I will not be able to compete as a SDVOSB this fiscal year end. This will devastate my company and I do not believe that I will be able to recover. SDVOSB is a key differentiator in the market and brings value to our partners and clients alike.

In short, I believe that I have established the main tenets of a CVE certified firm: I am a disabled veteran. I am the majority owner of Signet. I run the company. These main items are not in question. That Arlington, VA is no longer our primary place of business, of which I informed CVE a long while ago, should be keep me from getting certified and able to compete for SDVOSB business this fiscal year end.

My family and I have made considerable sacrifices for our country. My service connected disability status should serve as a testimony to that end. I can't play with my kids because I can't walk without pain. I take twice daily pain medication so I can work a normal day's worth. These are crosses that due to my service to our great country. I would do it again to protect this great country. Part of my reasoning for my line of work is that I can continue to support the US federal government. My ask is you certify me, my company, so that my sacrifices and investments are for not and that I can provide for my family.

Regards,

Braulio

Braulio M. Castillo

President

Signet Computers, Inc.

"A Historically Underutilized Business Zone (HUBZone) Small Business"

"A Service-Disabled, Veteran-Owned Small Business (SDVOSB)"

"A Commonwealth of Virginia Minority Business Enterprise SbaM Certified Minority-Owned Small Business"

519 H Street NW, Suite 200

Washington, DC 20001

"I am a disabled veteran."

"I am going after two \$150M programs with the IRS where one is a SDVOSB set aside and the other is SDVOSB"

"My family and I have made considerable sacrifices for our country. My service connected disability status should serve as a testimony to that end. I can't play with my kids because I can't walk without pain. I take twice daily pain medication so I can work a normal day's worth. These are crosses that I bear due to my service to our great country. I would do it again to protect this great country. Part of my reasoning for my line of work is that I can continue to support the US federal government. My ask is that you certify me, my company, so that my sacrifices and investments are for not [sic] and that I can provide for my family."

Based on Castillo's representations, Strong Castle was deemed eligible to receive SDVOSB set-asides. Castillo testified that he was aware from his experience in government contracting that service-disabled veterans were eligible for SDVOSB set-asides. He stated:

So just from being in the industry. Well, let me take a step back. We were looking at acquiring an SDVOSB company, so we went down the process of working with a company to acquire them. So – and it was one of those things where the owner had to stay on because he had to maintain ownership in the piece of it. And so I think throughout that process . . . I don't know how we came – who came – who said, hey, why don't we apply? The regular – the regulation calls for zero percent disability qualifies you, and so we thought that with the – I thought with the injury, I could at least apply to see if – because what had happened was true. **I was injured while in the Army**, – just let me finish, please. I had been treated regularly since then. So as soon as I left I was treated for it, when I moved to Las Vegas I was treated for it, and when I moved to Virginia I continued to be treated. It eventually led to a debilitating injury that required three major foot fusions on my foot. And based on that, I decided that I could and should apply.⁴⁶

B. Strong Castle Withheld Information from SBA to Obtain HUBZone Certification

In 1997, Congress delegated to the SBA the authority to implement and regulate the Historically Underutilized Business Zones (HUBZone) program. The HUBZone program is intended to promote economic development and sustainable employment in underutilized and economically distressed urban business areas, or HUBZones. The program is specifically designed to help small HUBZone-located businesses gain “preferential access” to procurement and contracting opportunities with the federal government. The HUBZone program also provides businesses other competitive benefits such as opportunities to engage in sole source contracts.

Small business must apply to the SBA for HUBZone-certification in order to participate in the HUBZone program. The SBA makes certification determinations based on four basic criteria, including that the company’s “principal office” is located in a HUBZone, and that at least 35 percent of its “employees”—defined as individuals working at least 40 hours per month—reside in a HUBZone. The SBA maintains a list of HUBZone-certified businesses that is publicly available.

For Braulio Castillo and Strong Castle, obtaining SBA’s HUBZone certification was critically important. Castillo had contacts in the right places at the IRS to ensure that his company—with no history of past performance of prime contracting in the federal government—would be in a strong position to compete on any IRS acquisition, if only the company had a HUBZone certification. Castillo went to great lengths to qualify Strong Castle for the contracting preference—which is meant to stimulate employment and growth in underutilized neighborhoods—from hiring college students who lived in a HUBZone to opening a shell office and claiming it as the company’s primary location.

⁴⁶ B. Castillo Tr. at 122 (emphasis added).

1. College Students as HUBZone Employees

FINDING: Instead of hiring unemployed or disadvantaged citizens to support underdeveloped areas, Strong Castle employed full-time college students from the Catholic University of America—a private university with annual tuition exceeding \$36,000. These students apparently squeezed in 40 hours per month at Strong Castle amid heavy academic workloads and varsity athletic commitments.

To meet the SBA’s requirement that 35 percent of company’s employees must live in a HUBZone to obtain its HUBZone certification, Braulio Castillo needed to find people who lived in a HUBZone. Living in The Washington, D.C. suburb of Loudoun County, Virginia, the richest county in America, however—and miles from a designated HUBZone area—Castillo needed to get creative. He turned to Dave Dunn, an old friend and his college roommate, and Catholic University of America head football coach. Catholic University was located in a HUBZone, and most of the students who attended the school lived in a HUBZone.

Dunn used his position as football coach and relationships with student athletes to help recruit them to be employees for Strong Castle. Dunn testified:

Q. And then at some point [Castillo] asked you for a favor?

A. Yeah. I don't know if it was a favor. He just said, hey, would you need some guys – it was kind of a way we thought we could help each other. **He said . . . I need to hire some guys.** And he said, do you have some players on your team that you think would be interested in working for me? And I said yes.

Q. Why did he ask you that?

A. Because he probably wanted to help me and needed help himself. I can't really talk for him.

* * *

Q. How would he be helping you by hiring players on your team?

A. Providing our guys jobs.

Q. **So what else did he say to you, other than do you have folks on your team that are interested in working?**

A. **He said they had to live off campus.**⁴⁷

⁴⁷ H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of David Dunn, at 19-20 (Mar. 3, 2013) (emphasis added).

Castillo stipulated that the students needed to live off campus because that would ensure the students lived in a HUBZone. Dunn testified:

Q So you take this phone call from Braulio. What did you do with it after you guys hung up?

A We had the beginning of – like I said, it was a year ago. It was the beginning of the second semester. We have a general meeting that we start the season with, kind of go over . . . where guys are at academically, just kind of what we are going to do in the off season.

And then since he told me the players needed to live off campus, so I had a meeting after the end of the main meeting when all of the team was already dismissed, all the players who lived on campus, and I kept the guys who lived off campus in the meeting. **And I kind of told them, I said, one of my friends is starting a company and he needs guys to live off campus.** I said, this is basically what it is going to do, kind of . . . I said, because it is – I assume it is similar to what he was doing before.

I wrote his information on the board, and then I had--I took down the information of our guys. So I said, if you have questions, you can contact him. And I said, whoever is interested, just stay here, and they did. **And then I gave . . . Braulio a list of names and cell phone numbers and email addresses.**⁴⁸

Castillo targeted these student athletes for employment—the students were paid \$10 per hour—because Castillo knew they would help Strong Castle fulfill the 35 percent HUBZone residency requirement. Strong Castle had no other HUBZone employees except for the students.

2. HUBZone Employees Forced to Move or Leave Company

FINDING: When Castillo discovered that two of his Catholic University employees did not live in a HUBZone, he offered them a choice: move or leave the company. Castillo forced one student out of the company, while the other was forced to move out of a rental shared with his brother and move into a HUBZone area in order to keep his job.

When Castillo discovered that two of the student employees did not actually live in a HUBZone, however, serious consequences arose. Student A, a Catholic University student, chose to remain in Washington, D.C. to work at Strong Castle during the 2012 summer break instead of returning home to Philadelphia. She testified:

⁴⁸ *Id.* at 21-22 (emphasis added).

Q. Okay. And did you end up getting the offer from that law firm?

A. Yes.

Q. And did you decline the offer?

A. Yes.

Q. **And did you decline the offer so could you stay in D.C. to work at Signet?**

A. **Yes, but because they waited too long to get back to me and I didn't want to lose the other opportunity at Signet.**⁴⁹

In June 2012, however, Michelle Castillo learned that Student A did not in fact live in a HUBZone. Castillo called Student A to inform her of this fact. Student A testified about the conversation. She stated:

Q. So were you told that you couldn't work there anymore because your address wasn't in the HUBZone?

A. Uh-huh.

Q. Who told you that?

A. Michelle.

Q. And what did she say?

A. **She said due to my location of my house that I wasn't in the HUBZone, so because of that it would take them away from those opportunities.**

Q. Did this come as a shock to you?

A. Yeah.

Q. You were under the impression that you would be working at Signet all summer?

A. Correct.

Q. **And then she told you at the end of June that you were no longer going to be allowed to work there?**

⁴⁹ H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Student A, at 9-10 (Apr. 26, 2013) [hereinafter Student A Tr.]. (emphasis added).

A. **Correct.**⁵⁰

Michelle Castillo did offer to allow Student A to keep her employment at Strong Catle—but only if she moved into a HUBZone-designated area. Student A testified:

Q. Did she ask you to move to a different location?

A. She said that was an option, but, I mean, I was going in--I already have a lease on a house for 2 years, so it wasn't really an option to move.⁵¹

As a result of Michelle Castillo's phone call, Student A had to move back to Philadelphia—after just one month working full-time at Strong Castle—to get another job. Student A stated:

Q. What did you do for the rest of the summer, in July and August, since you didn't have this job at Signet?

A. I moved back to Philadelphia and had a different job.

Q. **Is that something that you were planning on doing at the beginning of the summer?**

A. **No.**

Q. **So you had to do this as a result of them telling you, you could no longer work at Signet?**

A. **Yes.**⁵²

Student A was forced to leave the company despite the fact that she was a high-performing employee. Braulio Castillo testified that he really liked Student A, and thought that she performed the best out of all the student employees in a sales exercise. Castillo testified:

Yeah. So she resigned. I don't know if it would have reached that. **I really liked her a lot. I really, really liked her a lot.** I had only met her a couple of times. But we do a negotiation exercise, and that I got from when I was at Xerox, a sales instructor there. **And I thought that she performed in that sales exercise probably the best of the groups. And I really, really liked her from that.** My time with her was very limited.⁵³

⁵⁰ Student A Tr. at 16 (emphasis added).

⁵¹ *Id.* at 17.

⁵² *Id.* at 27-28 (emphasis added).

⁵³ B. Castillo Tr. at 134 (emphasis added).

Despite Braulio Castillo's positive impression of Student A, she was forced to leave the company simply because she did not reside in a HUBZone. Her sole purpose to Castillo—her HUBZone residence—had suddenly vanished.

Michelle Castillo also discovered that another HUBZone employee from Catholic, Supervisor 1, did not live in a HUBZone. Supervisor 1, a former football player for Catholic University, was given the same choice as Student A: move, or leave. At the time, however, Supervisor 1 lived with his brother. He testified:

Q. So you lived with your brother at Newton Street?

A. Correct.

Q. **And then you moved out –**

A. **And then I needed to live in a HUBZone, so**⁵⁴

Supervisor 1 also testified:

Q. When were you informed that you needed to live or instructed that you were – that you needed to live in a HUBZone?

A. Well, we thought that my house was in the HUBZone because I only lived a few blocks away from the other guys that were in the HUBZone, and so it was just . . . an easy mistake. **We--and then they told me, [Supervisor 1], you don't--you don't live in a HUBZone. I was like, okay . . . what do I need to do?**

Braulio said, is there any way you can get out of that lease and move somewhere else? I said I'll . . . work on it. That was, I believe, at the end of July, around that time, and then I wasn't able to move until – thank you – I wasn't able to move until the end of October, beginning of November.⁵⁵

Braulio Castillo encouraged Supervisor 1 to move away from his brother and find new housing in order to remain an employee at Strong Castle. With money being tight for Supervisor 1, he relied on his income from Strong Castle to keep afloat.⁵⁶ He had little choice but to leave his living arrangement with his brother to keep earning money at Strong Castle.

⁵⁴ H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Supervisor 1, at 45 (Mar. 11, 2013) [hereinafter Supervisor 1 Tr.] (emphasis added).

⁵⁵ *Id.* at 54 (emphasis added).

⁵⁶ *Id.* at 21.

Strong Castle claims its hiring practices show that the company is committed to providing employment opportunities to those who live in underutilized neighborhoods.⁵⁷ A closer look, however, reveals this claim to be baseless. Strong Castle originally hired only Catholic University student-athletes because Castillo had a friend with access to these athletes. By virtue of living near campus, these athletes likely lived in a HUBZone—though only temporarily while attending school. These students all testified that they were from other, more affluent areas of the country. Castillo, however, was adamant that these students were in fact from the local HUBZone neighborhoods he claimed to be supporting. Castillo testified:

Q. Okay. So, referring back to Exhibit 8, your Web site says, quote, ‘Strong Castle is proud to give stable employment opportunities to our employees coming from the D.C. HUBZone neighborhoods, such as Lincoln Heights, Brookland and Chinatown, the latter of which being where Strong Castle maintains its principal office.’

A. Yes.

Q. As you know, we spoke to several of your employees in furtherance of the committee's investigation. Student D told us that he is from Calvert County, Maryland. Student C told us that he is from New Jersey. Student E told us that he is from Farmington, Connecticut. Student F told us that he is from outside of Baltimore, Ellicott City, Maryland. Student B is from Connecticut. And Supervisor 1 told us that he is from San Diego, California. **Would it surprise you to learn that none of the Strong Castle employees that we spoke to told us that they were from Lincoln Heights, Brookland, or Chinatown?**

A. **Well, yeah, they are. They are all from Brookland. All of them. They all live in Brookland. So that's where they are from. We hired them from Brookland.**

Q. Do you think it's a little misleading for your Web site to claim that you provide stable employment opportunities to employees coming from the D.C. HUBZone neighborhoods, such as Lincoln Heights, Brookland, and Chinatown –

A. No.

Q. – when none of those employees claim to be from those areas?

⁵⁷See <http://www.strong-castle.com/index.php/community-outreach/employment-opportunities> (“Strong Castle is proud to give stable employment opportunities to our employees coming from the DC HUBZone neighborhoods, such as Lincoln Heights, Brookland, and Chinatown”) (last accessed June 21, 2013).

- A. **Well, where they claim, I don't know where they claim. But they are from there. That's where they live.**⁵⁸

Castillo later blamed the Committee for his inability to hire student employees who actually hail from underutilized neighborhoods. He testified:

- A. It does. And one of the things I am deeply saddened by this, this thing, is that the Lincoln Heights student we were going to hire as part of our mission trip with Daybreak, and he is the first college kid that we had go from there. **And because of this committee's so the publicity from the committee, he wasn't able to do that. And then SBA denied our ability to hire him because he goes to school in Virginia State and wouldn't establish the 100 day residency, although he is from Lincoln Heights.** He is the first kid that we hired from there. And so all –

- Q. SBA told you that you couldn't hire this student or that you couldn't count him as a HUBZone employee?

- A. Would not count as a HUBZone employee.

- Q. Okay. Because he is not from a HUBZone?

- A. Well, because –

- Q. And doesn't reside –

- A. All right. So let's extend this. He is born and raised in Brookland, **but for SBA purposes, he lives in Petersburg, because that's where he spent his last time.** So by extension, our kids, wherever they were born or raised, they live in Brookland and SBA said, that's their area of residency. So we say they are from there.⁵⁹

Castillo, however, is free to hire whomever he pleases, whether from Lincoln Heights, Brookland, or Petersburg, Virginia. The fact of the matter is that Castillo only considers hiring students if they will help qualify his company for HUBZone set-asides. Michelle Castillo fairly summarized the company's hiring practices when she testified that “where someone lives is really important to our company.” She stated:

- Q. **There seems to be a pattern here of rather coldhearted actions by the company.** [Student A] was terminated because she didn't live in a HUBZone. [Supervisor 1] breaks his lease with his brother and moves into a HUBZone. **You sit here, you're completely unemotional about both events**

⁵⁸ B. Castillo at 166-167 (emphasis added).

⁵⁹ B. Castillo Tr. at 166-168 (emphasis added).

It seems to me as though the company is only interested in the HUBZone addresses of these part-time employees, or full-time employee in [Supervisor 1]'s case, that these employees provide.
How do you respond to that?

- A. Well, I think that one of the central requirements to HUBZone certification, as you've stated several times, is maintaining 35 percent employee HUBZone residency. **So I would say that where someone lives is really important to our company.**⁶⁰

3. Strong Castle “Marketing Representatives” Unable to Market Strong Castle

During the course of the Committee’s investigation, it became readily apparent that Strong Castle’s HUBZone employees—the full-time Catholic University students—have no real knowledge of the company’s business. Braulio Castillo testified that these students make up the “inside sales organization” of the company.⁶¹ Several of the students testified that their job descriptions were “marketing representative.”⁶²

At Strong Castle, however, the students’ job is simply to troll the Internet for business opportunities for the company. Student C explained his routine. He testified:

Q. So what did you do? You show up to work, and **what were your assignments?**

- A. In the beginning it was all - - I mean it's a lot - - it's different now, but in the beginning it was a lot of training stuff. We had to like learn how to do what we do. **So basically what we do now is we look up quotes on certain search engines, like eBuy, GSA Advantage, FedBid, from like FedBizOpps, is like a thing you would go to, and then like eVA. And basically we look up IT like bids.** So certain government agencies will put out certain things, and basically we look and we see if we have them with our company, and we send an email to our person who works at SYNEX computers, I think it's SYNEX computers, and basically she has all our stuff, and we go through her. She's basically the big like hardware place, and we go through her and she emails us if she has it or not. And then if we do we put like a

⁶⁰ M. Castillo Tr. at 215 (emphasis added).

⁶¹ B. Castillo Tr. at 183.

⁶² H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Student B, at 20 (Apr. 3, 2013) [hereinafter Student B Tr.]; H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Student D, at 19 (Apr. 5, 2013) [hereinafter Student D Tr.].

markup on it like 5 percent, and then we place a bid on it, and we see if we want it. So basically that's what we do.⁶³

Student B described his job and marketing approach by referring government agencies to Strong Castle's capabilities statement. Upon further questioning, however, Student B admitted that he had no real knowledge of Strong Castle's capabilities:

Q. What did that capability statement say?

A. All of our certifications, what we do.

Q. **What do you do?**

A. **What they have done.**

* * *

Q. Well, you said the capability statement said what Signet does and what they have done.

What does Signet do and what had Signet done?

A. We sell IT equipment and services, and they have sold IT equipment and services.⁶⁴

Q. So what do you now?

A. We do bids.

Q. What does doing bids mean?

A. We search government vehicles, websites, look, just find quotes that we can do, whatever. It could say 30 printers. It could say 50 laptops. And we will check it out. There is usually a spec sheet attached. We are partners with Synnex, which is who we get our products from and we resell from. We will attach the specifications and email to [REDACTED], who is our sales rep at Synnex, and she will get back to us with a quote, print it out, mark up the price, go through – a couple of us use FedBid . . . And some of us kind of focus on GSA Advantage, and we will just go through the steps. It is pretty semi – simple steps, where you just

⁶³ H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Student C, at 16 (Mar. 25, 2013) [hereinafter Student C Tr.] (emphasis added).

⁶⁴ Student B Tr. at 21-22.

place a bid, go through, put the specs on what the products are, put the pricing on, send it out.⁶⁵

Q. When you were talking about the pitch, you said Signet Computers offers "these services," and you said that sometimes – or that your usual bid was to list certain IT products that an agency needed. Would the bids –

A. Services.

Q. **What were the services that agencies needed? Are we talking like installation? Are we talking delivery? What services did they need?**

A. **Well, there was a whole, like, consulting side. We didn't really do much work with that. We pretty much all the time focused on equipment.** If we would see in the forecast that . . . and honestly, I think I can say this for most of us, we kind of steered clear of that. **We didn't really understand the service side as much.**⁶⁶

Q. So your job primarily was to secure bids for hardware and software; is that fair to say?

A. Yes. Well, not necessarily secure bids, but attempt.⁶⁷

Many of the students were unable to explain what value Strong Castle adds to the government, or what services Strong Castle provided. According to the students, the only reason the government does not go directly to a computer manufacturer—thereby avoiding Strong Castle's five percent mark-up—is the need to fulfill the socioeconomic small business contracting goals. Student C could not articulate the value added to the government in contracting with Strong Castle. He testified:

Q. **So what is the value add that Signet/Strong Castle brings to the table, in your mind?**

A. **Like the reason why we win so much? I would say our certification, what I think.**

Q. So why doesn't the government – have you ever asked yourself why the government doesn't just go straight to HP?

⁶⁵ *Id.* at 26.

⁶⁶ *Id.* at 75.

⁶⁷ *Id.* at 75-76 (emphasis added).

- A. I think it's because the government needs to fulfill certain business with the people that have the certifications.⁶⁸

Student E's understanding of the company is that it is a "value-added reseller." Unfortunately, on the whole, the students are unable to articulate the value added by Strong Castle. Student E testified:

- Q. So you're basically the middleman. You're finding the opportunities, you're calling [REDACTED]. She gives you a quote, you bump it up 5 percent so Signet can make a profit, and then you place the bid?

- A. Yeah. Like a value added reseller.⁶⁹

* * *

- Q. You also mentioned earlier today that Signet or now Strong Castle is what's described as a value added reseller. **Have Braulio or Michelle Castillo ever kind of explained to you what value Strong Castle adds to the contracts?**

- A. **Other than the . . . I guess like any small business . . . that's the value we provide. Like basically HP is too big to deal with these small acquisitions, so then they give stuff to SYNEX.⁷⁰ And even SYNEX is too big to deal with the government directly purchasing from them, so we're like an easy medium in between.** I guess that's the value we provide.⁷¹

In other words, not only does Strong Castle serve as a middle-man for the government to acquire HP products, but the company uses another middle-man, SYNEX, to acquire the products from HP. This cumbersome process may explain why Strong Castle charges the government a 5 percent markup.

Student D, a full-time student at Catholic University and part-time "marketing representative" for Strong Castle, struggled to "market" Strong Castle to Committee investigators. Student D was unsure of what services, if any at all, Strong Castle provides for the government. He testified:

- Q. **So what is the value add that Strong Castle performs?**

⁶⁸ Student C Tr. at 110 (emphasis added).

⁶⁹ H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Student E, at 33 (Mar. 25, 2013) [hereinafter Student E Tr.].

⁷⁰ SYNEX describes itself as a "leading business process services company. Synnex Corp., <http://www.synnex.com/> (last visited June 18, 2013).

⁷¹ Student E Tr. at 105-106 (emphasis added).

- A. Well, that's kind of that's what you asked before essentially, isn't it, **but I really don't know. I know that there is, like, the services, the IT services that we provide. I'm not exactly sure what that entails.**⁷²

The students are largely uninformed about the business of Strong Castle, aside from the basic fact that Strong Castle can provide computers and printers to the government. Transcribed interviews with the students made clear that the claim that Strong Castle provides any real “services” to the government is farcical.

- Q. So what kind of equipment and what kind of services does Signet sell?

A. Computers, printers, toners, scanners, IT equipment.

- Q. **What are the services that Signet provides?**

A. **I believe they do consulting. We don't we are not involved in that at all. They do installation, maintenance on the equipment that they provide.**

- Q. **Do [you k]now who was involved in that?**

A. **No, I don't.**

- Q. So you don't know who at Signet

A. I think it might be actually – well, I think we provide like a third party comes in and does that. I don't know if there is anyone specifically in the company that goes to the place.

- Q. Have you ever met anyone that provides any of these services or installations?

A. I have not.

- Q. **So for all you know, Signet or Strong Castle may not even provide these services?**

A. **Sure.**⁷³

⁷² Student D Tr. at 19.

⁷³ Student B Tr. at 22-23 (emphasis added).

4. Strong Castle's HUBZone Employees Unaware of IRS Contracts

Many of the student employees—the same employees that live in the HUBZone, thus allowing Strong Castle to maintain its HUBZone certification—were not even aware that Strong Castle had won any contracts with the IRS until the Committee's investigation began. Given the volume of contracts that Strong Castle had actually won with the IRS—due mostly to the company's HUBZone certification—it is curious that Castillo did not inform the students who played a critical role in obtaining Strong Castle's HUBZone certification of any of the dozens of IRS awards potentially worth hundreds of millions of dollars.

Student D, one of the very first student employees at Strong Castle, was not aware of any contracts with the IRS until the Committee began its investigation. He testified:

Q. So you are aware that Strong Castle has successfully bid on contracts with the IRS?

A. Yeah. Ever since we got the Exhibit 1 [Chairman Issa's February 20 letter to Acting Treasury Secretary Wolin], I believe.

Q. So you weren't familiar with Strong Castle winning contracts with the IRS prior to receiving the committee's letter?

A. Well, there was that one contract, it might have been with the IRS, where I was in the office. I am not sure. But prior to that, yeah.⁷⁴

Even Supervisor 1, who served as the students' supervisor as well as their liaison with Braulio Castillo, was unaware that the IRS had awarded contracts to Strong Castle until the Committee's investigation began. He testified:

Q. Okay. So you said that you first, correct me if I'm wrong, but you said you first learned of the large amounts of IRS contracts from reading about it in the letter that Chairman Issa sent to the Acting Treasury Secretary?

A. Yes.

Q. Around that time.

A. Yes, the emails that our employees got. I scanned through it, and that was the first I had seen anything about it.⁷⁵

⁷⁴ Student D Tr. at 84 (emphasis added).

⁷⁵ Supervisor 1 Tr. at 88 (emphasis added).

Strong Castle’s HUBZone student-employees, however, had no awareness of any IRS contracts the company had won—despite the fact that they comprised its “inside sales organization” and that Braulio Castillo specifically targeted the IRS as the agency where Strong Castle would be most successful.⁷⁶ In his defense, however, Braulio Castillo testified that he was “not responsible for the inside sales organization.”⁷⁷ Rather, it was the Chief Operating Officer—his wife—that oversaw the student-employees.

5. Strong Castle Classifies Employees as Consultants to Subvert the HUBZone Rules

FINDING: Strong Castle deliberately concealed employees from the SBA in an effort to maintain its HUBZone residency requirement. Strong Castle claimed these employees were consultants and independent contractors. The SBA disagreed.

On May 23, 2013, the SBA informed Braulio Castillo it had decertified Strong Castle and removed the company from the SBA’s list of HUBZone firms.⁷⁸ The SBA took this action for several reasons, including the fact that Strong Castle misrepresented its total number of employees. By statute, to qualify for HUBZone certification, at least 35 percent of the company’s employees must reside in a HUBZone.⁷⁹ In its original HUBZone application submitted in March 2012, Strong Castle made misrepresentations to the SBA which allowed the company to meet this requirement. When the SBA notified Strong Castle that it was beginning decertification proceedings in January 2013, the company continued to make misrepresentations to the SBA.

On both occasions, Strong Castle failed to include individuals the company considers “independent contractors” or consultants, in the total number of employees reported to SBA. Had Strong Castle properly reported these employees to the SBA, the company would not have met the 35 percent residency requirement and thus would not have received HUBZone certification.

To make the determination that these individuals were employees at Strong Castle, the SBA engaged in a thorough analysis, referred to as the “totality of the circumstances” test, to conclude that all three independent contractors, working from home, were in fact employees.⁸⁰ In particular, the SBA found that Strong Castle was “attempting to claim that one of its key employees and its program manager for a major Government contract is not an employee at all.”⁸¹

⁷⁶ B. Castillo Tr. at 136.

⁷⁷ B. Castillo Tr. at 193.

⁷⁸ Letter from Mariana Pardo, Director, HUBZone Program, U.S. Small Business Admin. to Braulio M. Castillo, President, Strong Castle, Inc. (May 23, 2013) [hereinafter Pardo Letter, May 23, 2013].

⁷⁹ *Id.* (citing 15 U.S.C. § 632(p)(5)(A)(i)(I)(aa) & 13 C.F.R. § 126.200(b)).

⁸⁰ *Id.*

⁸¹ *Id.*

In its initial application to the SBA, Strong Castle failed to acknowledge the employment of Allison Robertson. Though the company labeled Robertson as an independent contractor, Robertson served as the Contracts Manager for the company. In this role, she submitted official questions to the IRS on behalf of the company during the acquisition process, and served as the main point of contact for the company with GSA regarding Strong Castle's Schedule 70 contract.

From: Allison Robertson <[REDACTED]>
Sent: Thursday, May 10, 2012 3:22 PM
To: [REDACTED]; [REDACTED]@irs.gov
Cc: Braulio Castillo <[REDACTED]>; [REDACTED]; Michelle Castillo <[REDACTED]>; Gary Crichton <[REDACTED]>
Subject: Signet Computers, Inc. Questions: Request for Proposal (RFP) TIRNO-12-R-00019
Attach: IRS ITS Offeror Questions.docx

Ms. Sands,

Attached please find a compiled list of questions on behalf of Signet Computers, Inc.

We look forward to submitting a response to the subject request for proposal.

Thank you!

Allison Robertson
Contracts Manager
Signet Computers, Inc.



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From: Braulio Castillo
Sent: Tuesday, June 05, 2012 8:15 PM
To: Sharhanda Chivers (QTFADA)
Cc: 'Sheila Morrison [REDACTED] Allison Robertson; Gary Crichton
Subject: FW: HP GSA Letter of Supply - Signet Computers Inc.

Sharhanda,

I trust that all is well. A lot has happened since we last spoke. We completed our move into DC and have received verbal approval (awaiting director signature) on our HUBZone application. So...we are SDVOSB (I am a disabled Veteran and majority owner of Signet), Minority owned, Top secret cleared, HUBZone (pending) and GSA schedule holder. Once Director from the DHS OSDBU called us a "pink Unicorn" because of all the socio-economic certs that we have along with our IT 70 and TS clearance. We will need all of this to be successful in this marketplace.

I wanted to follow up with you on our April request to add HP desktops and laptops to our IT Schedule 70. Can you help us with this matter? We received a letter of supply from HP on April 13th and we need your help in adding their products to our schedule for an upcoming opportunity with the IRS which is a HUBZone and SDVOSB "preferred" procurement for IT desktops/laptops. HP is the incumbent technology at the IRS. It is scheduled to be out any second and we will need HP on our schedule to respond.

I have tasked Allison Robertson, our Contracts Manager, to work with you on adding HP to our schedule. I sent you a mod (attached) on May 15th adding her as an approved negotiator to our contract.

If you need anything else, please let me know what you need from us to facilitate the mod to add HP to our schedule.

As always, thanks for all your help,
Braulio

"I have tasked Allison Robertson, our Contracts Manager, to work with you on adding HP to our schedule."

Strong Castle also failed to disclose the employment of Karla Tropea. From November 2012 to April 2013, Tropea worked an average of 104 hours per month for Strong Castle. Although the company officially recognizes Tropea only as a "consultant" in the materials it provided to the SBA, many of the company's employees were not aware of this classification. One student testified:

Q. What about a woman named Karla Tropea?

A. I've heard her name before, but, yeah.

Q. Who is she?

A. I think she works for the company too.⁸²

Another student testified:

⁸² H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Student F, at 42-43 (Apr. 2, 2013) [hereinafter Student F Tr.].

Q. Can you tell me who Laretta Brown is?

A. Not really.

Q. **Is she an employee of Strong Castle?**

A. **Yes.** We met her at, like – we had like a company meeting, and we were formally introduced to her. But I don't really know. **That's like her, Karla, Braulio, who I believe handle, like, the services, especially on those bigger contracts.**

Q. Do you know where she works?

A. No.

Q. **How about Karla Tropea; do you know who she is?**

A. **Yes, I know her. Same situation.**⁸³

SBA pointed out inconsistencies in Strong Castle's evolving story about Karla Tropea. Mariana Pardo, Director of the Office of HUBZone, stated in her letter to Strong Castle:

In this case, it appears that SCI [Strong Castle, Inc.] is telling the Government two different stories. To the IRS Ms. Tropea [purportedly a consultant to Strong Castle] is a valued and key member of 'Signet's [the precursor to Strong Castle] Management Team' and its proposed Program Manager, and to SBA she is merely an independent contractor. In SBA's view, a firm's 'Management Team' and its Program Manager are not roles that are normally subcontracted out to third parties.⁸⁴

Strong Castle also failed to disclose the employment of Jackie Wolfe. Since Wolfe joined the company in September 2012, she has worked an average of 50 hours per month for the company—far beyond the 40-hour threshold set by the SBA for her to officially qualify as an “employee.” Wolfe, who replaced Allison Robertson as Strong Castle's Contracts Manager, also has the authority to bind the company:

⁸³ Student D Tr. at 47 (emphasis added).

⁸⁴ *Id.* at 24.

From: Braulio Castillo [REDACTED]
Sent: Tuesday, February 12, 2013 6:32 PM
To: Arillo Geri A
Cc: Jackie Wolfe; Braulio Castillo
Subject: Re: TIRNO12Z00019 Mod 2 - Bilateral Signature Required

Yes, Jackie Wolfe is authorized to sign on Strong Castle, Inc.'s behalf.

Braulio M. Castillo, MBA
President & CEO
Strong Castle, Inc.
SDVOSB, HUBZone, Minority-Owned Small Business
Mobile: [REDACTED]
[REDACTED]

“Yes, Jackie Wolfe is authorized to sign on Strong Castle, Inc.’s behalf.”

Sent from Strong Castle Mobile Services

On Feb 12, 2013, at 6:12 PM, "Arillo Geri A" [REDACTED] wrote:

Hi Jackie,

Please confirm if you are an authorized signer of legal documents for Strong Castle, Inc.
Thank you,

Geri A. Arillo
I.R.S. Contracting Officer
Enterprise Software Section
Office of Information Technology

Additionally, Strong Castle appears to have deliberately attempted to deceive the SBA regarding Jackie Wolfe’s status with the company. On January 14, 2013, Wolfe sent an e-mail to IRS officials. Her e-mail signature stated “Contracts Manager.”

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January 14, 2013

From: Jackie Wolfe [mailto: [REDACTED]]
Sent: Monday, January 14, 2013 1:03 PM
To: Carper Brian M; Johnson Beverly; Arillo Geri A; Olver John P
Cc: Hoover Patricia V; Braulio Castillo; Michelle Castillo
Subject: IRS BPAs - Name Change from Signet Computers, Incorporated to Strong Castle, Inc.

All,

Good afternoon. As you may know, Signet Computers, Incorporated formally changed our corporate name to Strong Castle, Inc. effective 26 October 2012. This is a name change only and all other rights and obligations are unaffected by this change. Our DUNS number, Cage Code, Small Business Size Status, executive leadership and owners, and Representations and Certifications will remain unchanged under the new Strong Castle, Inc. business name.

We have been diligently working to modify our GSA Schedule (GS-35F-0319Y) to reflect our new Strong Castle, Inc. corporate name as well as revising our information in SAM.gov. The attached documents were submitted to our GSA Contracting Officer on 18 December 2012; however, our GSA Schedule has not yet been modified to reflect the new corporate name. SAM.gov was updated last week to reflect our new corporate name, Strong Castle, Inc. for both our DC and Virginia locations.

Once GSA has approved our name change agreement and executed a modification to reflect our new corporate name on GS-35F-0319Y, we will forward those signed documents to each of you and respectfully request that the following IRS BPAs be revised accordingly to change our company name to Strong Castle, Inc. on each BPA:

TIRNO-13-Z-00005 (IBM Enterprise BPA)

TIRNO-12-Z-00019 (Informatica BPA)

TIRNO-12-Z-00022 (ITS)

Please feel free to contact me should you have any questions or concerns regarding this name change.

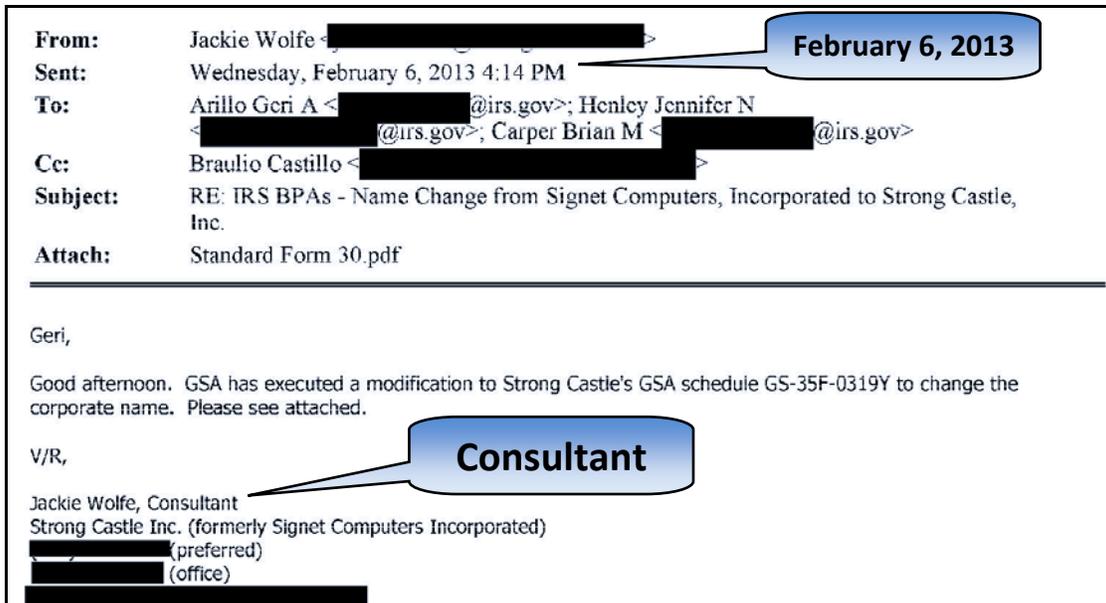
Respectfully,

Contracts Manager

Jackie Wolfe
Contracts Manager
Strong Castle Inc. (formerly Signet Computers Incorporated)
[REDACTED] (preferred)
[REDACTED] (office)
[REDACTED]

On January 31, 2013, the SBA sent a proposed notice of HUBZone decertification to Strong Castle. One week later on February 6, 2013—in the very same e-mail chain—Wolfe sent another e-mail to IRS officials. This time, however, her e-mail signature read “Strong Castle, Consultant.”

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When asked about the change in Jackie Wolfe’s e-mail signature, Braulio Castillo testified:

A. So I think we had a discussion that we need to make it clear when people are not employees and that they're consultants to the company.

Q. What prompted that discussion?

A. I think she brought it up. I don't -- I mean, I remember we were talking about it. So we make the distinction that that -- we thought of several things, so most of them was around email. So some companies, like DHS does a dot ASSOS or associate to -- so that people know that they're dealing with a contract. I've seen some people use dot CNTR for contractor as part of the extension.

We're toying with what's the best way to do that. And so in the interim, though, we want to make sure that people understand when they're dealing with a consultant or not.⁸⁵

Strong Castle had no intention of making sure “that people understand when they’re dealing with a consultant or not,” however, until the SBA started asking questions.

The SBA found that for purposes of calculating the 35 percent requirement, Jackie Wolfe was in fact an employee of Strong Castle.⁸⁶ The addition of Wolfe and Tropea changed Strong Castle’s 35 percent calculus. SBA’s conclusion on the residency requirement stated:

⁸⁵ B. Castillo Tr. at 326-327.

⁸⁶ Pardo Letter, May 23, 2013, *supra* note 78.

According to SCI's [Strong Castle, Inc.] payroll records and other documents provided, SCI had thirteen employees who were working on the date of [sic] at issue, 12/7/2012, and that worked at least 40 hours during the month leading up to an including the date of award. At least five of the SCI's employees must have resided in a HUBZone (13 * 35% = 4.29 rounded up to 5) to meet the 35% HUBZone residency requirement. According to documentation provided, 4 of SCI's thirteen employees resided in the qualified HUBZone at time. Therefore, SCI did not satisfy the residency requirement at time.⁸⁷

Amazingly, this was only one prong of the HUBZone certification process that Strong Castle failed to fulfill. The following section of this report discusses other shortcomings in Strong Castle's application.

The Committee's investigation brought key information to the SBA's attention. Were it not for the Committee, the SBA would likely never have known about Strong Castle's three hidden employees. Strong Castle failed to disclose these employees, deliberately circumventing strict SBA rules in an effort to maintain the company's HUBZone certification—without which it lacked a major advantage in winning government contracts.

C. Problems with Record Keeping

FINDING:	Strong Castle lacked any type of internal controls. This led to payroll discrepancies and critical errors on timesheets.
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As a condition of the students' employment at Strong Castle, the company required its college student employees to work 40 hours per month. This requirement came from Strong Castle's Chief Operating Officer, Michelle Castillo. One student testified:

Q. When did Ms. Castillo indicate that 40 hours per month would be a requirement of the job?

A. About a week after the interview.

Q. Did she tell you it would be a requirement when she extended the offer of a position?

A. Yes.

Q. Did she tell you it would be a mandatory requirement of accepting the job?

A. Yes.⁸⁸

⁸⁷ *Id.* at 26-27.

⁸⁸ Student B Tr. at 61-62.

Early on, however, recordkeeping problems surfaced. Students did not always work 40 hours per month, and no internal controls were in place to make sure that the students accurately documented their time. One student who did not work 40 hours in a month testified that Michelle Castillo, however, simply “took care of” this problem:

Q. What did Ms. Castillo say about the fact that you were unable to work 40 hours in the month of May?

A. That it was not good and to try not to let it ever happen again.

Q. Did she indicate what the ramifications were of your failure to work 40 hours were for the business?

A. No.

Q. **Did you get the sense that it was a serious problem?**

A. **No, because they took care of it relatively fast, I guess.**

Q. What did they take care of?

A. Whatever the issue at hand was.

Q. How do you know that they took care of something relatively fast?

A. Because they told me.

Q. **What did they tell you?**

A. **That everything was taken care of.**⁸⁹

Given the lack of internal controls at Strong Castle—a problem even the company’s own lawyer acknowledged⁹⁰—it was only a matter of time before Strong Castle’s problems caught up with it.

Witness testimony and documents suggest that Strong Castle manipulated employee timesheets to make it appear that the student employees worked 40 hours per month—even though this was, at times, not the case—in order to help Strong Castle meet and maintain the HUBZone certification requirements.

SBA officials told the Committee that since Braulio Castle submitted HUBZone applicants for both Strong Castle, LLC and Strong Castle, Inc., red flags were set off. This prompted a visit by SBA investigators to Strong Castle’s office—a relatively rare occurrence.⁹¹

⁸⁹ *Id.* at 82 (emphasis added).

⁹⁰ B. Castillo Tr. at 365.

⁹¹ Briefing by U.S. Small Business Admin. Staff to Committee Staff (Mar. 7, 2013).

When SBA staff visited the offices, they found no employees present.⁹² Committee investigators who visited Strong Castle’s offices in late February 2013 also found no Strong Castle employees present. A subsequent visit by Committee investigators in April 2013 found only two Strong Castle employees at the office—even though six were scheduled to be in the office that day. These facts strongly suggest that Strong Castle has been inaccurately reporting to the SBA the number of hours the employees actually worked.

1. December Timesheets

The majority of Strong Castle’s employees are college students. These students work on a part-time basis, supposedly squeezing in 40 hours at the office each month between heavy academic course loads and varsity athletic commitments.

An example of this supposed juggling of schedules occurred on December 12, 2012, when one of Strong Castle’s employees had two final exams for classes at The Catholic University of America. The first exam was scheduled from 1:00-3:00 p.m., and the second exam was scheduled from 3:15-5:15 AM.⁹³ In addition to these two exams, Strong Castle payroll records indicate that the student also worked 9 hours on the very same day.⁹⁴ During a transcribed interview, however, the student stated that he did not go into the office on days when a final exam was scheduled:

Q. If you had two exams on a day of the week, would you have gone into the office as well on the same day?

A. No, I can’t, because I’ve got to make those exams.⁹⁵

The student also told the Committee that he uses the Metro to get to work:

Q. And so how do you get into the office?

A. I take the Metro.⁹⁶

On March 27, 2013, Committee staff requested the Metro records of this employee to verify whether or not the student was present at Strong Castle’s offices on December 12, 2012.⁹⁷ On April 17, 2013, Strong Castle’s lawyer informed the Committee that the student lost his Metro card on April 11, 2013—one day after the deadline set by the Committee for the Metro records to be produced—and therefore the “travel history associated with his card is not available.”⁹⁸ These circumstances cast further doubt on employees’ actual attendance at work

⁹² *Id.*

⁹³ The Catholic U. of America, Fall 2012 Final Exam Schedule of Student C.

⁹⁴ December 2012 Time Sheet of Student C, Strong Castle, Inc.

⁹⁵ Student C Tr. at 48.

⁹⁶ *Id.* at 46.

⁹⁷ E-mail from Committee Staff to Michael Holm, LeClairRyan (Mar. 27, 2013, 02:43PM).

⁹⁸ Letter from Thomas Mason, Counsel, Strong Castle Inc., to Stephen Castor, Chief Counsel for Investigations, Committee on Oversight and Government Reform (April 17, 2013).

and suggest that Strong Castle has been less than honest in reporting employee work hours to SBA.

Michelle Castillo testified that this student accidentally transposed the days on which he wrote down his hours. According to Castillo, the student actually worked nine hours on a day adjacent to December 12, 2012. Castillo did not view this as a problem. She testified:

A. But that's not the issue. The issue is they transposed the number of hours that they did work. It's a minute – it's a small error.

Q. A small error that was

A. It was de minimis.⁹⁹

This was not an isolated problem. Michelle Castillo testified that another student also transposed numbers in December 2012:

Q. And you discovered errors?

A. Yes.

Q. **Multiple errors?**

A. **Two transposed numbers from two different people.**¹⁰⁰

Additionally, Committee staff found irreconcilable problems with timesheets for two other students during the same week in December 2012—the only week for which Committee staff could compare the students' time sheets against known conflicts. This means that four of the five Strong Castle student employees—all HUBZone employees—filled out incorrect timesheets in December 2012, and all made the same mistake during the same week.

Because Strong Castle lacked internal controls, the company was unaware that any problems with their timesheets even existed. It was not until a cursory review by the SBA revealed serious discrepancies that Strong Castle became aware that its timesheets were error-ridden. Even then, Strong Castle took no initiative to fix the problem or try to understand the depth of the problem:

Q. It's pretty concerning that you were able to identify two other instances in December, correct, of potential issues with the timesheet, right?

A. I don't think that's concerning considering the total number of time entries that exist in the standalone month of December.

⁹⁹ M. Castillo Tr. at 186.

¹⁰⁰ *Id.* at 186-187 (emphasis added).

* * *

Q. In the month of December alone. Did you check for the month of November?

A. Did not.

Q. Did you check for the month of October?

A. Did not.

Q. Did you check for the month of September?

A. Did not.

Q. Did you check for the month of August?

A. No.

Q. Did you check for the month of July?

A. We only checked for the month of December.

Q. Only checked for the month of December. **So how do you know there weren't other errors for the previous 6 months?**

A. **I don't.**¹⁰¹

Michelle Castillo was the individual at Strong Castle who approved these employees' incorrect timesheets. She was also in charge of the company payroll. Inaccurate reporting in this area was not insignificant considering that employee work hours were critical in order to maintain the company's HUBZone status. Yet, Strong Castle never had solid quality control measure in place to prevent such mistakes. Despite this, Michelle Castillo took no responsibility for the errors, and instead blamed the student employees:

Q. Okay, but where did that breakdown occur? Is that the student's fault? Is that [Supervisor 1]'s fault? Is that your fault? Where does the buck stop? Who is ultimately in charge of the timesheets and the time?

A. **Well, the employee is responsible for putting his time in.**

Q. Well, I understand that, but how do you know that dates and times aren't transposed or mischaracterized in other situations? We're only looking at this situation because SBA brought it to your

¹⁰¹ M. Castillo Tr. at 85-87 (emphasis added).

attention, correct? So how do you know that doesn't occur in other situations? What type of controls are in place to make sure that the timesheets you approve are an accurate representation of the hours and the days that the students worked?

A. **Well, we have policies and procedures inside the organization that requires the employees to enter their time correctly on a daily basis.**

Q. But that didn't work here, did it?

A. Right.¹⁰²

Michelle Castillo was negligent in monitoring the hours of Strong Castle's HUBZone employees in the month of December. In the month of June, however, her actions might have been worse.

2. Student A June Timesheet

On its face, the June 2012 timesheet for Student A appears to be altered. The document was changed to show that in the time period of June 1 to June 15, 2012, Student A worked 39 hours, instead of the 40 hours originally recorded. Student A's timesheet appears below:¹⁰³

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¹⁰² M. Castillo Tr. at 193-194 (emphasis added).

¹⁰³ June 1 to June 15, 2012 Timesheet of Student A, Strong Castle, Inc.

Signet Computers, Inc.
Semi-Monthly Timesheet

Employee Signature: Student A Signature
Date: 6/15/12

Supervisor Approval: _____
Date: _____

Employee Name: Student A

Employee ID: _____

June 1, 2012
June 15, 2012

Account	Job	Fri 1	Sat 2	Sun 3	Mon 4	Tue 5	Wed 6	Thu 7	Fri 8	Sat 9	Sun 10	Mon 11	Tue 12	Wed 13	Thu 14	Fri 15	Reg.	Total O/T	D/T	Mgr Apvl
Signet	Marketing Overhead																			
Signet	Admin Overhead	5				5	5	4				5	5	5	5		40			
Signet	Project																			
	Personal Leave																			
	Holiday																			

↑ Change to 39 and initial



Fri 1	Sat 2	Sun 3	Mon 4	Tue 5	Wed 6	Thu 7	Fri 8	Sat 9	Sun 10	Mon 11	Tue 12	Wed 13	Thu 14	Fri 15	Reg.	Total O/T	D/T
-------	-------	-------	-------	-------	-------	-------	-------	-------	--------	--------	--------	--------	--------	--------	------	-----------	-----

Total Regular Hours	5				5	5				5	5	5	5		40		
Total Overtime Hours																	
Total Doubletime Hours																	
Total Hours	5				5	5				5	5	5	5		40		

Wrong date

This timesheet raises many questions. For example, whose note is on the right that says "Change to 39 and initial?" Why does the handwriting for the "4" on June 7 look substantially different from the "40" that Student A wrote? Did Student A actually make the change and

initial the document? Do the changes accurately reflect the hours and days that Student A worked? The note on the bottom left says “wrong date.” If that was the case, then why did the number of hours also change? Did Student A come back into the office after she was terminated from the company and make the changes?

Unfortunately, this document was produced to the Committee after Student A’s interview, so investigators were unable to ask her about it. A second document, purportedly reflecting the number of hours worked by each employee each month, also shows Student A working 40 hours in June. Strong Castle’s attorney only acknowledged the inconsistencies between this document and what was previously represented to the Committee when pointed out by Committee staff.

The distinction between the 40 hours Student A originally recorded on her June 1-15 timesheet and the 39 hours that were entered into the payroll records is significant. Strong Castle was awaiting its HUBZone certification from the SBA and needed to maintain the 35 percent ratio of HUBZone employees at the company. Had Student A worked 40 hours in the month, she would have been deemed an employee. Strong Castle was counting on Student A’s 40 hours—and her HUBZone status—to help maintain that 35 percent ratio.

Once Michelle Castillo discovered that Student A did *not* live in a HUBZone, a problem arose: if Student A worked 40 hours that month, the company’s percentage of HUBZone employees would drop below 35 percent. If Student A worked less than 40 hours, then she would not count as an employee, and the company would maintain—barely—its compliance with the 35 percent residency requirement.

Michelle Castillo testified that she checked the number of hours Student A had already worked when she learned Student A did not reside in a HUBZone:

Q. And how many hours do you recall [Student A] having worked that month when you received the timesheet?

A. I don't remember if it was 39 or if it was 40.

Q. So this would have been a big deal at the time, right?

A. Uh huh.

Q. You're close to the line. This is your company's HUBZone certification, right?

A. Yep.

Q. And it's a really important certification.

A. Uh huh.¹⁰⁴

¹⁰⁴ M. Castillo Tr. at 141-142.

Despite the critical distinction between Student A working 39 hours and 40 hours, Castillo was unable to recall the number of hours she initially saw on the timesheet.¹⁰⁵

Michelle Castillo later testified that she discovered that Student A did not live in a HUBZone just before she hit the 40-hour mark:

Q. Do you think it was an amazing miracle that you had managed to catch the fact that [Student A] didn't work in a HUBZone 1 hour before she was counted as an employee in June 2012?

Counsel: An amazing miracle?

Q. Yes. Like, an amazing occurrence.

A. Yeah.¹⁰⁶

Depending on who you ask, Student A was either “terminated,” or she “resigned” after Michelle Castillo learned that she did not live in a HUBZone. Student A maintains that Strong Castle terminated her.¹⁰⁷ Castillo, however, maintains that Student A “resigned”:

Q. You were there. Would you characterize it as termination or not?

A. I would – I would tell you that it is my interpretation that she resigned.¹⁰⁸

Either way, Student A was told that she did not need to return to work once Castillo learned that she did not reside in a HUBZone.¹⁰⁹

3. Decertification for Lack of Controls

FINDING:	On May 23, 2013, the SBA decertified Strong Castle as a HUBZone small business.
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On January 31, 2013, SBA began HUBZone decertification proceedings against Strong Castle. The SBA permitted the company to submit documents and information to rebut the proposal.¹¹⁰ On March 4, 2013, Strong Castle provided additional information and documents to the SBA.¹¹¹ On March 7, 2013, SBA staff briefed Committee staff regarding the HUBZone review process for Strong Castle.

¹⁰⁵ M. Castillo Tr. at 145.

¹⁰⁶ *Id.* at 146.

¹⁰⁷ Student A Tr. at 30.

¹⁰⁸ M. Castillo Tr. at 108.

¹⁰⁹ *Id.* at 109.

¹¹⁰ Pardo letter, May 23, 2013, *supra* note 78.

¹¹¹ *Id.*

During this briefing, SBA staff told Committee investigators that when Strong Castle applied for HUBZone certification last year, the individual reviewing Strong Castle's application determined that a site visit of Strong Castle's office was warranted—a relatively rare occurrence.¹¹² When SBA officials visited Strong Castle's offices, they did not find any Strong Castle employees there. After receiving documents from several sources and conducting transcribed interviews of the student employees of Strong Castle, Committee investigators formed the impression that the company was not providing SBA with the full picture.

For this reason, Committee investigators set up a follow-up briefing with the SBA on April 12, 2013. In addition, Chairman Issa subsequently sent a letter to SBA dated April 25, 2013, providing the following information, in pertinent part:

Committee investigators who visited Strong Castle's offices in late February 2013 were also unable to find any Strong Castle employees present. On a subsequent visit in April 2013, Committee investigators were only able to find two of six employees scheduled to work on that day. These facts certainly raise red flags, and Strong Castle employee attendance merits further scrutiny.

To date, Committee investigators have conducted numerous transcribed interviews of Strong Castle employees and other witnesses and reviewed thousands of pages of documents. In the course of reviewing documents and witness testimony obtained by the Committee during this investigation, staff investigators learned that the majority of Strong Castle's employees are college students. These students, who all live in a HUBZone-designated area, work approximately 40 hours each month so that they qualify as HUBZone employees for Strong Castle. These students work on a part-time basis, apparently squeezing in time at the office between heavy academic course loads and varsity athletic commitments.¹¹³

In addition to inaccuracies pointed out by Committee investigators, the SBA made the following determinations:

SCI [Strong Castle, Inc.] employs several college students. Information seemed to show that that [sic] hours and days that SCI's payroll records document certain students performing work at the firm's principal office on days and at times that these students had exams. SBA provided information to SCI that its payroll records may have been false.¹¹⁴

¹¹² Letter from Rep. Darrell Issa, Chairman, H. Comm. on Oversight & Gov't Reform, to Hon. Karen Mills, Admin., U.S. Small Business Admin. (Apr. 25, 2013).

¹¹³ *Id.*; citing Transcribed Interview of Student C.

¹¹⁴ Pardo letter, May 23, 2013, *supra* note 78.

Only after prompting by the SBA did Strong Castle admit that at least two students misrepresented their attendance at work. Specifically, two students claimed to have worked full days on days they were scheduled to be taking two exams. These facts compounded questions regarding the payroll records produced to the SBA.

Strong Castle provided additional unsatisfactory responses to the SBA as a result of further questioning. Therefore, the SBA reached this conclusion:

The record before me shows that SCI [Strong Castle, Inc.] did not provide SBA with reliable and accurate payroll records. As noted above, the information and documentation provided by SCI to SBA has not been accurate. Specifically, it was discovered that SCI payroll records showed employees working at the principal office at the same time they were taking exams. In response SCI admitted that the records provided were false and inaccurate. SCI confirmed the one instance identified by SBA, and identified another instance of the firm's payroll records showing an employee working hours on a day that the employee did not work. **SCI did not discover the false payroll records itself. The corrections were only made after being confronted with the conflicting evidence presented by SBA.**¹¹⁵

* * *

However, the record demonstrates that **SCI did not and does not appear to have adequate internal controls to verify the accuracy of its records.** Specifically, I note that the signed declarations submitted on behalf of 2 employees (whose erroneous entries were included in their December payroll documents) indicate that SCI's employees' work hours were not properly monitored and/or validated by the firm, its owners, and its managers.¹¹⁶

The SBA relies on payroll information when making its determination as to whether 35 percent of a company's employees reside in a HUBZone, and is therefore eligible to participate in the program. Strong Castle also attempted to subvert this 35 percent requirement by hiding key employees—none of whom lived in a HUBZone—from the SBA.

In an April 12, 2013 meeting with SBA HUBZone officials, Committee investigators revealed that Strong Castle's representations regarding its total number of employees were misleading. In fact, Committee staff informed SBA that Strong Castle was concealing several employees from the SBA because the company deemed them merely "consultants" or "independent contractors" in an effort to meet the 35 percent HUBZone residency requirement. Strong Castle had never mentioned these employees to SBA, and the SBA had never even heard of these employees until Committee investigators shared their findings. Such actions by Strong Castle therefore represent a deliberate attempt to deceive the SBA.

¹¹⁵ *Id.* at 16 (emphasis added).

¹¹⁶ *Id.* at 16-17 (emphasis added).

The SBA wrote:

In this case SBA, in addition to the employees listed on SCI's payroll, the firm has at various times had individuals not on its payroll performing work for SCI and its affiliate company Strong Castle, LLC. SCI has classified these individuals as "independent contractors", but it is necessary for SBA to apply the totality of circumstances test to these individuals to determine if they should be considered "employees" for the purposes of HUBZone eligibility.¹¹⁷

The SBA subsequently conducted a thorough analysis of the duties and responsibilities of Allison Robertson, Karla Tropea, and Jackie Wolfe—all of whom received 1099s from Strong Castle but were not reported to the SBA as employees. After applying a test referred to by SBA as the “totality of the circumstances test,” SBA concluded that all three were in fact employees of Strong Castle.

With regard to Allison Robertson, SBA stated:

In the case of this individual, after reviewing the information submitted I have determined that, based on the totality of the circumstances test, the individual should be treated as an employee of SCI. Based on the information that was provided; it appears that individual was engaged and selected by the management of Signet. She also performed work for SCI's management on behalf of its affiliate Strong Castle, LLC. The work that she performed is work that is normally performed by employees of a firm, and not a subcontractor.¹¹⁸

With regard to Karla Tropea, SBA found a similar set of circumstances, though it viewed this case of misrepresentation as even more egregious. The SBA stated:

In this case, SCI is attempting to claim that one of its key employees and its program manager for a major Government contract is not an employee at all. ... **In this case, it appears that SCI is telling the Government two different stories.** To the IRS Ms. Tropea is a valued and key member of "Signet's Management Team" and its proposed Program Manager, and to SBA she is merely an independent contractor. In SBA's view, a firm's "Management Team" and its Program Manager are not roles that are normally subcontracted out to third parties.¹¹⁹

With regard to Jackie Wolfe, SBA “concluded that Ms. Wolfe should also be treated as an employee for the purpose of determining the firm's HUBZone eligibility.”¹²⁰ The SBA found

¹¹⁷ *Id.* at 21.

¹¹⁸ *Id.* at 22.

¹¹⁹ *Id.* at 24 (emphasis added).

¹²⁰ *Id.* at 25.

that all three of these individuals were engaged in the work of employees rather than consultants, independent contractors, or subcontractors. With regard to Wolfe and the other employees, SBA stated:

These are all significant duties, with significant responsibilities. Further, as with Ms. Robertson and Ms. Tropea, SCI has not provided SBA with any information indicating that it was disclosed to outside parties, and especially to the Federal Government, that Ms. Wolfe was not a SCI employee, and that they were in fact communicating with a subcontractor of SCI and not with SCI directly. In reviewing this relationship as with the other two, it is the totality of circumstances of the party's relationship that requires Ms. Wolfe to be treated as an employee. She is performing work at the behest of SCI's management, and **she is managing large and important aspects of SCI's business that would normally be managed by an employee of the firm.**¹²¹

SBA added these additional employees to the 35 percent calculation and stated:

According to SCI's payroll records and other documents provided, SCI had thirteen employees who were working on the date of at issue, and that worked at least 40 hours during the month leading up to and including the date of award. At least five of SCI's employees must have resided in a HUBZone ($13 * 35\% = 4.29$ rounded up to 5) to meet the 35% percent employee requirement. According to documentation provided, 4 of SCI's thirteen employees resided in a qualified HUBZone at time. Therefore, SCI did not satisfy the 35% residency requirement at time.¹²²

The SBA also addressed Strong Castle's principal office requirement. Due to inaccurate payroll records, Strong Castle failed to convince the SBA that its principal office was in a HUBZone. SBA stated:

SBA relies on the veracity and accuracy of the records provided by the firm in order reach reasonable conclusions about the firm's eligibility. As explained above, SBA cannot reasonably rely on the payroll records submitted by SCI. Without payroll records I cannot conclude that the greatest number of SCI's employees perform their work at an office located in a HUBZone. **Therefore, SCI has failed to demonstrate that its principal office is located in a HUBZone.**¹²³

Since Strong Castle failed to meet the 35 percent residency requirement and failed to show the SBA that its principal office is in a HUBZone, the SBA decertified the company. In order for the SBA to certify a company as a HUBZone small business, four simple criteria must be met. Strong Castle failed two of these criteria.

¹²¹ *Id.* at 25 (emphasis added).

¹²² *Id.* at 26-27.

¹²³ *Id.* at 28 (emphasis added).

VIII. A Close Relationship with the IRS

A. Castillo and Roseman: A Decade-Long Friendship

FINDING: Braulio Castillo and Greg Roseman have been friends since 2003. The two are close friends. Castillo and Roseman talk frequently and exchange hundreds of text messages and phone calls. Many of Roseman’s texts include homophobic slurs and other explicit language.

Shortly after Chairman Issa sent his initial letter to Acting Treasury Secretary Wolin about potential contracting irregularities at the IRS, CNS News asked Braulio Castillo if he had a personal relationship with anybody at the IRS. “Well, no,” Castillo responded.¹²⁴ In Castillo’s transcribed interview, however, it quickly became apparent that his public proclamation did not mesh with reality. “Yes, Mr. Roseman and I are friends,” Castillo told Committee staff—a line that he repeated multiple times throughout his interview.¹²⁵

Castillo testified that he first met Greg Roseman in 2003, while working at Government Acquisitions, Inc (GAI).¹²⁶ It was during Castillo’s time at GAI that his friendship with Roseman began to develop.¹²⁷ Castillo and Roseman met often for lunch—lunches Castillo would expense to GAI—and the two even attended sporting events together.¹²⁸ Castillo testified about one occasion in particular when he and Roseman went to see the Washington Nationals play the Atlanta Braves. Castillo recalled that John Smoltz was pitching and that Roseman “is a big Smoltz fan.”¹²⁹

In 2009, Castillo had a falling out with GAI that resulted in litigation, and ultimately a settlement. As part of the settlement, Castillo agreed to a two-year non-compete, or “blackout,” clause that prohibited him from competing against GAI for government contracts during that time.¹³⁰ Castillo, therefore, did not solicit work from the IRS during the two-year period. During this blackout period, however, Castillo’s friendship with Roseman continued. The two exchanged dozens of texts during the blackout period, including on Thanksgiving.¹³¹ Many of these texts also contained homophobic slurs. Greg Roseman sent the two texts below:

¹²⁴ Matt Cover, *Contractor Whose Company Got Nearly \$500M in IRS Contracts Says He Didn't Have Personal Relationship With IRS Staffer*, CNSNEWS, Feb. 21, 2013, <http://cnsnews.com/news/article/contractor-whose-company-got-nearly-500m-irs-contracts-says-he-didnt-have-personal>.

¹²⁵ B. Castillo Tr. at 68.

¹²⁶ *Id.* at 68.

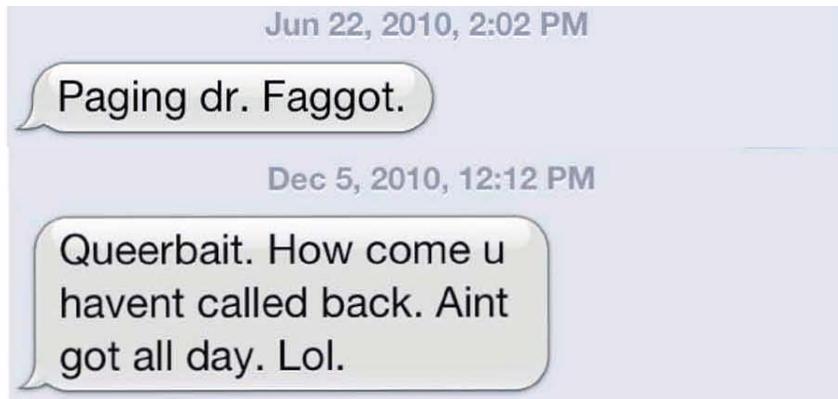
¹²⁷ *Id.* at 69.

¹²⁸ *Id.* at 237.

¹²⁹ *Id.* at 237.

¹³⁰ *Id.* at 136.

¹³¹ Text messages between Greg Roseman and Braulio Castillo (Nov. 25, 2010, 12:18PM) [SCI 135115].



During the blackout period, Castillo also visited Roseman at Victor’s Pizza—a location 15 miles from Roseman’s office at the IRS. Victor’s is approximately 30 miles from Castillo’s home, and very close to Roseman’s home. Roseman’s wife also attended the lunch.¹³²

When the blackout period ended in March 2011, the amount of communication between Castillo and Roseman picked up significantly, as the pair exchanged hundreds of texts on a broad range of topics. Castillo and Roseman communicated frequently about football,¹³³ set up meetings with one other,¹³⁴ and exchanged offensive jokes about the physical appearance of other IRS employees.¹³⁵ The close nature of their friendship was revealed in one text from Castillo to Roseman on December 11, 2011:



Castillo, who sent this text at 6:41AM, testified that he “was responding to Roseman’s December 10th email.”¹³⁶

Two days later, Castillo asked Roseman for help on “structuring a deal.” He texted:

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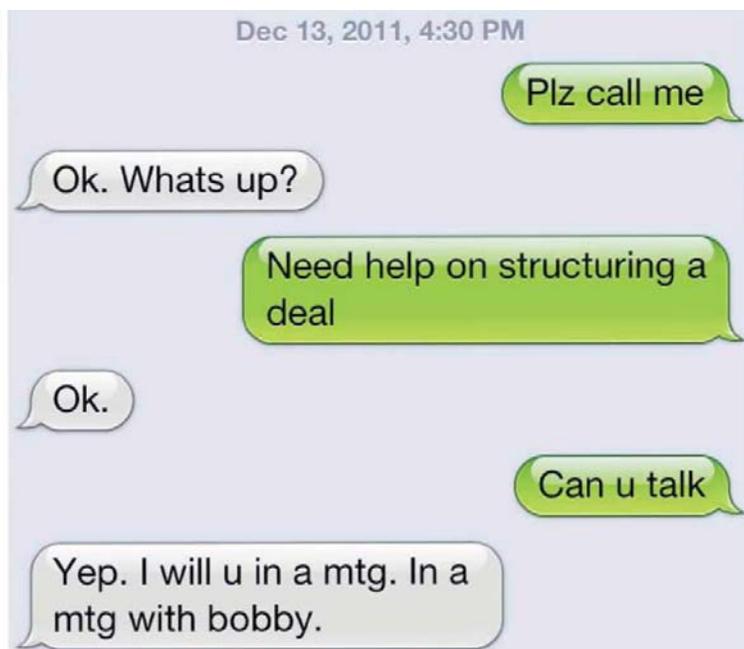
¹³² B. Castillo Tr. at 33.

¹³³ Text message from Braulio Castillo to Greg Roseman (Oct. 31, 2011:59PM) [SCI 135117].

¹³⁴ Text message to and from Greg Roseman and Braulio Castillo (Nov. 17, 2011, 7:30AM) [SCI 135118].

¹³⁵ Text message to and from Greg Roseman and Braulio Castillo (Nov. 17, 2011, 7:17PM) [SCI 135120].

¹³⁶ B. Castillo Tr. at 80.



Castillo testified about this text:

So I was at Capgemini at the time, and we were -- we were in an 8(a) contract, so we'd started doing some work under a small business, which was the only way that Capgemini could get into the IRS. So it's one of those chicken/egg things, like you don't get business until you have business or a past performance perspective. And so we were trying to get out of our 8(a) contract, which is very difficult, very difficult.¹³⁷

In other words, Castillo asked Roseman for help in structuring a deal that would void a current IRS contract in order to help Castillo's company, and harm the 8(a) company Castillo wanted to remove from the original arrangement.

Around the same time in late 2011, Castillo formed Strong Castle, LLC, a company he intended to "be a holding company and either start or acquire companies underneath it."¹³⁸ As part of his plan, Castillo later acquired Signet Computers, Inc. At the time, Signet had average annual revenues of about \$250,000. Castillo testified that he told Roseman he had formed a small business:

- Q. How was Greg aware that you had formed this company that you intended to be a holding company?
- A. So I would have told him that. I owed Capgemini a 30-days notice. So I was obviously well on the way of leaving Capgemini. And so I said I'm leaving Capgemini and . . . had formed a small

¹³⁷ B. Castillo Tr. at 43-44.

¹³⁸ *Id.*

business.¹³⁹

Castillo further testified that he intended to focus his new company on selling to the IRS:

Q. So when you say called on customers, that's a heavy focus on the IRS obviously.

A. Yeah. It was by design.¹⁴⁰

On December 31, 2011, Roseman, the Deputy Director of IT Procurement at the IRS who oversees hundreds of millions of dollars of contract awards annually, texted Castillo:



Dec 31, 2011, 9:55 AM

Congrats on new company. U will be fortune 500 in no time.

Just one short year later—a year in which the IRS awarded Strong Castle contracts with a potential total value exceeding \$500 million—it appears that Roseman had predicted the company's success with amazing prescience.

B. Roseman Helps Castillo with the GSA Schedule

FINDING:	Greg Roseman called on old friends at GSA to help Strong Castle obtain its GSA Schedule 70 contract in record time. Braulio Castillo relied heavily on Roseman's expertise to navigate this complicated process.
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Early in 2012, Castillo began updating Roseman about important news with his new company. On January 7, 2012, Castillo texted Roseman:



Jan 7, 2012, 12:38 PM

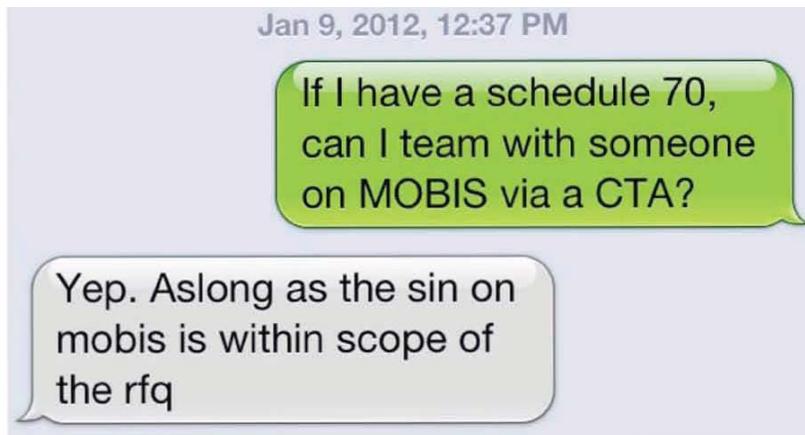
We are now a HP partner

Outstanding.

¹³⁹ B. Castillo Tr. at 45.

¹⁴⁰ *Id.* at 136.

Two days later, Castillo asked Roseman for help regarding GSA Schedule 70. Roseman, who previously served as the Director of IT Schedule Programs at GSA, had contacts and expertise within GSA that Castillo lacked:



One week later, Castillo asked Roseman to call a contact at GSA on his behalf:



In early 2012, Castillo relied on Roseman for questions regarding GSA Schedule 70. Strong Castle was about to apply for a GSA Schedule 70 contract, and Roseman proved to be a valuable resource for Castillo.

Over the course of the following month, Roseman and Castillo exchanged many text messages about Strong Castle applying for GSA Schedule 70. Castillo informed Roseman of Strong Castle's "request ID" with GSA.¹⁴¹ Roseman told Castillo that he would be able to request a preferred contracting officer, and gave Castillo names of Schedule 70 contracting officers.¹⁴² On February 15, 2012, Castillo texted Roseman about the contracting officer assigned to Strong Castle's GSA Schedule 70 application:

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¹⁴¹ Text message from Braulio Castillo to Greg Roseman (Feb. 8, 2012, 5:34PM) [SCI 135142-135143].

¹⁴² Text message from Braulio Castillo to Greg Roseman (Feb. 14, 2012, 8:08AM) [SCI 135145]; B. Castillo Tr. at 45.



Though Tara Wetli was the contracting officer originally assigned to Strong Castle, Sheila Morrison somehow ended up being the individual that shepherded Strong Castle’s application through the process. Castillo testified that he “never spoke with” Tara Wetli and that he “do[es]n’t know anything about her.”¹⁴³

Morrison, on the other hand, had previously worked for Roseman when Roseman was at GSA, and has remained close to Roseman since he left GSA to return to the IRS. In a telephone conversation on April 18, 2013 with Committee Staff, Morrison said that Greg Roseman was “like a mentor” to her.¹⁴⁴ Morrison also said that Roseman called her *before* Strong Castle submitted its Schedule 70 contract proposal. In other words, Sheila Morrison knew that Strong Castle was applying for GSA Schedule 70, and she knew that the application was a priority for Greg Roseman. More importantly, she was aware of this information before Strong Castle even submitted its application to GSA.

Documents show that Roseman did in fact reach out to Sheila Morrison on Castillo’s behalf. The e-mail below—sent the day after Castillo’s frantic text message shown above—notes that Morrison will “look into expediting” Castillo’s application.

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¹⁴³ B. Castillo Tr. at 107.

¹⁴⁴ Phone call between Sheila Morrison, U.S. Gen. Services Admin., and Committee Staff (Apr. 18, 2013).

On Feb 16, 2012, at 11:09 AM, "Roseman Gregory P" [REDACTED]

[REDACTED] wrote:

Braulio,

here is Sheila's POC info. I've talked to her and she will look into expediting. She said it average to be about 85-90 days.

Greg

Morrison, Sheila Supervisory Contract Specialist
819 TAYLOR STREET 14A02
FORT WORTH TX 76102-6114
[REDACTED]

"I've talked to her and she will look into expediting."

Sharhanda Shivers was the GSA Contract Specialist assigned to the Strong Castle's Schedule 70 application. Shivers, who worked directly for Sheila Morrison when Strong Castle first applied for its Schedule 70, told Committee investigators that she remembered Sheila Morrison saying that Strong Castle's application was an "urgent project that needed to be processed due to pending actions with the IRS."¹⁴⁵

The urgency of the application was manifested in the extremely short amount of time it took for Strong Castle to receive its GSA Schedule 70 contract. On April 4, 2012, GSA awarded Strong Castle its Schedule 70 contract—just 50 days after Strong Castle submitted its application. According to Kay Ely, the current Director of IT Schedule Programs at GSA, the average amount of time it takes for a company to be awarded a GSA Schedule 70 contract is 114 days. Ely told Committee investigators at a meeting on April 15, 2013 that she was not aware of a company being awarded a Schedule 70 in a faster timeframe than the 50 days it took for Strong Castle. She commented that several companies received their Schedule contracts in 60-75 days "at best."¹⁴⁶ Strong Castle—thanks to Greg Roseman greasing the wheels at GSA—received its Schedule 70 contract in just 50 days.

C. Castillo Starts Soliciting the IRS

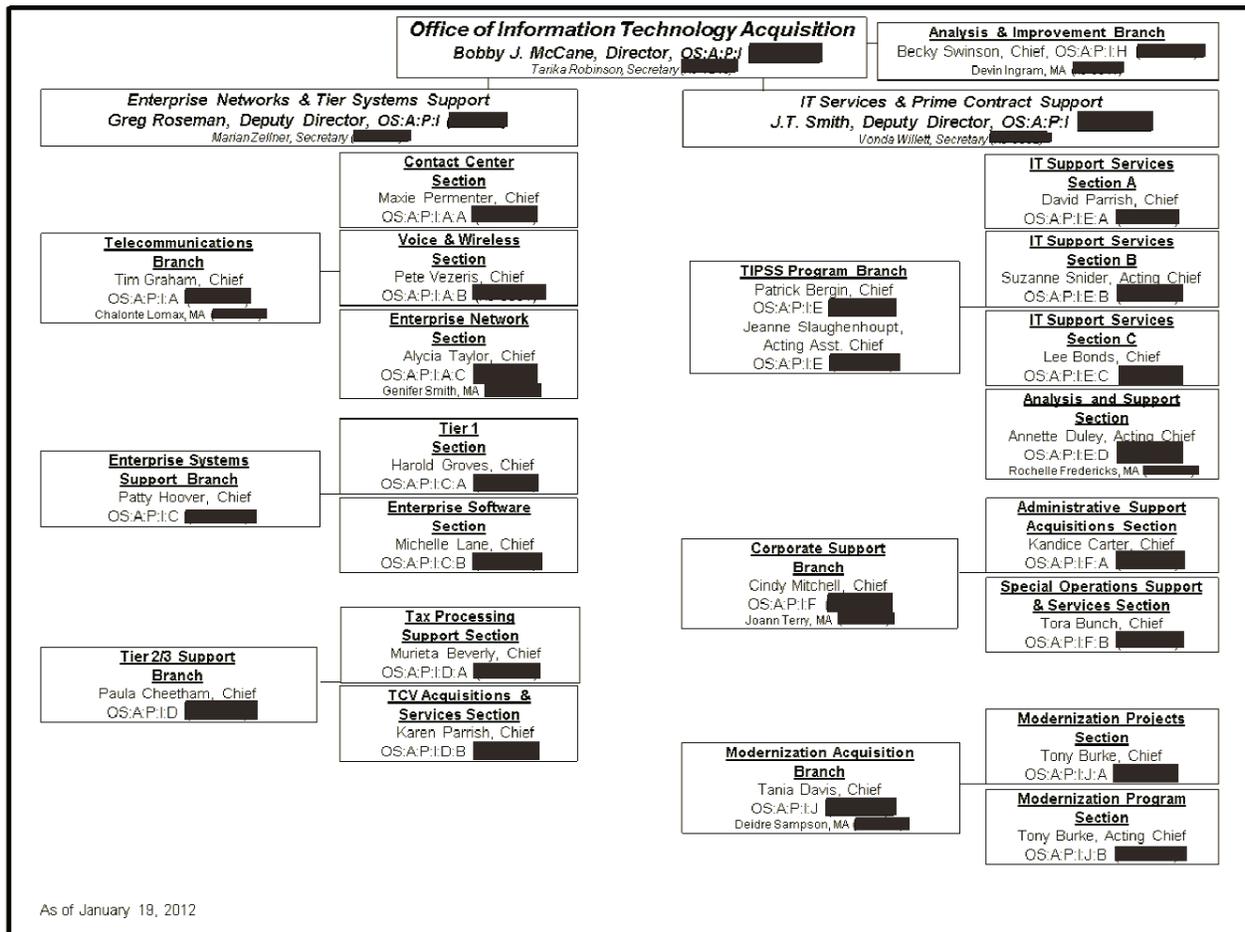
Shortly after Strong Castle submitted its application for GSA Schedule 70 in February 2012, Castillo began meeting with senior procurement officials at the IRS. Greg Roseman facilitated many of these meetings. On February 17, 2012, Roseman e-mailed Castillo an organizational chart for the IRS Office of Information Technology Acquisition (OITA). This

¹⁴⁵ Phone call between Sharhanda Chivers, U.S. Gen. Services Admin., and Committee Staff (Apr. 18, 2013).

¹⁴⁶ Meeting with Kay Ely, Director of IT Schedule Programs, U.S. Gen. Services Admin. (Apr. 15, 2013).

chart contained names and positions for every person in OITA management—a virtual roadmap for Castillo of the key IRS decision-makers, who shape and award IT procurements.

From: Roseman Gregory P <[REDACTED]>
Sent: Friday, February 17, 2012 3:20 PM
To: Braulio Castillo <[REDACTED]>
Subject: OITA Management Org Chart 011912.ppt
Attach: How to UNZIP.html; SecureZIP Attachments.zip



Castillo immediately began contacting IRS procurement officials to arrange meetings. One such official was Bobby McCane. McCane testified about the number of times he met with Castillo:

Q. And since he took over at Signet Computers, how many times have you met with Mr. Castillo to the best of your knowledge off the top of your head?

A. To the best of my knowledge, I think twice.

Q. Twice?

A. I think twice is probably a pretty solid estimate. I think I met with him probably twice since he has been the owner of his new company.¹⁴⁷

Documents show, however, that McCane met with Castillo on more than just two occasions.

The first documented meeting between Castillo and McCane occurred on February 17, 2012.¹⁴⁸ The following month, Castillo met again with McCane, on March 20, 2012.¹⁴⁹

Documents show that Castillo met with McCane on three occasions in July 2012. The first was on July 11, 2012.¹⁵⁰ The second was on July 17, 2012.¹⁵¹ The following week, Castillo met again with McCane, on July 25, 2012.¹⁵² All three of these meetings occurred right before Strong Castle submitted its proposal for the PCEA BPA contract—a contract that Strong Castle won. Neither Castillo nor McCane testified as to what they discussed in those meetings.

Other, undocumented, meetings between McCane and Castillo also likely occurred. For example, on February 7, 2012, Castillo had a meeting at the IRS with Greg Roseman.¹⁵³ Accompanying Castillo to the meeting were representatives from Deloitte whom Castillo knew socially. Castillo sent a text to Roseman that he wanted the Deloitte officials to meet Jacob Hansen, IRS Director of Procurement:

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¹⁴⁷ H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Bobby McCane, at 27 (May 29, 2013) [hereinafter McCane Tr].

¹⁴⁸ "IRS Bobby McCane," (Feb. 17, 2012, 2:00PM) [SCI 043073].

¹⁴⁹ "Braulio and Bobby," (Mar. 20, 2012, 10:30AM) [SCI 038008].

¹⁵⁰ "Braulio Castillo from Signet Computers, Inc.," (July 11, 2012, 10:30AM) [SCI 023626].

¹⁵¹ "Braulio Castillo from Signet Computers, Inc.," (July 17, 2012, 3:00PM) [SCI 018647].

¹⁵² "Braulio Castillo from Signet Computers, Inc.," (July 25, 2012, 9:30AM) [SCI 023759].

¹⁵³ "IRS Greg Roseman, Deloitte Mark Thomas, Signet Braulio Castillo," (Feb. 7, 2012, 3:00PM) [SCI 001865].

Btw, the guy's name is mark Thomas. He was west point class of 94. He was a captain in the army. Good guy, you'll like him. Don't need JT or jake but if jake was free and they could say hi for a minute that'd be great. You know, former officer to officer...that was more important when I thought jake was from west point.

An e-mail after the meeting from Deloitte shows that Roseman also introduced the Deloitte officials to Bobby McCane:¹⁵⁴

We then walked the halls with Greg as he introduced the team to his leadership which included:

- The Chief Procurement Officer for the IRS – Col. Jake Hansen, US Army (retired)
- The Director of IT Procurement - Bob McCane

We briefly bumped into the Deputy Director of IT procurement (services) - JT Smith

“We then walked the halls with Greg as he introduced the team to his leadership which included . . . Director of IT Procurement – Bob McCane.”

At the time of the meeting, Strong Castle had yet to do a single dollar of work with the IRS. That did not prevent Roseman, however, from telling the Deloitte officials that he had the “utmost confidence” in Castillo to serve the IRS:

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¹⁵⁴ E-mail from Mark Thomas to Robin Lineberger (Feb. 7, 2012) [SCI 001927].

“[Roseman] had the utmost confidence in Braulio’s ability to deliver quality work to the IRS”

Greg also addressed what I was looking to validate - that he had the utmost confidence in Braulio’s ability to deliver quality work to the IRS based on his long track record with the agency. This is a rarity among current SDVOSB’s and HUBZones that support the IRS and a clear differentiator. Given this validation, I am confident the Strong Castle will win one of the single award BPA’s referenced above. I believe that Strong Castle would be willing to team with Deloitte on this effort.

The e-mail also shows how impressed the Deloitte officials were with Castillo’s access inside the IRS:

“This is a rarity among current SDVOSB’s and HUBZones . . . and a clear differentiator.”

to deliver quality work to the IRS based on his long track record with the agency. This is a rarity among current SDVOSB’s and HUBZones that support the IRS and a clear differentiator. Given this validation, I am

This access came as a result of not just Castillo’s close relationship with Greg Roseman, but also because of his budding relationship with Bobby McCane.

An e-mail exchange between Castillo and McCane in May 2012 revealed their close relationship. It stated:¹⁵⁵

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¹⁵⁵ E-mail from Braulio Castillo to Bobby McCane (May 15, 2012, 11:15AM).

From: McCane Bobby J <[REDACTED]>
Sent: Tuesday, May 15, 2012 11:15 AM
To: Braulio Castillo <[REDACTED]>
Cc: McCane Bobby J <[REDACTED]>
Subject: RE: Signet Computers, Inc., a SDVOSB, Notification for Award for GSA IT Schedule 70 #GS-35F-0319Y

Braulio,

You got to love it!

“I . . . saw you trying to park your big ol’ truck.”

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

From: Braulio Castillo [mailto:[REDACTED]]
Sent: Friday, May 04, 2012 4:15 PM
To: McCane Bobby J
Subject: RE: Signet Computers, Inc., a SDVOSB, Notification for Award for GSA IT Schedule 70 #GS-35F-0319Y

Bobby,

I trust that all is well. I meant to call you earlier this week. I was driving downtown near main Treasury and saw you trying to park your big ol’ truck. You must really love parking downtown.

D. Unofficial Capacity, Inappropriate Communications

FINDING: The IRS IT acquisitions division designated an “unofficial” small business representative. In this “unofficial” capacity, the representative had communications with Braulio Castillo that otherwise might be considered inappropriate.

Castillo’s access within the IRS also extended to lower-level officials in the procurement division. Karen Parrish serves as the Section Chief of the TCV Acquisition and Services in OITA. As Strong Castle began soliciting the IRS for contracts in 2012, Parrish had significant communications with Braulio Castillo.

When Greg Roseman informed Karen Parrish that Braulio Castillo’s company was a SDVOSB and HP Partner, her reaction was to see if Castillo could move the company into a HUBZone—thus giving the company a “preferred” status when its proposals were up for evaluation by IRS acquisition officials. She asked, “[c]an you get them to relocate to a HUBZone area?”¹⁵⁶

Roseman, having been in frequent communication with Castillo, responded that Castillo’s business was already in the process of relocating. Roseman wrote:¹⁵⁷

¹⁵⁶ E-mail from Karen Parrish to Paula Cheetham and Greg Roseman (Jan 11, 2012, 9:28AM).

¹⁵⁷ E-mail from Greg Roseman to Karen Parrish and Paula Cheetham (Jan. 11, 2012, 9:46AM).

From: Roseman Gregory P
To: Parrish Karen P; Cheetham Paula;
Subject: RE: Strong Castle Is now.a SDVOSB and HP Partner!!!!
Date: Wednesday, January 11, 2012 9:46:00 AM

They are in the process of doing that.

On June 6, 2012, the PCEA BPA solicitation was completed. Five minutes after receiving the e-mail informing him that the RFQ was completed, Greg Roseman forwarded the solicitation to Braulio Castillo:¹⁵⁸

[PAGE INTENTIONALLY BLANK]

¹⁵⁸ E-mail from Greg Roseman to Braulio Castillo (June 6, 2012, 3:21PM).

FYI

Karen Padilla Parrish
Chief, TCV Acquisitions and Services Section
OS:A:P:i:D:B
202-██████████ (desk)
202-██████████ (fax)

From: Braulio Castillo [mailto:██████████]
Sent: Thursday, June 07, 2012 7:20 PM
To: Parrish Karen P
Subject: IRS Request for Quote for PC Equipment and Accessories TIRNO12Q00083

Signet Computers, Inc. is interested in pursuing the following opportunity with the IRS: Request for Quote for PC Equipment and Accessories, TIRNO12Q00083. We are a SDVOSB and a pending HUBZone firm. Our HUBZone certification package has been submitted and accepted and we are awaiting the final signature from the director. We hold our own GSA IT Schedule 70 #GS-35F-0319Y. We also hold a direct LOS with HP, our preferred manufacturing partner for this effort.

Please let me know if you need anything else from us to include us in the competition.

Thanks,
Braulio

Castillo had both called and e-mailed Parrish to inform her that Strong Castle was interested in pursuing the PCEA BPA. Given that Stephanie Bracey was the contracting officer for the acquisition, however, it is unclear why Castillo reached out to Parrish. According to Parrish, Castillo's conduct here was inappropriate. Parrish testified:

- Q. Would it be appropriate once that solicitation went out the door for any of the contractors bidding on that solicitation to communicate with Greg Roseman about that solicitation?
- A. Not about that solicitation.
- Q. So that would be inappropriate conduct?
- A. Yes.
- Q. Based on what?
- A. Once the solicitation is out on the street and we're waiting for proposals, any communication pertaining to that solicitation should only be conducted through the CO.¹⁵⁹

Two weeks later, on June 22, 2012, Castillo informed senior officials in OITA that the SBA had certified Strong Castle as a HUBZone company. Roseman responded playfully, adding Parrish to the distribution list:¹⁶⁰

¹⁵⁹ H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Karen Padilla Parrish, at 94 (May 15, 2013) [hereinafter Parrish Tr.].

¹⁶⁰ E-mail from Greg Roseman to Braulio Castillo, et al. (June 22, 2012, 11:13AM).

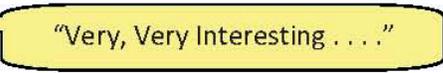
From: Roseman Gregory P <[REDACTED]>
Sent: Friday, June 22, 2012 11:13 AM
To: Braulio Castillo <[REDACTED]>; McCane Bobby J <[REDACTED]>; Smith John T <[REDACTED]>; Parrish Karen P <[REDACTED]>
Subject: Re: UPDATE: Signet Computers, Inc., a SDVOSB, Certified HUBZone, GSA IT Schedule 70 Holder (#GS-35F-0319Y), Top Secret Cleared Firm

What took so long? Lol.

Greg Roseman

Despite this June 22, 2012 e-mail exchange, however, on July 13, 2012, Castillo sent a separate e-mail to Parrish informing her that Strong Castle was now a HUBZone-certified company. Parrish forwarded this information to three other people within the IRS, including Stephanie Bracey, the contracting officer for the PCEA BPA solicitation, which the IRS later awarded to Strong Castle for \$79.9 million. Parrish wrote:¹⁶¹

This is some interesting news. That means Signet's proposal is a double dipper. It's HUBZone plus SDVOSB. I did verify with SBA that Signet is now listed as a HUBZone.

Very, Very interesting..... 

Karen Padilla Parrish
Chief, TCV Acquisitions and Services Section

OS:A:P:I:D:B
202-[REDACTED] (desk)
202-[REDACTED] (fax)

When asked about this e-mail, Parrish said:

- Q. Why is this interesting?
- A. That's good news for us.
- Q. Why is it good news?
- A. Because now, when we make an award to Signet, we'll be able to recognize the small business goal, the service-disabled vet goal, and the HUBZone goal.
- Q. **When you say, "That means Signet's proposal is a double dipper," what proposal are you referring to?**

¹⁶¹ E-mail from Karen Parrish to Stephanie Bracey, et al. (July 13, 2012).

A. **I was referring to the desktop/laptop one.**

Q. And you sent this email to the contracting officer who was in charge of the desktop/laptop BPA, correct?

A. Correct.

Q. With a message that this was very interesting news because the proposal is a double dipper.

A. Right.¹⁶²

Later in July 2012, Parrish solicited a bid from Strong Castle regarding ADP Server Components. Even though she was not the contracting officer, Parrish wrote to Castillo:¹⁶³

From: Parrish Karen P <[REDACTED]>
Sent: Friday, July 27, 2012 7:53 AM
To: Braulio Castillo <[REDACTED]>
Subject: RE: Request Reassigned

Now that you know the price, can you give me a better price?

Parrish also alerted Castillo about other forthcoming solicitations:

[PAGE INTENTIONALLY BLANK]

¹⁶² Parrish Tr. at 206 (emphasis added).

¹⁶³ E-mail from Karen Parrish to Braulio Castillo (July 27, 2012, 9:53AM).

From: Parrish Karen P <[REDACTED]>
Sent: Wednesday, August 8, 2012 12:57 PM
To: Braulio Castillo <[REDACTED]>
Subject: RE: Can you do Dell? <Contract #GS35F0319Y>

thanks, stay on the lookout.....

Karen Padilla Parrish
Chief, TCV Acquisitions and Services Section
OS:A:P:I:D:B
202-[REDACTED] (desk)
202-[REDACTED] (fax)

“stay on the lookout”

From: Braulio Castillo [mailto:[REDACTED]]
Sent: Wednesday, August 08, 2012 12:40 PM
To: Parrish Karen P
Subject: RE: Can you do Dell? <Contract #GS35F0319Y>

Yes, we can sell Dell under GSA Schedule.

Braulio M. Castillo
Signet Computers, Inc.
"A Historically Underutilized Business Zone (HUBZone) Small Business"
"A Service-Disabled, Veteran-Owned Small Business (SDVOSB)"
"A Commonwealth of Virginia Minority Business Enterprise SWoM Certified Minority-Owned Small Business"
Mobile: [REDACTED]
Email: [REDACTED]
<http://www.signet-computers.com>

From: Parrish Karen P [mailto:[REDACTED]]
Sent: Monday, July 30, 2012 5:15 PM
To: Braulio Castillo
Subject: Can you do Dell? <Contract #GS35F0319Y>

Braulio can he support Dell Laptops under GSA Schedule?

In August 2012, IRS procurement officials became alarmed due to a potential problem for Strong Castle with the System for Award Management (SAM), a government computer system that streamlines federal procurement systems and eliminates data redundancies. Stephanie Bracey, the contracting officer for the PCEA BPA solicitation, commented to Parrish how this would cause problems for Castillo and Strong Castle:

[PAGE INTENTIONALLY BLANK]

From: Bracey Stephanie L
Sent: Monday, August 27, 2012 5:09 PM
To: Parrish Karen P
Subject: RE: Signet HUBZone Update

I know, I told Braulio that he needs to stop talking to the help desk and go higher. This is going to stop him from getting awards here if it's not cleared up.

Stephanie Bracey Smith
Contracting Officer
OS:A:P:I:D:B
Voice: (202) [REDACTED] 1
Fax: (202) [REDACTED]
Telework Days - Monday & Thursday
AWS - Every Friday

Even though the SAM issue was Strong Castle's problem to fix, Karen Parrish took matters into her own hands. In order to help Castillo get awards from the IRS, she called SAM and spent 45 minutes on the phone with them trying to resolve the problem.¹⁶⁴ Parrish's e-mail below also indicates that she wanted to award a \$2.5 million order to a HUBZone/SDVOSB company—two certifications held by Strong Castle—and that resolving the SAM issue would be helpful in awarding these contracts to Strong Castle.

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¹⁶⁴ E-mail from Karen Parrish to Stephanie Holmes (Aug. 28, 2012, 9:00AM).

From: Parrish Karen P
To: Holmes Stephanie J;
cc: Richardson Latonya D; Kearns Barry E; Roseman Gregory P; Cheetham Paula;
Subject: FW: SAM Website: Known Technical Issues
Date: Tuesday, August 28, 2012 9:00:34 AM
Attachments: My Profile is not visible Incident 120827-001188.msg
Contract Officers can't see my profile Incident 120827-001163.msg
Fwd Unable to Update Incident 120822-000280.msg
Status Incident 120816-000517.msg
SAM Report for Signet Computers Inc VA DNB 052821050 dated 08272012 COMPLETE rev1.pdf
SAM Report for Signet Computers Inc DC DNB 078409114 dated 0827201 COMPLETE.pdf

Latonya, "After being on hold for 45 minutes . . ."

Thanks, I tried calling the SAM help desk this morning, and there are still major issues with SAM. After being on hold for 45 minutes, there was nothing they could do for me. They were able to verify that Signet Computers data is in the system, however they are unable to send me anything in writing that it is in the system. They did say that if someone has access to the private accounts, they may be able to view his data. When SAM first came out, I did set up an account so I could view data. Well that account is not working, nor will the system allow me to set up a new account. So maybe you or Stephanie Holmes can access his data using your log in account. The person on the phone did state that there are many problems both for the vendors and for Government employees that they are still experiencing. I have a \$2.5m order that we need to award to a HUBZone/SDVOSB and what I would like to know, can we accept the data that he sent us since we can't access his data.

Latonya, I did pull down all the data that was in SBA, plus I still had his old CCR data when he became an SDVOSB.

Any advise or help will be greatly appreciated. "I have a \$2.5m order that we need to award to a HUBZone/SDVOSB . . ."

Thanks,
Karen Padilla Parrish
Chief, TCV Acquisitions and Services Section
OS:A:P:I:D:B
202█ (desk)

In late August 2012, the IRS awarded Strong Castle the \$2.5 million contract.

Though Parrish acknowledged that many of these communications with Castillo might ordinarily have been inappropriate—including her intervention with the SAM issue—she testified that these communications were in fact appropriate because she was not acting in her capacity as Section Chief.¹⁶⁵ Instead, Parrish testified that she was acting in a separate capacity as a “small business representative for OITA.”¹⁶⁶ Parrish described her role as the small business representative for OITA:

Q. I understand that. How is your role different than what the OSDBU does?

¹⁶⁵ Parrish Tr. at 108.

¹⁶⁶ *Id.* at 102.

A. I am just in that role of the OITA small business representative to help monitor and oversee when awards are made to small businesses.

Q. Isn't that what the OSDBU is supposed to do?

A. I believe so.

Q. So is your role redundant in OITA?

A. I don't know if I would call it redundant.¹⁶⁷

Parrish further testified that there are no written rules or regulations to guide her conduct as a small business representative—outside of the rules she creates for herself.¹⁶⁸ Parrish also does not change her e-mail signature when she is operating in her role as a small business representative. The only e-mail signature she uses is the one below:¹⁶⁹

Karen Padilla Parrish
Chief, TCV Acquisitions and Services Section OS:A:P:I:D:B
202-██████████ (desk)
202-██████████ (fax)

It is therefore virtually impossible to gauge when Parrish is acting as Section Chief and when she is acting as the “small business representative.” She testified:

Q. So how does anybody on the receiving end of an email know what hat you have on when you're sending an email? How am I supposed to know as the reader of this email you have your small business hat on as opposed to your Acquisitions and Services Section hat on?

A. I don't know.

Q. **So we just have to take your word for it; is that correct?**

A. **My word is good.**

Q. According to yourself?

A. According to me, and **I'm the best person to say if my word is**

¹⁶⁷ *Id.* at 204-205.

¹⁶⁸ *Id.* at 142-143.

¹⁶⁹ E-mail from Karen Parrish to Stephanie Holmes (Aug. 28, 2012, 9:00AM).

good.¹⁷⁰

The blurring of the lines between Parrish’s two roles—and the lack of any regulations to provide guidance—make oversight of her role impossible and the ability to determine possible ethical infractions extremely difficult. Making matters even more convoluted is the fact that Parrish’s role as a small business representative is merely an informal role, with no mechanism to regulate her conduct. She testified:

Q. You receive no extra pay for your role as small business specialist, correct?

A. That is correct.

Q. **There are no rules and regulations guiding your conduct as small business specialist, correct?**

A. **In the terms for OITA, no.**

Q. And there's no official title for you with small business specialist, correct?

A. In regards to the OITA organization, that is correct.

Q. In regards to any organization, is there an official title?

A. I only represent the OITA organization.

Q. So your official title at the IRS is chief, TCV Acquisitions and Services Section. That's your only official title.

A. Yes.

Q. So that is not reflective of any duties you have as a small business specialist.

A. That's correct.¹⁷¹

By operating in her unofficial capacity as a “small business representative,” Karen Parrish was able to assist Strong Castle and Braulio Castillo in ways that otherwise would have been unethical for a contracting official.

¹⁷⁰ Parrish Tr. at 201-202 (emphasis added).

¹⁷¹ *Id.* at 215-216 (emphasis added).

E. Other Communications with Roseman and IRS Procurement Officials

As 2012 wore on, the amount of communications between Braulio Castillo and Greg Roseman significantly increased. Although Strong Castle produced screenshots of hundreds of texts between Castillo and Roseman from Castillo's phone, a critical four-month gap exists when no texts were produced at all. No texts between Roseman and Castillo—or Castillo and anybody else for that matter—were produced between May 9, 2012 and September 25, 2012, precisely when Strong Castle began receiving contracts from the IRS.

Braulio Castillo testified this was due to an error with the iPhone:

A. So, well, I think that – and I am sure you researched it, but during the iPhone 5 migration, there was a known error or a known malfunction that in the iPhone 5 migration or the IOS 5 to IOS 6 migration that text messages were lost. I mean, there are hundreds of cases about it. It's on the apple Web site.

Q. What date did you get your iPhone 5?

A. I don't know specifically, but it was around that time where you had asked about the messages. Or actually the release of IOS 6 was in the September time frame. So it went back, and what it did is I think it deleted the cache in the systems. And I think mine only went back September to May. So I had a blackout from May to September during the iPhone 5 migration.¹⁷²

The first texts produced after the blackout, however, raise many questions. At 9:53 p.m. on September 25, 2012, Castillo texted Patty Hoover, Branch Chief for Enterprise Systems Support:

Forgot to ask; what are we doing about the Informatica procurement?

Hoover responded at 9:56 pm:

John is working it. I told Donna we will need a final proposal through u guys so we can issue an order against the bpa. Thanks for reminder. So much going on.

Castillo responded at 9:58 pm:

K, I sent him a ROM already so I can turn around a quote ASAP.

Hoover responded at 9:59 pm:

¹⁷² B. Castillo Tr. at 155.

Okay. Mits wants to use part of this years funds for Phil's requirement and the other for increased capacity. We have to be able to pay for remaining with options.

Yep but I believe John is still trying to get go ahead from mits.

Castillo responded at 10:01 pm:

Ok, will you fill me in later on exactly what you need from me to make that happen.

*K, I wi[ll] await your orders :)*¹⁷³

Two days after this exchange, on September 27, 2012, the IRS awarded Strong Castle a \$322,730 contract under the Informatica BPA.

On that same day, September 27, 2012, Hoover texted Castillo:

Did u get Altirus.

Braulio Castillo responded:

*Not yet.*¹⁷⁴

Also on September 27, 2012, the IRS awarded Strong Castle a \$1.94 million contract on the Altiris opportunity. On two occasions in the same week, immediately following the “blackout” period, Castillo texted Hoover about an IRS acquisition, and was subsequently awarded the acquisitions.

The “blackout” period between May 9, 2012 and September 25, 2012 was a critical period for Strong Castle, as the company pursued, and won, numerous IRS contract awards. Strong Castle successfully requested an extension for the PCEA BPA solicitation until after the SBA certified Strong Castle as a HUBZone company. Strong Castle submitted a proposal for the PCEA BPA. Strong Castle engaged in advanced pricing negotiations regarding the PCEA BPA. And Strong Castle won its first awards with the IRS.

During the “blackout” period, Castillo and Roseman communicated with great frequency. Even though no texts between the two have been produced during that time period, the Committee obtained Castillo’s mobile phone records for the “blackout” period. The records show that between May 10 and September 23, 2012, Castillo exchanged more texts with

¹⁷³ Text message from Braulio Castillo to Patty Hoover (Sept. 27, 2012, 10:01PM) [SCI 0135238].

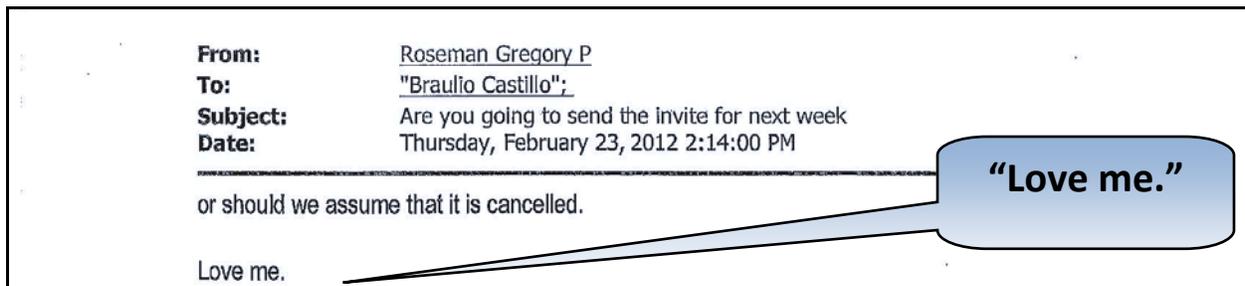
¹⁷⁴ Text message from Braulio Catillo to Patty Hoover (Sept. 27, 2012, 8:19PM) [SCI 0135238].

Roseman than anybody else in Castillo’s phone book, with only one exception.¹⁷⁵ In fact, Castillo exchanged many more text messages with Roseman than he did with his own wife.¹⁷⁶

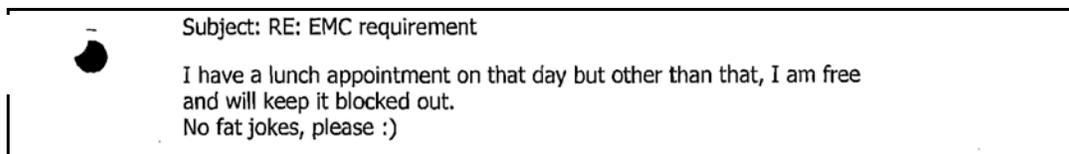
Castillo and Roseman exchanged a large volume of texts on August 17, 2012—twenty to be exact—beginning at 7:43 a.m. and ending at 8:54 p.m.¹⁷⁷ The following day, August 18, 2012, the IRS awarded its first two contracts to Strong Castle, worth a total of \$935,650.

Castillo and Roseman spoke frequently on the phone, often around critical dates for both Strong Castle and the IRS. For example, on June 7, 2012, the day after Roseman forwarded the PCEA BPA solicitation to Castillo, Castillo called Roseman at 8:40 a.m., and the two spoke for 21 minutes.¹⁷⁸ On July 12, 2012, the day before proposals for the PCEA BPA were scheduled to be due, Roseman called Castillo at 5:16 p.m.; they spoke for 41 minutes.¹⁷⁹

Myriad e-mails between Roseman and Castillo, often of a teasing nature, demonstrate their friendship. For example, on February 23, 2012, Roseman e-mailed Castillo about a meeting the following week:¹⁸⁰



In March 2012, Roseman e-mailed Castillo and Colleen Slattery from EMC to Schedule a meeting.¹⁸¹ Castillo responded:



¹⁷⁵ Braulio Castillo AT&T Phone Records (Apr. 29, 2012 – Oct. 28, 2012). [SCI 0135333-SCI 0135384] [hereinafter B. Castillo AT&T Phone Records]. The one exception is Lauretta Brown, a former IRS SES, who was then a Strong Castle employee.

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.* [SCI 0135319].

¹⁷⁹ Amendment 0005 of the RFQ, issued on July 5, 2012, extended the proposal due dates to July 13, 2012. Although the proposal due date was ultimately extended to July 30, 2012, that did not occur until Amendment 0009 of the RFQ was issued on July 24, 2012. Neither Amendments 0006, 0007, or 0008 discussed extending the proposal due date. According to the contracting officer, she “forgot” to issue an amendment to extend the date from July 13, 2012 to July 24, 2012.

¹⁸⁰ E-mail from Greg Roseman to Braulio Castillo (Feb. 23, 2012, 2:14PM).

¹⁸¹ E-mail from Braulio Castillo to Greg Roseman and Colleen Slattery (Mar. 8, 2012, 3:58PM) [SCI 001939].

Slattery responded to Castillo and Roseman:¹⁸²

From: [REDACTED] [mailto:[REDACTED]]
Sent: Thursday, March 08, 2012 4:04 PM
To: Braulio Castillo; [REDACTED]
Subject: RE: EMC requirement

It works for me as well-- and you're not fat :)

Colleen Slattery
Account Manager
EMC Corporation
703-[REDACTED]
[REDACTED]

In his response, Castillo alluded to Roseman:¹⁸³

Roseman's division—Strong Castle won the award. On November 28, 2012, Castillo e-mailed a picture of himself to Roseman to use in the application. Roseman responded:¹⁸⁵



F. Roseman's Recusal Refusal

FINDING: Gregory Roseman failed to recuse himself from any acquisition on which Strong Castle, his close friend's company, submitted a bid. Roseman successfully hid his friendship with Castillo from other IRS employees.

Greg Roseman's relationship with Braulio Castillo was invaluable in helping Strong Castle win numerous contracts potentially worth hundreds of millions of dollars. Given its limited track record and lack of prime contracting experience in the federal government, Strong Castle likely would not have won the contracts. Despite his close relationship with Castillo, however, Greg Roseman never sought to recuse himself from involvement with any contracts on which Strong Castle competed. Several IRS employees under Roseman stated that, given his friendship with Castillo, Roseman should have recused himself from these procurements.

Karen Parrish testified that IRS training recommends that procurement officials recuse themselves if their friends are bidding on contracts:

Q. Does the training that you provide annually discuss what to do if a contractor is a friend who is bidding?

A. Yes.

Q. And what does the training recommend?

A. I also learned that in my COR training. **If you have any kind of relationship – friend, sibling, spouse – you're supposed to recuse yourself from that.**¹⁸⁶

Parrish further explained:

¹⁸⁵ E-mail from Greg Roseman to Braulio Castillo (Nov. 28, 2012, 10:22AM) [SCI 032375].

¹⁸⁶ Parrish Tr. at 74-75 (emphasis added).

Q. What about situations where you are friends with a contractor, can you talk to them?

A. Not – if they are part – **if they are part of the solicitation, if they're going to propose, then you should recuse yourself.**¹⁸⁷

Parrish also described the effect of a recusal:

Q. So just how would a recusal work? **Would you just stop having any interaction in that solicitation at all?**

A. **Yes.**

Q. Would it be like a stop work for you and nobody would talk to you about the solicitation?

A. Yes.¹⁸⁸

Patrick Bergin, Chief of the TIPSS Program Branch in OITA, stated that he would probably recuse himself from awarding contracts to somebody with whom he has a close friendship. Bergin testified:

From a regulatory standpoint, there is nothing that prohibits me from awarding a contract to someone that I know. Should I steer or award something that I am intimately involved or have a close friendship, that is a judgment call and **I would probably recuse myself.**¹⁸⁹

In addition, Contracting Officer Brian Carper stated that he would seek legal counsel before making a decision as to whether or not he would recuse himself. Carper testified:

Q. And if you did have a friend who had business before the IRS, you said before that you would seek a legal opinion and potentially recuse yourself?

A. Correct.

Q. If you had a friend who was bidding on one of your procurements, would you consider that something you needed to recuse yourself from?

A. **I would seek legal counsel and get their input before I made a**

¹⁸⁷ Parrish Tr. at 77 (emphasis added).

¹⁸⁸ *Id.* at 79 (emphasis added).

¹⁸⁹ H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Patrick Timothy Bergin, at 74 (May 16, 2013) [hereinafter Bergin Tr.] (emphasis added).

decision.¹⁹⁰

Carper later testified that Roseman should “probably” recuse himself and seek legal counsel before overseeing acquisitions where Strong Castle submitted a bid:

Q. Sure. You've also stated that if there were a personal relationship between Mr. Roseman and Mr. Castillo, **there may be times when he would need to recuse himself from supervising individuals that were evaluating bids submitted by Mr. Castillo.** Is that –

A. **If there's a relationship that is a friendship, he would probably recuse himself and seek legal counsel.**¹⁹¹

Despite his relationship with Braulio Castillo, however, Greg Roseman never recused himself from involvement with any of the contracts on which Strong Castle submitted a proposal. Bobby McCane, Roseman’s supervisor and the head of OITA, testified:

Q. **Has [Roseman] ever come to you and said, Bobby, I might need to recuse myself from involvement in a certain procurement based on my relationship with Braulio Castillo or any other vendor?**

A. No.

Q. He's never done that?

A. No.

Q. Would you expect one of your employees – one of your direct reports to come to you and offer to recuse themselves if in fact there was a personal friendly relationship with a vendor that had business in front of the IRS?

A. The answer to that question is yes. If there was a personal friendly relationship, the answer to that question would be yes.¹⁹²

Moreover, Karen Parrish testified about the significance of a Roseman recusal:

Q. And what would it mean for Greg Roseman to recuse himself? What would the impact be?

¹⁹⁰ H. Comm. on Oversight & Gov’t Reform, Transcribed Interview of Brian Carper, at 18 (May 23, 2013) [hereinafter Carper Tr.] (emphasis added).

¹⁹¹ Carper Tr. at 149-150 (emphasis added).

¹⁹² McCane Tr. at 20-21 (emphasis added).

A. He would not be privy to anything that's going on in the solicitation up until award.

Q. Did Greg Roseman recuse himself of the laptop/desktop BPA?

A. No.

Q. Did he recuse himself in the IBM contract that Strong Castle won in December?

A. No.¹⁹³

Instead, Roseman's significant interactions with Castillo during these two solicitations—the laptop/desktop (PCEA) BPA and the IBM contract—continued unabated. The next section describes these interactions in more detail.

Since Greg Roseman never recused himself from involvement with any contracts on which Strong Castle submitted a bid, he was therefore able to serve on Acquisition Teams, a select group of people who help shape how procurements will be competed, and Contract Review Boards, an influential group of people that serves as the last step in the review process both before a RFQ is released and before a contract is awarded.

Braulio Castillo leveraged his relationship with Roseman so that procurements coming out of OITA were shaped specifically so that Strong Castle—a company without any past performance in the IRS and without any history of reselling IT equipment—would be in a commanding position to win. And Strong Castle won these contracts. In fact, the company won big. Greg Roseman played a significant role in shaping these contracts, and Castillo was the major beneficiary. Castillo, for that matter, has no qualms about his friendship with Roseman, a friendship that helped Castillo's company land large awards. Braulio Castillo put it best when he testified, “[t]his town would probably come to a screeching halt if salespeople did not call on their friends.”¹⁹⁴

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¹⁹³ Parrish Tr. at 80.

¹⁹⁴ B. Castillo Tr. at 149 (emphasis added).

IX. The IRS Contracts

FINDING: Before 2012, Strong Castle had won \$0 in federal contracts. On December 31, 2011, Greg Roseman told Braulio Castillo that his company would be “Fortune 500 in no time.” In 2012, Strong Castle won over a dozen contracts from the IRS with a potential value in excess of \$500 million.

A. IRS Contracting Policies on Socioeconomic Preferences

FINDING: The IRS uses socioeconomic status of prospective contractors as the primary evaluation factor in determining what companies will win a contract. This contracting process, seemingly unique among federal agencies, significantly favors Strong Castle, and occurs in a way that avoids scrutiny by SBA or the VA.

Federal departments and agencies are expected to award a certain amount of contracts to small businesses each year. In 2011, for example, each agency had an overall small business prime contracting goal of twenty-three percent, as well as a five percent goal for small disadvantaged businesses a five percent goal for women-owned small businesses, a three percent goal for Service-Disabled Veteran-Owned Small Businesses (SDVOSBs), and a three percent goal for small businesses in Historically Underutilized Business Zones (HUBZones).¹⁹⁵

Statutory requirements assist departments and agencies in meeting the small business goals. For example, the Small Business Act requires agencies to automatically set aside work for small businesses that is equal to or less than the value of the simplified acquisition threshold, generally \$150,000, unless the contracting officer determines that there is not a reasonable expectation of receiving competitive offers from two or more responsible small business concerns.¹⁹⁶

Despite the emphasis placed on achieving these goals, most departments and agencies never reach their small business goals. The IRS, however, achieved its goal for each of the last two years. Given the types of acquisitions that the IRS utilizes to reach its goals, even when a small business wins the contract, the overwhelming majority of the obligated dollars go to large businesses. To illustrate this point, it is not unusual for the IRS to award a large sum contract to a small disadvantaged business such as Strong Castle, only to have the bulk of the funds go to a large computer manufacturer such as IBM or Hewlett Packard. This practice completely undermines the goals of these programs. It is, in fact, a “pass through” because in the end, a large corporation receives the funds, and in many cases, performs the work.

¹⁹⁵ Memorandum from office of Mgmt. and Budget and Small Business Admin. to Deputy Secretaries et al., Interesting Small Business Participation in Federal Contracting at Attachment 1 (Feb. 11, 2011) [hereinafter “Feb. 11, 2011 OMB Memo”].

¹⁹⁶ Memorandum from Office of Mgmt. and Budget Small Business Admin. to Deputy Secretaries et al., Follow-up: April 25, 2012 Meeting of the Small Business Procurement Group at 1 (June 6, 2012).

One of the tools for increasing small business participation that the Office of Management and Budget has recommended is the use of socioeconomic status as an evaluation factor. FAR 8.405-5(b) authorizes agencies to consider socioeconomic status when identifying contractors for consideration or competition for award of an order or blanket purchase agreement. A February 2011 OMB memorandum provides suggested language “to put interested vendors on notice that socioeconomic status would be considered:”

Socio-economic status of the vendor shall be considered as a primary evaluation factor for award with the goal of achieving one of the agency’s socioeconomic goals to increase small business participation as prime contractors.

The following factors will be used by the government to evaluate proposals in descending order of importance: (1) socio-economic, (2) past performance, (3) price, (4) technical approach, and (5) management work plan & key personnel.¹⁹⁷

In March 2011, The IRS adopted the small business goals in Policies and Procedures (P&P) Memorandum Number 19.1.¹⁹⁸ P&P 19.1 requires the agency to reserve acquisitions of supplies or services between \$3,000 and \$150,000 automatically for small business concerns, unless there is a justification not to compete these acquisitions as set-asides.¹⁹⁹ In addition, a Small Business Specialist must review and approve prior to competition.²⁰⁰

GSA allows agencies to make socioeconomic status a primary evaluation factor when making a best value determination.²⁰¹ The IRS has taken this policy one step further, deciding “it is the IRS policy that all [GSA Federal Supply Schedule] buys include socioeconomic status as a primary evaluation factor with an emphasis on SDVOSB and HUBZone small business firms.”²⁰² P&P 19.1 provides two examples of rating matrices when using socioeconomic status as a primary evaluation factor.²⁰³

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¹⁹⁷ Feb. 11, 2011 OMB Memo, *supra* note 195 at Attachment 4.

¹⁹⁸ Memorandum from Dep’t of Treasury, Internal Revenue Serv., Office of Procurement Policy to Office of Business Operations et al., Policy and Procedures Memorandum 19.1: Small Business Program Review Requirements (Mar. 17, 2011) [hereinafter “P&P 19.1”].

¹⁹⁹ *Id.* at 3.

²⁰⁰ *Id.* at 4-5.

²⁰¹ *Id.* at 7.

²⁰² *Id.* at 7.

²⁰³ *Id.* at 7-8.

Socio-economic Status	Rating	Adjectival
Service Disabled Veteran-Owned Small Business	Blue	Exceptional
HUBZone Small Business	Blue	Exceptional
Small Disadvantaged Business	Green	Good
Women-Owned Small Business	Green	Good
Small Business	Yellow	Acceptable
Large Business	Orange	Marginal

Socio-economic Status (Prime Contractor)	Adjectival Rating
Small Business combined with one or more targeted categories (service-disabled veteran owned, veteran-owned, women-owned, HUBZone, or disadvantaged)	Excellent
Small Business	Very Good
Large Business	Good
N/A	Poor
N/A	Unacceptable

Using socioeconomic status as **a** primary factor, however, is different from using socioeconomic status as **the** primary factor, as IRS's OITA has done in many acquisitions the Committee has examined. The acquisitions in question here have been competed as "fair and open" acquisitions, with socioeconomic status as **the** number one evaluation factor.²⁰⁴ The acquisitions have also utilized the same socioeconomic preference matrix, which differs from either of the two matrices presented in P&P 19.1. For example, the Personal Computers Equipment and Accesories BPA utilized the following language and matrix to describe the number one evaluation factor:²⁰⁵

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²⁰⁴ Other evaluation factors have varied. For example, one of the evaluation factors for the PCEA BPA, "Past Experience," was not an evaluation factor for the IBM BPA.

²⁰⁵ Request for Quotations, Request No. TIRNO-12-Q-00083 (June 6, 2012) [hereinafter PCEA RFQ"] at 38.

FACTOR 1 – Socio-economic Status

It is the policy of the Government to maximize participation of small businesses in the procurement process. As a result, this RFQ includes a preference for small businesses, definitions and ratings are listed below:

Definition	Rating
*HUBZone Small Business (HUBZone)	Excellent
Service-Disabled Veteran-Owned Small Business (SDVOSB)	Good
All Other Small Businesses	Acceptable
Large Business	Neutral

*HUBZone contractors must be certified by the Small Business Administration (SBA) at time of solicitation and at time of award.

On these acquisitions, in order to obtain an “Excellent” ranking on the number one evaluation factor, socioeconomic status, a bidding company must have a HUBZone certification. The Committee has yet to identify an acquisition competed in this manner that did not go to a HUBZone-certified company. This method of competition, however, prevents a losing bidder from challenging the winning bidder’s socioeconomic status.

When an acquisition is competed as a set-aside, a losing bidder has standing to challenge the socioeconomic status of the winning bidder.²⁰⁶ In cases when a HUBZone-preferred acquisition is competed using a socioeconomic price preference, HUBZone bidders receive a ten percent price preference.²⁰⁷ In effect, this means the agency may add up to 10 percent to the pricing submitted by all non-HUBZone offerors. In this competition scenario, a losing bidder has standing to challenge the socioeconomic status of the winning bidder.²⁰⁸ In all instances, any challenges to the language of the solicitation or any other improprieties in a solicitation must be filed before the closing date for receipt of proposals.²⁰⁹

²⁰⁶ Small Business Administration regulations provide that “an interested party” may submit a protest on negotiated acquisitions. 13 C.F.R. § 126.801(d)(1). The regulations define an interested party as “any concern that submits an offer for a specific HUBZone sole source or set-aside contract, [and] any concern that submitted an offer in full and open competition and its opportunity for award will be affected by a price evaluation preference given a qualified HUBZone SBC[.]” *Id.* § 126.103.

²⁰⁷ FAR § 19.1307(b).

²⁰⁸ *See above, supra* note 206, defining “interested party” for the purposes of a protest.

²⁰⁹ FAR § 33.103(e).

When the competition is structured as “fair and open competition” or “unrestricted” but HUBZone preferred, with no price preference, a losing bidder does not have standing to challenge the HUBZone status of the winning bidder.²¹⁰

B. Implementation of IRS Policies

Other agencies, also subject to the small business goals, do not utilize the socioeconomic preference in the same manner as the IRS does. Braulio Castillo testified that he had not seen this arrangement at other agencies:

Q. But you haven't seen that elsewhere?

A. No, I don't recall seeing it elsewhere.²¹¹

Office of Information Technology and Acquisition officials have used socioeconomic status as the number one evaluation factor on big-ticket items. Paula Cheetham, Branch Chief for the Tier 2/Tier 3 Division, testified as follows:

Q. So you have used the socio-economic status as the number one evaluation factor in a couple dozen out of approximately 1,200 actions?

A. But the value of my actions, why I don't do it on all of them, I am buying a \$3,000 printer, I am buying a \$3,000 laptop. I am buying 12 laptops. It takes too much time to do a full-blown evaluation on a couple hundred thousand dollar deal and it is not going to hit my goal. We do it on the larger dollar value, which is why we did it on the laptop-desktop buy.²¹²

Cheetham also explained why she uses socioeconomic status as the number one factor on large ticket items:

Q. Okay. And you stated that you tried to focus on several -- you tried to focus on higher-dollar solicitations. Is that right?

A. Correct.

Q. Why?

²¹⁰ See also, December 20, 2012 letter from Mariana Pardo to Richard Busch re: “HUBZone Protest for Request for Quotes (RFQ) No. TIRNO-12-Q-00083. Pardo dismisses the HUBZone protest as the acquisition in question, the PCEA BPA, was not a HUBZone sole source or set aside contract and did not include a price evaluation preference. *Id.* at 2.

²¹¹ B. Castillo Tr. at 306.

²¹² H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Paula Cheetham, at 29 (May 21, 2013) [hereinafter Cheetham Tr.].

- A. Because it's more bang for your buck, so to speak. Actually, the more dollars that you spend, the less we have to worry about down the road, so we're trying to hit -- we have to hit 3 percent for HUBZone. Three percent of . . . \$1.9 billion is a lot of money that has to go somewhere.²¹³

The IRS applies the full dollar amount of the award toward its small business goals, even when that small business is simply a reseller of products. As a result, the overwhelming majority of the dollars will go to the original equipment manufacturer, not the small business. The IRS has targeted large products procurements as ripe for using socioeconomic status as the number one evaluation factor. This created a huge market for product resellers that are HUBZone and/or SDVOSB-certified. Castillo knew this, and he designed Strong Castle to fit this market perfectly.

C. Timeline of Strong Castle's Contracts and Awards

Braulio and Michelle Castillo purchased Signet Computers in early 2012.²¹⁴ At that time, Signet Computers had average annual revenues of only \$250,000.²¹⁵ Under Braulio Castillo's leadership, however, those numbers were quickly dwarfed.

On August 17, 2012—after months of phone calls and text messages with Greg Roseman—the IRS awarded its first two contracts to the company. These orders combined for a total of \$935,650.²¹⁶ These awards gave Strong Castle, in just one day, more revenue than the previous three years combined.

Other IRS contracts quickly rolled in. Between August 18 and August 31, 2012, Strong Castle received seven IRS orders totaling \$4,662,328.²¹⁷ In September 2012, Strong Castle received six IRS orders totaling \$2,737,368.²¹⁸ Also in September, the IRS awarded Strong Castle an Information Technology Services Contract with a potential value of \$150 million.²¹⁹

In December 2012, Strong Castle won two major blanket purchase agreements—including “the biggest thing coming out of the IRS in 15 years.”²²⁰ The potential value of those two contracts alone was \$346 million.²²¹ For a company with barely any revenue just twelve months earlier, this was an impressive haul.

²¹³ *Id.* at 86.

²¹⁴ Amended and Restated Stock Purchase Agreement, January 31, 2012.

²¹⁵ See Signet Computers, Inc., 2008 U.S. Corporation Income Tax Return Form 1120 [SCI 000743]; 2009 U.S. Corporation Income Tax Return Form 1120 [SCI 000372]; 2010 U.S. Corporation Income Tax Return Form 1120 [SCI 000759]; 2011 U.S. Corporation Income Tax Return Form 1120 [SCI 000701].

²¹⁶ Prime Award Spending Data, “Signet Computers,” USASpending.gov (June 20, 2013) [hereinafter USASpending.gov].

²¹⁷ *Id.*

²¹⁸ *Id.*

²¹⁹ Letter from Thomas Mason to Stephen Castor (Mar. 12, 2013).

²²⁰ B. Castillo Tr. at 225.

²²¹ See IBM RFQ at 6; Letter from Stephanie Bracey Smith to Braulio Castillo (Dec. 7, 2012) [SCI 008225] (stating that the Total Evaluation Price for the PCEA BPA is \$79,951,522).

In December 2012, Strong Castle also received a \$39.9 million order from the IRS.²²² All told, over the five-month span from August 18 to the end of 2012, the IRS obligated \$47,346,207 in taxpayer money to Strong Castle:

IRS Dollars Obligated To Strong Castle		
Product/Service:	Date:	Dollar Amount:
ADP Software	8/18/2012	\$ 467,825
ADP Software (2)	8/18/2012	\$ 467,825
IT & Telecom – Other IT & Telecommunications	8/27/2012	\$ 2,510,622
ADP Software	8/28/2012	\$ 9,946
ADP Software	8/28/2012	\$ 58,525
ADP Software	8/28/2012	\$ 179,255
ADP Software	8/29/2012	\$ 968,330
ADP Software	9/18/2012	\$ 3,225
IT & Telecom – Systems Analysis	9/20/2012	\$ 232,297
ADP Input/Output & Storage Devices	9/24/2012	\$ 26,311
ADP Software	9/27/2012	\$ 322,730
ADP Software	9/27/2012	\$ 1,944,192
ADP Software	9/29/2012	\$ 208,613
ADP Software	12/3/2012	\$ 8,684
ADP Support Equipment	12/13/2012	\$ 3,040
ADP Software	12/28/2012	\$ 39,934,787
Total Dollars Obligated:		\$47,346,207²²³

The potential future dollars for Strong Castle from the IRS, however, is much, much greater. From three blanket purchase agreements *alone*, Strong Castle can potentially receive nearly \$500 million of taxpayer money.²²⁴

IRS Blanket Purchase Agreements Awarded to Strong Castle		
Type:	Date:	Potential Dollar Amount:
ITS BPA	9/28/2012	\$150,000,000
PCEA BPA	12/7/2012	\$80,000,000
ESSO BPA	12/27/2012	\$266,000,000

Given Strong Castle's impressive haul at the IRS, one would think that contracts would be rolling in from all across the federal government. That is not the case. Since January 31, 2012, all other federal agencies have awarded just \$465,780 to Strong Castle:

²²² USAspending.gov, *supra* note 216.

²²³ *Id.*

²²⁴ *Id.*

Other Dollars Obligated To Strong Castle			
Department/Agency:	Product/Service:	Date:	Dollar Amount:
National Park Service	ADP Support Equipment	6/27/2012	\$ 681
Bureau of the Public Debt	Printing, Duplicating & Bookbinding Equipment	8/3/2012	\$ 26,944
National Park Service	ADP Input/Output & Storage Devices	8/27/2012	\$ 5,167
United States Mint	ADP Input/Output & Storage Devices	8/30/2012	\$ 258,001
Department of Defense	IT & Telecom – Systems Development	9/21/2012	\$ 4,607
Department of Veterans Affairs	Maintenance/Rebuild of Equipment – ADP	9/28/2012	\$ 7,729
Department of Defense	Mini & Micro Computer Control Devices	9/28/2012	\$ 74,521
Department of Defense	Misc. Office Machines	9/29/2012	\$ 15,150
Department of Defense	Misc. Electrical & Electronic Components	9/30/2012	\$ 72,980
Total Dollars Obligated:			\$465,780²²⁵

What has led to the huge discrepancy between the potential for \$500 million in contracts with the IRS alone and the mere \$465,780 awarded by all other federal government agencies? The difference is that the IRS—where Strong Castle received well over 99 percent of its 2012 revenues—employs Castillo’s long-time friend, Greg Roseman, who oversaw each and every contract awarded to Strong Castle by the IRS in 2012.

D. Strong Castle Fine Tunes Its Strategy

1. HUBZone “Pay Dirt”

Braulio Castillo purchased Signet Computers with the intent to certify it as a HUBZone and SDVOSB.²²⁶ He knew from the very beginning that the HUBZone and SDVOSB certifications would be the key to successfully getting IRS contracts:

- Q. So were you aware in this time frame, January-February 2012, that the IRS was shifting its procurement practices to favor HUBZone companies?
- A. HUBZones and SDVOSBs, yes.²²⁷

²²⁵ All information from USAspending.gov.

²²⁶ B. Castillo Tr. at 49.

²²⁷ *Id.* at 136.

Castillo predicted that the HUBZone program would be a source of wealth for his new company. On January 17, 2012, days before the Castillos purchased Signet Computers, Braulio Castillo texted his wife: “HUBZone pay dirt?”²²⁸ Castillo testified that he did not know why he wrote “HUBZone pay dirt?” to his wife weeks before they purchased Signet Computers and moved the company to a HUBZone area:

- Q. When you wrote your wife stating, HUBZone pay dirt, question mark, were you referring to the fact that HUBZone might be a source of success or wealth?
- A. I don't know why I wrote HUBZone pay dirt question mark to my wife on January 17th, 2012.
- Q. Okay. In and around the January 2012 time period, did you talk to your wife about the fact that -- about the possibility that Signet or Strong Castle would be able to win more bids if they qualified as a HUBZone?
- A. **I'm sure we talked about that being a HUBZone would help us win more contracts.**²²⁹

As detailed in the previous section, the IRS proved to be a wealth of “pay dirt” for Castillo and his HUBZone companies. Strong Castle was not certified as a HUBZone firm until June 22, 2012. In the five months between when Castillo purchased the company on January 31, 2012 and June 22, 2012, Strong Castle won zero federal contracts. Yet, in the six months immediately after Strong Castle became a HUBZone firm, the IRS award contracts potentially worth more than \$500 million to Strong Castle. HubZone pay dirt, indeed.

Castillo informed Roseman about his plans to certify his new companies as HUBZones more than a month before he even submitted the applications. On January 7, 2012, Castillo e-mailed Roseman that Strong Castle LLC was a SDVOSB and an HP Partner.²³⁰ When Roseman forwarded Castillo's e-mail to others in OITA, the e-mail arrived in Karen Parrish's inbox.²³¹ Parrish responded, adding Roseman back onto the e-mail chain:²³²

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²²⁸ Text message from Braulio Castillo to Michelle Castillo (Jan. 17, 2012, 10:15AM) [SCI0135245]. According to dictionary.com, “pay dirt” has the following meanings: (1) soil, gravel, or ore that can be mined profitably; (2) any source of success or wealth; a fortunate discovery or profitable venture; and (3) an end zone in football. www.dictionary.com (last accessed June 19, 2013).

²²⁹ B. Castillo Tr. at 341 (emphasis added).

²³⁰ E-mail from Braulio Castillo to Greg Roseman (Jan. 7, 2012, 11:57AM).

²³¹ E-mail from Paula Cheetham to Karen Parrish, et al. (Jan. 11, 2012, 9:26AM).

²³² E-mail from Karen Parrish to Paula Cheetham and Greg Roseman (Jan. 11, 2012, 9:28AM).

From: Parrish Karen P
Sent: Wednesday, January 11, 2012 9:28 AM
To: Cheetham Paula; Roseman Gregory P
Subject: RE: Strong Castle is now a SDVOSB and HP Partner!!!!

Can you get them to relocate to a HUBZone area?

As the unofficial “small business representative” for OITA, Parrish knew that if Castillo’s company was in a HUBZone then it could receive preferential treatment when IRS officials evaluated its proposals. Castillo and Roseman were also aware of this. In fact, Roseman reported back his knowledge that the company was already in the process of moving to a HUBZone.²³³

From: Roseman Gregory P
To: Parrish Karen P; Cheetham Paula;
Subject: RE: Strong Castle is now a SDVOSB and HP Partner!!!!
Date: Wednesday, January 11, 2012 9:46:00 AM

They are in the process of doing that.

Roseman, of course, was aware that the company was moving to a HUBZone because Braulio Castillo had already told him. Castillo testified:

- Q. He forwards it to some folks at the IRS. Paula Cheetham forwards it. Karen Parrish responds, "Can you get them to relocate to a HUBZone area?" Greg responds, "They are in the process of doing that." So I guess my question is how did Greg know that you guys were in the process of moving to a HUBZone?
- A. So this is around when we are in the 30-day sale cycle of Signet and that we were planning on moving it to a HUBZone.
- Q. **So he knew that you that you were planning on moving to a HUBZone?**
- A. **Yeah.**²³⁴

²³³ E-mail from Greg P. Roseman to Karen Parrish and Paula Cheetham (Jan. 11, 2012, 9:46AM).

²³⁴ Castillo Tr. at 140 (emphasis added).

2. Friends in High Places

FINDING: IRS officials e-mailed Castillo with information about upcoming acquisitions—some of which were worth millions of dollars—at a critical time when Castillo was beginning to grow his business using IRS contracts and contacts.

Castillo's advantage was not just in Strong Castle's HUBZone certification—he also had friends at the IRS sending large-dollar procurements his way. On August 8, 2012, Patricia Hoover sent Castillo the just-released RFQ for the Informatica BPA, and informed him that she planned to tell Informatica the next day that the IRS wanted them to partner with a HUBZone/SDVOSB. Hoover wrote:²³⁵

From: Hoover Patricia V
To: Braulio Castillo;
cc: Roseman Gregory P;
Subject: FW: informatica
Date: Wednesday, August 08, 2012 4:20:33 PM

This is the RFQ just posted for the Informatica BPA. We are meeting with them tomorrow and will be advising we would like them to partner with a HUB/SDVOB.

Unsurprisingly, Roseman was also copied on this e-mail. Also unsurprisingly, Informatica representatives reached out to Castillo about partnering with the company for this acquisition:

Q Did Informatica contact you about partnering with them?

A Yes, they did.

* * *

Q But, in August of 2012, do you recall when DLT first contacted you about the Informatica BPA specifically?

A No, but it would have been around this time frame because we put -- we had a CTA in place to provide any and all DLT products and services. So I am assuming that as soon as this posted, they would have contacted us that, hey, this posted, and there is an RFQ. I believe they contacted me specifically on this buy after it had already posted on eBuy.²³⁶

²³⁵ E-mail from Patricia Hoover to Braulio Castillo (Aug. 8, 2012, 4:20PM).

²³⁶ B. Castillo Tr. at 289-290. DLT Partners is the sole GSA schedule holder for Informatica.

The IRS awarded the Informatica BPA to Strong Castle on August 23, 2012.²³⁷ To date, the IRS has issued over \$2 million in delivery orders from the BPA, which has a total awarded price of \$4.9 million.²³⁸

The day after Hoover e-mailed Castillo about the Informatica BPA, she e-mailed Roseman about another \$750,000 contract, specifically referencing Castillo:²³⁹

From: Hoover Patricia V
To: Roseman Gregory P;
Subject: FW: Emailing: eBuy RFQ Posting.pdf
Date: Thursday, August 09, 2012 8:46:08 PM

Greg,
I may also have a HUB award for about \$750K if Braulio can team with EIS. Not sure yet.

Before Hoover e-mailed Roseman, she e-mailed Castillo to ask if he had any relationships with EIS.²⁴⁰

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

From: Hoover Patricia V [REDACTED]
Sent: Thursday, August 09, 2012 8:38 PM
To: Braulio Castillo
Subject: RE: Emailing: eBuy RFQ Posting.pdf

Do you have any relationship with EIS for SAS Fraud Framework services?

When Castillo replied that he did not, Hoover provided him with the name of a contact:²⁴¹

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²³⁷ Letter from Thomas Mason to Stephen Castor (Mar. 12, 2013). The Informatica BPA is TIRNO-12-K-00019.

²³⁸ USAspending.gov, *supra* note 216; Informatica Past Performance Evaluation [SCI 006269].

²³⁹ E-mail from Patricia Hoover to Greg Roseman (Aug. 9, 2012, 2:46PM).

²⁴⁰ E-mail from Patricia Hoover to Braulio Castillo (Aug. 9, 2012, 8:38PM).

²⁴¹ E-mail from Patricia Hoover to Braulio Castillo (Aug. 9, 2012, 9:03PM) [SCI026593].

From: Hoover Patricia V [REDACTED]
Sent: Thursday, August 9, 2012 9:03 PM
To: Braulio Castillo [REDACTED]
Subject: RE: Emailing: eBuy RFQ Posting.pdf

Charles Mathews
[REDACTED]

Don't have number right this second but can get tomorrow.

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

From: Braulio Castillo [mailto:[REDACTED]]
Sent: Thursday, August 09, 2012 8:57 PM
To: Hoover Patricia V
Subject: RE: Emailing: eBuy RFQ Posting.pdf

Not currently but I have already reached out to them to discuss my teaming with them. Do you have a contact name that I should speak to?

The IRS officials were helping Castillo every step of the way—sending him the acquisitions, the names of people he should work with, and telling larger companies that they needed to team with Strong Castle.

3. Castillo's Ability to Win Contracts Impresses His Employees

Castillo's Strong Castle employees were highly impressed by the number of contracts the company won in August. On August 23, Castillo e-mailed the executed Informatica BPA to Laretta Brown, Karla Tropea, and Michelle Castillo.²⁴² Remarking on Castillo's ability to win contracts, Tropea wrote:²⁴³

From: Karla Tropea
Sent: Thursday, August 23, 2012 3:09 PM
To: Braulio Castillo; Laretta Brown; Michelle Castillo
Subject: RE: Award Document

Seems to me all the awards you have gotten single handedly. Maybe you don't need us???? ☺

While Castillo may have needed Strong Castle's executive team to manage the IRS contracts he won, all he needed to win the contracts were his friends at the IRS.

²⁴² E-mail from Braulio Castillo to Laretta Brown, et al. (Aug. 23, 2012, 2:48PM) [SCI 079518].

²⁴³ E-mail from Karla Tropea to Braulio Castillo, et al. (Aug. 23, 2012, 3:09PM) [SCI 079518].

4. Castillo Requests to Modify Contracts

FINDING: Braulio Castillo successfully altered the language—literally overnight—of IRS solicitations so that Strong Castle would be in a commanding position to win. Without these alterations, Strong Castle likely would not have won several IRS contracts.

Braulio Castillo must have noticed a trend—he had a high likelihood of winning contracts that contained a HUBZone preference. The HUBZone pay dirt was paying off in spades. So, he began asking IRS officials to modify contracts to add a HUBZone preference.

On September 10, 2012, Castillo noticed an ArcSight requirement posted on GSA eBuy. As was his practice, he contacted Immix, the distributor, for a quote. Immix, however, declined to provide a quote, noting that the company typically bid GSA eBuy quotes directly. Immix’s representative wrote:²⁴⁴

From: Mara Conheim [REDACTED]
Sent: Monday, September 10, 2012 4:57 PM
To: Braulio Castillo; Laretta Brown
Cc: Mike McGarry; Conor Stueckler
Subject: RE: ArcSight for IRS RFQ731363

Hi Braulio,

Thanks for reaching out. Unless we’re teaming with a partner that has been driving a deal with the customer, immix will typically bid GSA eBuy quotes direct. If Signet is driving a deal that will come out on GSA, we’re happy to discuss putting a Teaming Agreement in place. For this opportunity, we’ve already been working with the end user for quite some time on this opportunity. I’m sorry we’re not able to provide a quote for this one but we look forward to working with you on future opportunities.

Best,
Mara

Castillo responded almost immediately:²⁴⁵

From: Braulio Castillo [REDACTED]
Sent: Monday, September 10, 2012 4:59 PM
To: Mara Conheim; Laretta Brown
Cc: Mike McGarry; Conor Stueckler
Subject: RE: ArcSight for IRS RFQ731363

“I hear that this deal may be going HUBZone.”

Mara,
I understand but I hear that this deal may be going HUBZone. If so, we will require a GSA quote.
Thanks,
Braulio

²⁴⁴ E-mail from Mara Conheim to Braulio Castillo, et al. (Sept. 10, 2012, 4:57PM) [SCI044644].

²⁴⁵ E-mail from Braulio Castillo to Mara Conheim, et al. (Sept. 10, 2012, 4:59PM) [SCI044644].

It is not known how, or from whom, Castillo had heard that the deal was “going HUBZone,” particularly given that the acquisition had already been released on GSA eBuy. For the acquisition to “go HUBZone” after release would require a modification to the RFQ. So, Castillo sought to obtain just that. Less than ten minutes later, Castillo e-mailed Paula Cheetham and Karen Parrish asking them to change the terms of the procurement:²⁴⁶

From: Braulio Castillo [REDACTED]
Sent: Monday, September 10, 2012 5:07 PM
To: Paula Cheetham [REDACTED]
Cc: Parrish Karen P [REDACTED]
Subject: ArcSight TSDN DR opportunity on eBuy #RFQ731363

I was working an Arch Sight deal with Holli Beasley and it was posted on eBuy by Andy. Immi (large business) is the distributor for Arch Sight but if the procurement is full and open, they will not provide me or any other small business a quote. They will source it direct.
 Is it possible to make this HUBZone and/or SDVOSB preferred? If so, small business will be able to respond.

Here is the sample verbiage from Tara’s recent Dell posting,

“It is the policy of the Government to maximize participation of small businesses in the procurement process. As a result, this RFQ includes a preference for small businesses, definitions and ratings are listed below:

Definition	Rating
*HUBZone Small Business (HUBZone)	Excellent
Service-Disable Veteran-Own Small Business (SDVOSB)	Very Good
All Other Small Businesses	Good
Large Business	Neutral

“

Thanks for your consideration,
 Braulio

“Is it possible to make this HUBZone and/or SDVOSB preferred?”

Castillo did not e-mail Andrew Greenfield, the contracting officer for the acquisition in question about this request.

Nevertheless, either Cheetham or Parrish promptly relayed Castillo’s message to Greenfield. At 5:58 p.m., less than an hour after Castillo’s e-mail, Greenfield e-mailed Castillo, unhappy that he had gone over his head. Greenfield wrote: “FYI: Any RFQs that I post and you

²⁴⁶ E-mail from Braulio Castillo to Paula Cheetham (Sept. 10, 2012, 5:07PM) [SCI 013715].

have any questions with, please come to me. I am the person you contact not my bosses.”²⁴⁷
Castillo replied at 11:27 p.m.:²⁴⁸

From: Braulio Castillo [REDACTED]
Sent: Monday, September 10, 2012 11:27 PM
To: Greenfield Andrew J
Subject: RE: TINRO-12-K-00452

Andy,

Please find attached the Signet signed Mod 1 to TIRNO-12-K-00452.

Also, I called you to talk to you about your statement about RFQ Mod Requests. I apologize for emailing Paula about the Mod Request for the Arch Sight opportunity on eBay without first going to you. For the past 15 or so years, I pride myself in my dealings and relationships with IRS CO's and CS's in Oxon Hill and in no way meant to slight you in any way. I will formally submit my request to you in writing in a separate note. Per my voice message, I look forward to speaking with you "live" at your convenience.

Thanks for the mod for the CSIRC order. I greatly appreciate it.

Warm regards,

Braulio

Castillo followed up this e-mail with a formal request to Greenfield to modify the procurement, nearly six hours after he e-mailed Cheetham and Parrish:²⁴⁹

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²⁴⁷ E-mail from Andrew Greenfield to Braulio Castillo (Sept. 10, 2012, 5:58PM) [SCI 008028].

²⁴⁸ E-mail from Braulio Castillo to Andrew Garfield (Sept. 10, 2012, 11:27PM) [SCI 008027].

²⁴⁹ E-mail from Braulio Castillo to Andrew Greenfield (Sept. 10, 2012, 11:36PM) [SCI 013691].

From: Braulio Castillo <[REDACTED]>
Sent: Monday, September 10, 2012 11:36 PM
To: Greenfield Andrew J <[REDACTED]@irs.gov>
Subject: IRS ArcSight TSDN DR opportunity on eBuy #RFQ731363

Andy,

Per my earlier email to you, please following the following mod request for IRS ArcSight TSDN DR opportunity on eBuy #RFQ731363. I was working an Arch Sight opportunity with the IRS end user community that was posted on eBuy. Immix, a large business, is the distributor for Arch Sight to the federal government channel and sells Arch Sight direct as well. The current eBuy posting is full and open. If the procurement stays full and open, immix will not provide me or any other small business a quote. They will source it direct.

Is it possible to make this HUBZone and/or SDVOSB preferred like many other IRS procurements? If so, small businesses will be able to respond.

Here is the sample verbiage from a recent IRS posting on eBuy,

"It is the policy of the Government to maximize participation of small businesses in the procurement process. As a result, this RFQ includes a preference for small businesses, definitions and ratings are listed below:

Definition	Rating
*HUBZone Small Business (HUBZone)	Excellent
Service-Disable Veteran-Own Small Business (SDVOSB)	Very Good
All Other Small Businesses	Good
Large Business	Neutral

"

Thanks for your consideration and I look forward to speaking with you at your earliest convenience,
Braulio

Immix asked for additional information about how Castillo knew the acquisition was going to be modified to add a socioeconomic preference. Mara Conheim wrote, "Currently the active RFQ on GSA eBuy (due 9/13) does not list any HUBZone requirements. Did Andy Greenfield say he's planning on chang[ing] the quote?"²⁵⁰ Castillo replied the next morning, noting that he was "struggling" with his response as he "did not want to divulge too much in an e-mail and place the client in an awkward position[.]" Castillo also wrote that "this requirement is going to change to HUBZone and SDVOSB preferred later today".²⁵¹

²⁵⁰ E-mail from Mara Conheim to Braulio Castillo (Sept. 10, 2012, 5:25PM) [SCI 124754].

²⁵¹ E-mail from Braulio Castillo to Mara Conheim (Sept. 11, 2012, 10:35AM) [SCI 047662].

From: Braulio Castillo
Sent: Tuesday, September 11, 2012 10:35 AM
To: Mara Conheim
Cc: Jameson, William T; Laretta Brown
Subject: RE: ArcSight for IRS RFQ731363

“I do not want to divulge too much in an email”

Mara,

I am struggling with responding in that I do not want to divulge too much in an email and place the client in an awkward position so I am copying Bill Jameson on this note as I have sent him much of the information that you are requesting about a month or so ago. Bill is the primary HP interface to the IRS.

Couple of items:

- 1) We are a preferred HP partner at the IRS
- 2) We meet with the IRS sales and leadership HP team on regular basis
- 3) HP is aware that the “actual” end user who is buying the Arch Sight requirement has been working with us for some time.
- 4) HP is aware that we are the IRS preferred provider for their products and services (outside of the TCV contact held by a large business).
- 5) I source my Arch Sight from immix and I am struggling with the fact that I am also competing with you.

To answer you specific questions, we are aware that Jesse’s group bought a similar requirement a month ago but this is a new requirement and not a follow on order.

Please note; this requirement is going to change to HUBZone and SDVOSB preferred later today.

I am seeking the HP preferred price for this opportunity based on our sales support role with the client. I am confident that no other HP partner is seeking the preferred price or has a basis to require it. I need your support to make this happen.

Thanks,
BC

“[T]his requirement is going to change to HUBZone and SDVOSB preferred later today.”

Just as Castillo predicted—and less than twenty minutes after he e-mailed Immix—the acquisition was amended to include a socioeconomic preference:²⁵²

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²⁵² E-mail from Braulio Castillo to Mara Conheim (Sept. 11, 2012, 1:14PM) [SCI 054725].

From: Braulio Castillo [REDACTED]
Sent: Tuesday, September 11, 2012 1:14 PM
To: Mara Conheim [REDACTED]
Cc: Laretta Brown [REDACTED]
Subject: RE: ArcSight for IRS RFQ731363

10:52 AM EDT

Here is mod 1:
Modification Description

RFQ ID: RFQ731363

Description of modification 1 made at 09/11/2012 10:52:04 AM EDT:

The purpose of this modification is to add small business preference to the RFQ as follows: It is the policy of the Government to maximize participation of small businesses in the procurement process. As a result, this RFQ includes a preference for small businesses, definitions and ratings are listed below: Definition Rating
*HUBZone Small Business (HUBZone): Excellent Service-Disable Veteran-Owned Small Business (SDVOSB): Very Good All Other Small Businesses: Good Large Business: Neutral All other information remains the same.

"The purpose of this modification is to add small business preference"

Less than twenty four hours after Castillo was unsuccessful in his attempt to obtain a quote from Immix because the acquisition did not contain a socioeconomic preference, Castillo called on his friends at the IRS to have the acquisition modified to include such a preference. Karen Parrish testified:

- Q. Do you think that it's appropriate for Mr. Castillo to ask that a procurement be amended such that it makes it more likely for him to win the procurement?
- A. No, I don't think he should have done that.²⁵³

Adding a socioeconomic preference to an acquisition already on the street is a significant modification. So significant, in fact, that Brian Carper, the contracting officer for the IBM BPA, testified that he would terminate the RFQ and recompile it if he wanted to add a preference:

- A. Just as a CO, if I received something like this, I would rely on my market research and investigate and determine how to move forward, whether that means keeping the solicitation RFQ as is or cancelling it. If I do find out that there are HUBZones or service-disabled vets -- which means two or more -- can do it, I may cancel it and recompile it.
- Q. And if you did want to add a socioeconomic preference, you would need to pull back the RFQ and reissue it? You couldn't issue an amendment? That would –
- A. I would cancel it.²⁵⁴

²⁵³ Parrish Tr. at 220.

²⁵⁴ Carper Tr. at 158.

The ArcSight acquisition, however, was not canceled and recompeted. Instead, the IRS moved forward and awarded the contract to Strong Castle. Shortly thereafter, the IRS began obligating dollars to Strong Castle under the contract.²⁵⁵

Castillo attempted to defend his usurping the contracting officer, testifying that it wasn't until he spoke with Cheetham that he realized he should go directly to the contracting officer:

Well, when I was saying I remember talking to someone, so – and it was related to this. So I spoke with Paula, or emailed Paula, and she might have called me back and said, you need to deal – you should deal specifically with the contracting officer or specialist on that and . . . on that.²⁵⁶

Parrish testified, however, that someone who has been working with the IRS for fifteen years, as Castillo said in his e-mail apologizing to Greenfield, should know to go straight to the contracting officer and not his superiors:

Q. I believe you said in one of the earlier rounds that if a procurement is posted, such that people can see it and respond to it and submit quotes, the only appropriate person to speak with is the CO and not someone above the CO in their chain of command. Is that an accurate statement?

A. They should go to the CO, yes.

Q. And would someone who has been working with the IRS for 15 years or so, would you expect them to know that they should talk to the CO and not to the CO's bosses?

A. Yes.²⁵⁷

As would become a pattern with other acquisitions, Castillo improperly elevated the issue above the contracting officer in order to maximize the better relationship that he had with that person's superiors. Castillo testified that changing the terms of the procurement would directly increase Strong Castle's ability to win the award:

Q. So you want to impact that decision to –

A. Yes.

Q. -- potentially create new business for Strong Castle.

²⁵⁵ USAspending.gov, *supra* note 216.

²⁵⁶ B. Castillo Tr. at 210.

²⁵⁷ Parrish Tr. at 222-223.

A. Yes. Yes.

Q. And on the ArcSight deal you were successful in doing that. Correct?

A. Yes.²⁵⁸

Less than a week after asking for a modification to the ArcSight acquisition, Castillo asked for a similar modification to an Altiris acquisition worth \$2 million.²⁵⁹

From: Braulio Castillo <[REDACTED]>
Sent: Monday, September 17, 2012 12:37 PM
To: Rita Duffin [REDACTED]
Subject: Potential Altiris GSA eBuy Opportunity

Rita,
I have been working with Altiris and the IRS on the Altiris renewal opportunity. I was informed that it will be posted on GSA eBuy. Carahsoft, a large business, is our distributor and manages the Altiris GSA schedule. Is it possible to make this HUBZone and/or SDVOSB preferred like many other IRS procurements? If so, small businesses will be able to better compete on this opportunity.

Here is the sample verblage from a recent IRS posting on eBuy,

"It is the policy of the Government to maximize participation of small businesses in the procurement process. As a result, this RFQ includes a preference for small businesses, definitions and ratings are listed below:

Definition	Rating
*HUBZone Small Business (HUBZone)	Excellent
Service-Disable Veteran-Own Small Business (SDVOSB)	Very Good
All Other Small Businesses	Good
Large Business	Neutral

"

Thanks for your consideration and I look forward to speaking with you at your earliest convenience,
Braulio

Once again, the acquisition was modified to include a socioeconomic preference, and, once again, Strong Castle won the contract.²⁶⁰

²⁵⁸ B. Castillo Tr. at 210.

²⁵⁹ E-mail from Braulio Castillo to Rita Duffin (Sept. 17, 2012, 12:37PM) [SCI 013746]; B. Castillo Tr. at 204.

²⁶⁰ B. Castillo Tr. at 204.

E. Personal Computer Equipment and Accessories Blanket Purchase Agreement

FINDING: **Despite no history of past performance at the IRS, Strong Castle won a highly-competitive \$80 million BPA in December 2012. Highly unusual circumstances surrounded the solicitation and award of this contract.**

In June 2012, the IRS put out an RFQ for a Personal Computers Equipment and Accessories (PCEA) BPA.²⁶¹ While the RFQ did not include an estimated total dollar value, the RFQ made clear that bids should include a discount from the commercial list prices.²⁶² The final value of the procurement was approximately \$80 million over five years. As of June 6, 2012, the date the RFQ was released, Strong Castle had never won a single federal contract as a prime contractor.²⁶³ By the time the acquisition was awarded to Strong Castle in December, however, the tiny company had found the IRS's sweet spot.

1. Bracey as a "Team Player"

Stephanie Bracey, the Contract Officer for the PCEA BPA, targeted the solicitation to "small businesses and with a preference for a HUBZone" company.²⁶⁴ Bracey testified that she alone made the decision to add a socioeconomic preference to the evaluation factors out of a desire to be "a team player" and help the IRS meet its small business goals.²⁶⁵ This, however, was the first time in Bracey's 11-year IRS career, consisting of 400 to 500 acquisitions, that she used socioeconomic status as the number one evaluation factor. Bracey testified:²⁶⁶

Q. And out of those 400 or 500 roughly, have you ever had a procurement like the one we've been discussing where you had socioeconomic status as the number one evaluation factor?

A. **No. This was my first one using them as the socioeconomic status.**

Q. **And have you used socioeconomic status on any contract since this one?**

A. **No.**

Q. So tell me again, why did you use the socioeconomic status on this procurement?

²⁶¹ Request for Quotation, Request Number TIRNO-12-Q-00083 at 2 (June 6, 2012) [hereinafter "PCEA RFQ"].

²⁶² *Id.*

²⁶³ USASpending.gov, *supra* note 216.

²⁶⁴ H. Comm. on Oversight & Gov't Reform, Transcribed Interview of Stephanie Bracey-Smith, at 18 (May 14, 2013) [hereinafter Bracey Tr].

²⁶⁵ *Id.* at 20, 25-26.

²⁶⁶ *Id.* at 42, 98.

- A. I thought it was a good fit to help meet the Treasury's – the IRS' small business goals.²⁶⁷

Despite Bracey's claim that she made the decision to add a socioeconomic preference to the evaluation factors, upon further questioning she explained that the idea to have socioeconomic status as the number one evaluation factor likely emerged during one of the acquisition strategy meetings.²⁶⁸ She was unable to identify when the idea first emerged, or who first suggested using a preference as the top evaluation factor.²⁶⁹ Greg Roseman was a part of the acquisition strategy meetings. Bracey testified:

- Q. So it could have been Gregory Roseman who came up with this idea?
- A. It could have been Gregory Roseman.²⁷⁰

Roseman also participated in a pre-solicitation Contract Review Board, where the terms of the acquisition were discussed before the solicitation hit the street.²⁷¹ Roseman did not recuse himself from participating in the pre-solicitation Contract Review Board, despite evidence that he had communicated with Castillo about the procurement with Castillo at least as early as March 2012, as the following text message shows:²⁷²



Roseman kept Castillo informed of internal IRS discussions and communications about how the acquisition would be competed. For example, Roseman told Castillo that the IRS initially considered using the NASA SEWP acquisition vehicle to compete the PCEA BPA. Castillo testified:

- Q. What were your communications with Greg Roseman like about PCEA before it hit the street?
- A. Was it really going to happen? So, I mean -- I don't remember specifically. When's it coming out? He told me to work with a company out of San Diego, Blue Tech. So I don't know, Susan

²⁶⁷ *Id.* at 98 (emphasis added).

²⁶⁸ *Id.* at 125-130.

²⁶⁹ *Id.*

²⁷⁰ *Id.* at 130.

²⁷¹ Parrish Tr. at 267-268.

²⁷² Text message from Braulio Castillo to Greg Roseman (Mar. 21, 2012, 3:27 PM).

Stone or Sharon Stone is the owner of that company. **He asked me to reach out to her because they were the only HUBZone on SEWP. And if SEWP was the vehicle, then that would be the only person that could do it.** Or she would by default win in that she is the only SEWP contract holder if it went that way.²⁷³

Ultimately, the acquisition was competed off the GSA Schedule, with a HUBZone preference, which Castillo “assumed” would be the case:

Q. When did you get a sense that it was going to come out HUBZone?

A. I don't know specifically. I would tell you **I assumed it was going to come out HUBZone because of the conversations that I have had with the IRS** as a whole that HUBZone was very, very important for them. **So this is an obvious one -- obvious to me -- in working there that this would come out HUBZone.**²⁷⁴

2. Socioeconomic Status is the Top Evaluation Factor

The Request for Quotation utilized a two-tiered evaluation system. Once bidders met the Technical Acceptability and Section 508 compliance, they were judged based on four evaluation factors listed in descending order of importance:²⁷⁵

11.2 PART TWO – Evaluation Factors

Relative Order of Importance of Evaluation Factors

All non-price factors (1 through 3) are listed in descending order of importance. All non-price factors, when combined, are more important than price. A strong preference for small business participation is sought for this procurement. As quotes are determined to be technically compliant, socio-economic status becomes more important than price.

- 1 – Socio-economic Status
- 2 – Past Performance
- 3 – Past Experience
- 4 – Price

“Socio-economic Status”

The three non-price factors, socioeconomic status, past performance, and past experience, combined were more important than price. The RFQ ranked various types of socioeconomic status to further prioritize HUBZone small businesses:²⁷⁶

²⁷³ B. Castillo Tr. at 143 (emphasis added).

²⁷⁴ *Id.* at 143 (emphasis added).

²⁷⁵ PCEA RFQ, *supra* note 261, at 36-38.

²⁷⁶ *Id.* at 38.

FACTOR 1 – Socio-economic Status

It is the policy of the Government to maximize participation of small businesses in the procurement process. As a result, this RFQ includes a preference for small businesses, definitions and ratings are listed below:

Definition	Rating
*HUBZone Small Business (HUBZone)	Excellent
Service-Disabled Veteran-Owned Small Business (SDVOSB)	Good
All Other Small Businesses	Acceptable
Large Business	Neutral

*HUBZone contractors must be certified by the Small Business Administration (SBA) at time of solicitation and at time of award.

By structuring the RFQ with a preference for HUBZone companies—but not as a HUBZone set aside or with a price evaluation preference—the IRS set up the proposal in such a way that the socioeconomic preference could only be protested *before* the parties submitted their bids.²⁷⁷ As discussed above in section IX(A), the socioeconomic status of the winning bidder could not be protested by a losing bidder after the acquisition was awarded. This enabled Strong Castle, which had yet to obtain its HUBZone certification from the SBA at the time the RFQ was publicly released, to fly under the radar and submit a proposal.

3. Request for Quotation is Released

Bracey released the PCEA BPA to twenty vendors on June 6, 2012.²⁷⁸ Minutes after Bracey released the RFQ, Karen Parrish forwarded it to Greg Roseman and Paula Cheetham.²⁷⁹ Five minutes later, Roseman forwarded it to Braulio Castillo.²⁸⁰ While Strong Castle was not on the initial pre-selected list of vendors who received the RFQ directly from Bracey, Castillo received the RFQ just then minutes later—thanks to Greg Roseman.

Roseman sent the procurement to Castillo without any written comments for Castillo. Nor was Roseman responding to any documented request from Castillo. It therefore appears as

²⁷⁷ See Section IX(A), *infra*.

²⁷⁸ E-mail from Stephanie Bracey to Stephanie Bracey (June 6, 2012, 3:12PM) [SCI 007866].

²⁷⁹ E-mail from Karen Parrish to Greg Roseman and Paula Cheetham (June 6, 2012, 3:16PM) [SCI 007866]; Bracey Tr. at 16.

²⁸⁰ E-mail from Greg Roseman to Braulio Castillo (June 6, 2012, 3:21PM) [SCI 007866].

though the two either had previously discussed that Roseman would send Castillo the RFQ when released, or that Roseman was doing his friend a favor. The e-mail chain appears below:²⁸¹

From: Roseman Gregory P [REDACTED]
Sent: Wednesday, June 6, 2012 3:21 PM
To: Braulio Castillo [REDACTED]
Subject: FW: Request for Quote for PC Equipment and Accessories TIRNO12Q00083
Attach: How to UNZIP.html; SecureZIP Attachments.zip

-----Original Message-----
From: Parrish Karen P
Sent: Wednesday, June 06, 2012 3:16 PM
To: Roseman Gregory P; Cheetham Paula
Subject: FW: Request for Quote for PC Equipment and Accessories TIRNO12Q00083

It's done!

Karen Padilla Parrish
Chief, TCV Acquisitions and Services Section OS:A:P:I:D:B
[REDACTED] (desk)
202-283-1290 (fax)

-----Original Message-----
From: Bracey Stephanie L
Sent: Wednesday, June 06, 2012 3:12 PM
To: Bracey Stephanie L
Subject: Request for Quote for PC Equipment and Accessories TIRNO12Q00083

To all Offerors see above attachments for RFQ number TIRNO-12-Q-00083

ATTACHMENT A PC Pricing Sheet
Attachment B Specifications
Attachment C - 508 Evaluation Matrix
ATTACHMENT D - eCatalog Technical Requirements ATTACHMENT E - Open Catalog Interface Version 4.0 ATTACHMENT F- IRS eCatalog OCI Punch-out-Specs-v10 ATTACHMENT G - IRS eCatalog Unit of Measures ATTACHMENT H -Past Performance Questionnaire ATTACHMENT I -Past Experience Questionnaire PC Equipment SOW RFQ Standard Form 18

Typically, vendors bidding on acquisitions at the IRS deal with the contracting officer managing that acquisition. Here, however—and in typical fashion for Castillo—he did not go to Bracey. Instead, Castillo went higher up the chain—three levels higher up the chain—to his friend and obtained the RFQ from Greg Roseman. The next day, Castillo reached out to Karren Parrish, Bracey’s direct supervisor, to formally express his interest in the procurement formally. Given that Castillo knew about the PCEA acquisition as early as March 2012, it is unclear why he did not express his interest to Bracey or Parrish prior to the June 6, 2012 RFQ release date.

²⁸¹ E-mail from Greg Roseman to Braulio Castillo (June 6, 2012, 3:21PM) [SCI 007866].

4. Initial Steps Taken by Strong Castle

FINDING: Immediately after the IRS released the PCEA BPA RFQ, Castillo and Roseman engaged in several lengthy phone conversations. Within hours of the RFQ release, Castillo and Roseman had already discussed the specific language—buried deep in the RFQ—that would later be the cause of an award protest.

Castillo started work early on June 7, 2012. At 6:23 a.m., he forwarded Roseman’s e-mail with the RFQ to his team at Strong Castle.²⁸² At 8:40 a.m., Castillo had a twenty-one minute phone call with Roseman—the first of five calls between Castillo and Roseman that day.²⁸³

At some point on June 7, Castillo called Parrish to discuss the PCEA BPA.²⁸⁴ Neither Parrish nor Castillo testified about the content of this phone call. At 4:29 p.m., Parrish e-mailed Bracey and asked her to send the RFQ to two additional companies – Strong Castle and GTSI. In her e-mail, Parrish noted that Strong Castle was an SDVOSB and GTSI was a large business. Parrish wrote:²⁸⁵

From: Parrish Karen P
Sent: Thursday, June 07, 2012 4:29 PM
To: Bracey Stephanie L
Cc: Campbell Shirley A; Cheatham Paula
Subject: two calls that came in today

Stephanie,

Braulio StrongCastle (SDVOSB) [REDACTED]

GTSI Al Smith (Large) - [REDACTED]

requested to be included in the competition for laptop/desktops. Please forward the request to them

It was not until 7:20 p.m. that Castillo e-mailed Parrish to inform her formally that Strong Castle planned to pursue the PCEA procurement opportunity.²⁸⁶ Parrish forwarded Castillo’s request to Bracey at both 6:57 a.m. and 8:16 a.m. the next morning.²⁸⁷ Her 6:57 a.m. e-mail forwarded Castillo’s e-mail with an “FYI” message:²⁸⁸

²⁸² E-mail from Braulio Castillo to Karla Tropea et al. (June 7, 2012, 6:23AM) [SCI 008899].

²⁸³ B. Castillo AT&T Phone Records (June 7, 2012) [SCI 0135319].

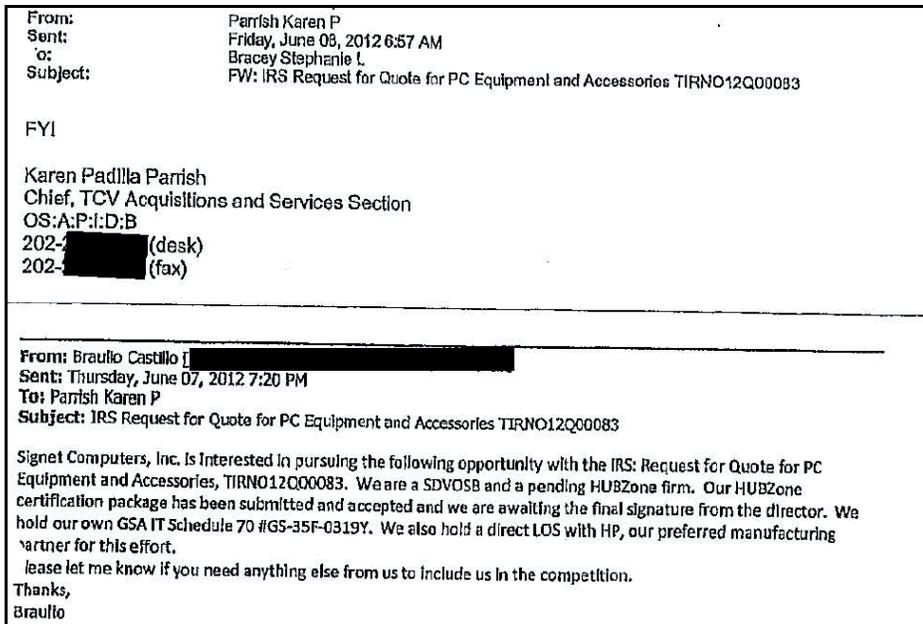
²⁸⁴ Parrish Tr. at 205.

²⁸⁵ E-mail from Karen Parrish to Stephanie Bracey (June 7, 2012, 4:29PM).

²⁸⁶ E-mail from Braulio Castillo to Karen Parrish (June 7, 2012, 7:20PM) [SCI 009019].

²⁸⁷ E-mail from Karen Parrish to Stephanie Bracey (June 8, 2012, 6:57AM); E-mail from Karen Parrish to Stephanie Bracey (June 8, 2012, 8:16AM).

²⁸⁸ E-mail from Karen Parrish to Stephanie Bracey (June 8, 2012, 7:20PM).



In all, Parrish e-mailed Bracey three times about Castillo’s interest in the RFQ.

Parrish testified that Castillo’s conduct here was inappropriate, as he should have contacted the contracting officer, and not Parrish, about his interest in the RFQ:

Q. Would it be appropriate once that solicitation went out the door for any of the contractors bidding on that solicitation to communicate with Greg Roseman about that solicitation?

A. Not about that solicitation.

Q. **So that would be inappropriate conduct?**

A. **Yes.**²⁸⁹

That afternoon, Strong Castle employees began reviewing the RFQ. Laretta Brown, a former IRS Senior Executive Service employee—and one of the few full-time employees at Strong Castle—was concerned about the requirement that a HUBZone company be certified by the SBA “at time of solicitation and at time of award.”²⁹⁰ Luckily, Greg Roseman had already communicated his understanding of the language to Castillo. Brown wrote:²⁹¹

²⁸⁹ Parrish Tr. at 100.

²⁹⁰ PCEA RFQ at 38; E-mail from Laretta Brown to Michelle Castillo and Braulio Castillo (June 7, 2012, 2:32 PM) [SCI049670].

²⁹¹ *Id.* (emphasis added).

From: Laurretta Brown [REDACTED]
Sent: Thursday, June 7, 2012 2:32 PM
To: Braulio Castillo [REDACTED]
Cc: Michelle Castillo [REDACTED]
Subject: IRS PC BPA- Next steps

“If Greg says it really means just at time of award, why doesn’t it say so?”

8) HUBZone contractors must be certified by the Small Business Administration (SBA) at **time of solicitation** and at time of award. What does this mean? I heard what you said, but “at time of solicitation” leaves me with a question. If Greg says it really means just at time of award, why doesn’t it say so?

By 2:32 p.m. the day after the RFQ was released—and the same day Roseman and Castillo had a 21-minute phone conversation—Roseman had already conveyed to Castillo his understanding of this very language. Indeed, the language would be the central focus of an award protest filed after the IRS awarded the BPA to Strong Castle in December 2012.

5. Changes to the Proposal Submission Date Benefit Strong Castle

The original proposal submission date for the PCEA BPA was June 21, 2012.²⁹² Due to the simple nature of the procurement, Bracey believed the bids could be returned within fifteen days.²⁹³ However, Bracey ultimately changed the submission date several times.²⁹⁴ These changes greatly benefitted Strong Castle.

On June 19, 2012, just two days before the original proposal submission deadline, the date was extended to July 9, 2012.²⁹⁵ If not for this last-minute extension, Strong Castle would not have been HUBZone certified, and thus would not have received an “Excellent” evaluation for socioeconomic status on its proposal. Roseman and Castillo exchanged two phone calls on June 19 – one in the morning and one in the evening.²⁹⁶

On July 5, 2012, the closing date was extended to July 13, 2012.²⁹⁷ Roseman and Castillo had a 17-minute phone conversation on July 12, and a 41-minute phone conversation on July 13.²⁹⁸ The pair exchanged a total of seven calls on July 12 and 13.²⁹⁹

²⁹² PCEA RFQ at 1.

²⁹³ Bracey Tr. at 37-38.

²⁹⁴ *Id.* at 39.

²⁹⁵ Personal Computers Equipment and Accessories Blanket Purchase Agreement, Source Selection Decision (Dec. 4, 2012) [hereinafter PCEA Source Selection Decision] at 3 (correspondence dated June 19, 2012 extends the closing date to July 9, 2012).

²⁹⁶ B. Castillo AT&T Phone Records (June 19, 2012) [SCI 0135321].

²⁹⁷ PCEA Source Selection Decision at 4.

²⁹⁸ B. Castillo AT&T Phone Records (July 13, 2012) [SCI 0135288].

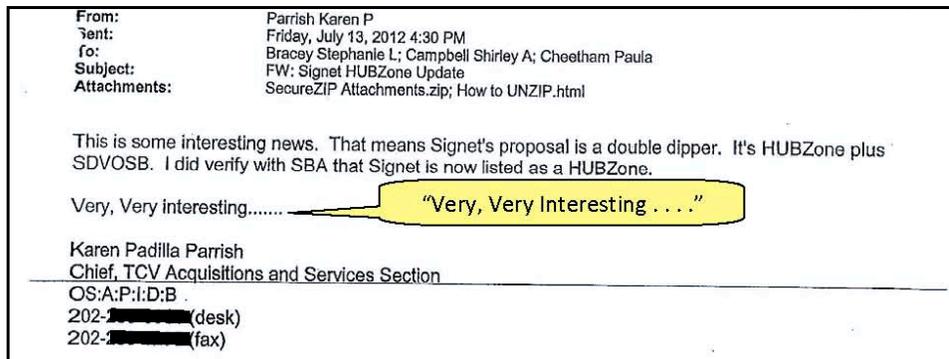
At some point, the closing date was extended past July 13, 2012. The IRS did not produce any amendments or correspondence reflecting this change. The contracting officer testified that she simply “forgot” to issue an amendment.³⁰⁰ Finally, on July 24, 2012, the closing date was extended to July 30, 2012.³⁰¹

All told, between June 6, the date the RFQ was issued, and July 30, the final proposal submission date, Castillo and Roseman exchanged 34 phone calls and 33 text messages.³⁰² The contents of the text messages fall within Castillo’s claimed “blackout” period and were never produced to the Committee.

6. Bracey Receives Hints to Award to Strong Castle

Bracey received numerous hints from her supervisors about the benefits of awarding to Strong Castle. For example, on July 13, 2012, Parrish e-mailed Bracey and others in her branch about Strong Castle: “Great news another vendor that is now a HUBZone. They are also an SDVOSB. Make an award to Signet and that would be double credit (yep that means two stickers).”³⁰³

This was only one of two e-mails Parrish sent to Bracey on July 13 about Strong Castle’s certifications. In the other, Parrish wrote, “This is some interesting news. That means Signet’s proposal is a double dipper . . . Very, very interesting.”³⁰⁴



Parrish testified that she was specifically referring to Strong Castle’s PCEA proposal as a “double dipper” when she sent this e-mail to Bracey:

Q. When you say, "That means Signet's proposal is a double dipper," what proposal are you referring to?

²⁹⁹ *Id.*

³⁰⁰ Bracey Tr. at 53.

³⁰¹ PCEA Source Selection Decision at 4 (Amendment 009, dated July 24, 2012, extends the closing date to July 30, 2012).

³⁰² B. Castillo AT&T Phone Records (June 6 – July 30, 2012) [SCI0135318-SCI0135327, SCI0135286-SCI0135295, SCI0135256-SCI0135265].

³⁰³ E-mail from Karen Parrish to Stephanie Bracey, et al. (July 13, 2012, 4:38PM).

³⁰⁴ E-mail from Karen Parrish to Stephanie Bracey, et al. (July 13, 2012, 4:30PM).

A. **I was referring to the desktop/laptop one.**

Q. And you sent this email to the contracting officer who was in charge of the desktop/laptop BPA, correct?

A. Correct.

Q. With a message that this was very interesting news because the proposal is a double dipper.

A. Right.³⁰⁵

7. Evaluating the Bids

FINDING:	The Technical Evaluation Team initially rated Strong Castle’s Past Performance as “Good.” After being prodded by the contracting officer and her supervisor—both of whom work for Greg Roseman—the Technical Evaluation Team changed Strong Castle’s Past Performance to “Excellent.”
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Stephanie Bracey met with the Technical Evaluation Team (TET) shortly after July 30, 2012 to make sure that the TET understood each evaluation factor.³⁰⁶

Q. Okay. All right. So the technical team, you would sit down with them and talk about it.

A. We’d go over. I have a document called the technical evaluation plan. We go through each document page by page to make sure they understand what the requirement is made of, what the factors were.³⁰⁷

The Technical Evaluation Team then spent approximately one month reviewing the technical specifics of the bids.³⁰⁸ The TET provided their first evaluation of the bids on August 29, 2012.³⁰⁹

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³⁰⁵ Parrish Tr. at 206 (emphasis added).

³⁰⁶ Bracey Tr. at 116-117.

³⁰⁷ *Id.* at 117.

³⁰⁸ *Id.* at 110.

³⁰⁹ Technical Evaluation Plan Report, TIRNO-12-Q-00083 (Aug. 29, 2012).

2-Past Performance rating followed by 3-Past Experience rating. The first column gives the ranking number based on the final order. If there was a tie we gave the ranking number the same number.

EVALUATION						
Ranking	Vendor	PART ONE -PASS/FAIL (11.1)		PART TWO -Evaluation Factors (11.2)		
		508	Tech	1-Socio-Economic	2-Past Performance	3-Past Experience
1	Blue Tech	Pass	Pass	Excellent	Excellent	Excellent
1	WildFlower	Pass	Pass	Excellent	Excellent	Excellent
3	PCiTech	Pass	Pass	Excellent	Good	Excellent
3	Signet	Pass	Pass	Excellent	Good	Excellent
5	Universal Understanding	Pass	Pass	Excellent	Marginal	Good
6	Better Direct	Pass	Pass	Excellent	Marginal	Marginal
7	Four Points	Pass	Pass	Good	Marginal	Unacceptable
8	Government Acquisitions	Pass	Pass	Acceptable	Good	Excellent
8	NCS Technologies	Pass	Pass	Acceptable	Good	Excellent
10	IronBow	Pass	Pass	Acceptable	Good	Good

In the first evaluation, Strong Castle received an “Excellent” for socioeconomic status, “Good” for past performance, and “Excellent” for past experience. This left Strong Castle tied for third with competing bidder PCiTech. Bidders Blue Tech and WildFlower were tied for first, with excellent rankings across the board.³¹⁰

Despite Bracey’s “page by page” instructions, she questioned the TET’s initial past performance evaluations.³¹¹ Bracey testified that she “really wasn’t feeling good” about some of the ratings given to the small businesses:

- A. I think I did have a couple of discussions with the technical team about their decisions. I could not change this. I wanted to discuss with them why they felt the way they felt. **And we went back over some of the past performance information that was sent in.** I forwarded all the documentation to counsel, really wasn't feeling good about some of the ratings that they gave. And I actually brought him back in to talk with them, too.
- Q. Why weren't you feeling good about some of the ratings that they gave?
- A. **I just didn't think that they were giving people fair -- the smaller companies a fair rating.** A couple of the companies they rated low. And I didn't think that they were looking at the overall picture.
- Q. But is that your judgment to make? Or is that the technical team's judgment to make?
- A. Well, I have some I can discuss with them. And that's what I did. I didn't change anything until you know after when we talked to

³¹⁰ *Id.*

³¹¹ Bracey Tr. at 119-121.

counsel, I wanted to make sure that it was okay that I –³¹²

At the suggestion of counsel, Bracey recalled the TET to review their decision.³¹³ According to an e-mail from Parrish, TET members reviewed each past performance evaluation on an individual basis for size, scope, and complexity.³¹⁴ Parrish wrote, “the team members wanted the ability to differentiate from vendors who provided all three Past Performance Evaluations within size, scope, and complexity and those that only provided one or two that met the size, scope, and complexity requirement.”³¹⁵

Parrish and Bracey, however, thought the Past Performance Evaluations should be considered as a whole and not individually based on the dollar amount, or size, of the previous contracts:

- Q. So then I guess I don't understand why the dollar amount is not relevant.
- A. It's -- it's relevant, but it's not all that's relevant. They made it that's all, was the dollar amount. We went back and said, look at the entirety of what the people are saying in the questionnaire about the company; see if they are doing things in the same size, scope and complexity of what our requirement is.³¹⁶

That, however, is precisely what the TET did in the first round of evaluations – the TET determined that the Past Performance Evaluation for Strong Castle on a \$2.5 million contract did not meet the “size, scope, and complexity” of the \$80 million IRS acquisition in question. In fact, the TET actually found this contract to be a “Weakness” because it did not meet the size, scope, and complexity metric, and because “the potential exists for disruption of schedule, increase to cost, and or degradation in the quality of performance.”³¹⁷ This evaluation was rated as “Marginal,” as noted in the August 29, 2012 past performance evaluation worksheet:³¹⁸

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³¹² *Id.* at 121 (emphasis added).

³¹³ *Id.* at 119.

³¹⁴ E-mail from Karen Parrish to Stephanie Bracey (Sept. 17, 2012, 3:13PM).

³¹⁵ *Id.*

³¹⁶ Bracey Tr. at 155-156.

³¹⁷ TEP Consensus Proposal Evaluation Worksheet, TIRNO-12-Q-00083, for Signet Computers, Past Performance (factor 2) (Aug. 29, 2012).

³¹⁸ *Id.* It should also be noted that the two Past Performance Evaluations for which Strong Castle received an “Excellent” rating were provided by teaming partners, and did not reflect work Strong Castle performed. If not for the “Excellent” ratings provided by teaming partners, Strong Castle would have merited a “Marginal” Past Performance Evaluation.

TEP CONSENSUS PROPOSAL EVALUATION WORKSHEET	
RFQ No: TIRNO-12-Q-00083	
EVALUATOR'S NAME: TEAM	
OFFEROR: Signet	
RFQ REFERENCES:	PROPOSAL REFERENCES:
PAST PERFORMANCE (FACTOR 2)	VOLUME/PARAGRAPH:
	PAGE NUMBER: Email Responses
Merit Ratings: Refer to your rating definitions, <input type="checkbox"/> Excellent <input checked="" type="checkbox"/> Good <input type="checkbox"/> Marginal <input type="checkbox"/> Unacceptable <input type="checkbox"/> Neutral	
Evaluator's Rating: Initial Rating: Good Team Leader Initials/Date: Final Rating: Good Team Leader Initials/Date: DR 8/29/12	
RATIONALE: <i>Include supporting rationale for the ratings. Using the evaluation standards and rating definitions, identify all comments and questions below with the rating: (e.g., Initial Rating (IR), or Final Rating (FR)). Use continuation sheets or a database as needed and a separate sheet for every factor.</i>	
STRENGTHS: The past performance of Signet as rated by two of the three customers was excellent. The comments given were positive of the work being done. For these two evaluations, Signet did work valued at \$50 and \$71 million annually. Along with the excellent customer feedback this shows experience in dealing with large contracts. This demonstrates a highly relevant record in the performance of managing contracts in comparable size, scope and complexity as the IRS's \$20 million annual estimate. Based on these two evaluations we feel that minimal potential exists for disruption of schedule, increase in cost, and or degradation in the performance. . IR-FR	
WEAKNESS: One of the three past performance responses was for a \$2.5 million annual contract. The IRS cost estimate is nearly \$20 million a year by comparison. This amount gives them a marginal rating based on the lack of having highly relevant performance in size, scope and complexity. Based on the past performance of having shown contracts valued at \$2.5 million or less the potential exists for disruption of schedule, increase to cost, and or degradation in the quality of performance. The dollar value relates directly to the amount of products being purchased as these are primarily commodity purchases and not services. . IR-FR	
DEFICIENCIES:	
Final Rating: Good Based on the wide variance of the three past performance submissions (2 excellent and 1 marginal) the team concluded that highly relevant or relevant past performance record managing contracts similar in size, scope, and complexity to the solicitation requirements. Some potential exists for disruption of schedule, increase in cost, or degradation in quality of performance based on the contractor's past performance. See above for more details on each of the three ratings.	

8/29/12

"This amount gives them a marginal rating."

Two months later, after urging from Bracey and Parrish, the TET changed the Past Performance. The October 25, 2012 matrix of the proposal evaluations read as follows:³¹⁹

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³¹⁹ Technical Evaluation Plan Report, TIRNO-12-Q-00083 (Oct. 25, 2012).

2-Past Performance rating followed by 3-Past Experience rating. The first column gives the ranking number based on the final order. If there was a tie we gave the ranking number the same number.

EVALUATION							
Ranking	Vendor	PART ONE -PASS/FAIL (11.1)		PART TWO -Evaluation Factors (11.2)			
		508	Tech	Socio-Economic	Past Performance	Past Experience	
1	Blue Tech	Pass	Pass	Excellent	Excellent	Excellent	
1	PCITech	Pass	Pass	Excellent	Excellent	Excellent	
1	Signet	Pass	Pass	Excellent	Excellent	Excellent	
1	WildFlower	Pass	Pass	Excellent	Excellent	Excellent	
2	Universal Understanding	Pass	Pass	Excellent	Excellent	Good	
3	Better Direct	Pass	Pass	Excellent	Good	Marginal	
4	Government Acquisitions	Pass	Pass	Acceptable	Excellent	Excellent	
4	NCS Technologies	Pass	Pass	Acceptable	Excellent	Excellent	
5	IronBow	Pass	Pass	Acceptable	Excellent	Good	
6	Four Points	Pass	Pass	Good	Good	Unacceptable	

Suddenly, without any new information provided to the IRS, Strong Castle had an “Excellent” Past Performance evaluation—an increase from the “Good” evaluation initially given by the TET.³²⁰ And, on a revised past performance evaluation worksheet, Strong Castle’s prior weakness became a strength. This was simply because “the customer gave positive feedback.”³²¹ The small size of the contract for Strong Castle’s past performance, previously a weakness, was now no longer an issue whatsoever. In fact, Strong Castle had no weaknesses in the second past performance evaluation worksheet:³²²

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³²⁰Technical Evaluation Plan Report TIRNO-12-Q-00083 (Aug. 29, 2012); Technical Evaluation Plan Report TIRNO-12-Q-00083 (Oct. 25, 2012). The past performance of several other companies increased as well – eight of ten companies were given an “Excellent” past performance rating instead of the two of ten that had previously received an “Excellent” rating.

³²¹ TEP Consensus Proposal Evaluation Worksheet, TIRNO-12-Q-00083, for Signet Computers, Past Performance (factor 2) (Oct. 17, 2012).

³²² *Id.*

TEP CONSENSUS PROPOSAL EVALUATION WORKSHEET	
RFQ No: TIRNO-12-Q-00083	
EVALUATOR'S NAME: TEAM	
OFFEROR: Signet	
RFQ REFERENCES:	PROPOSAL REFERENCES:
PAST PERFORMANCE (FACTOR 2)	VOLUME/PARAGRAPH:
	PAGE NUMBER: Email Responses
Merit Ratings: Refer to your rating definitions, <input checked="" type="checkbox"/> Excellent <input type="checkbox"/> Good <input type="checkbox"/> Marginal <input type="checkbox"/> Unacceptable <input type="checkbox"/> Neutral	
Evaluators Rating: Initial Rating: Excellent Team Leader Initials/Date: Final Rating: Excellent Team Leader Initials/Date: DR 10/17/12	
RATIONALE: <i>Include supporting rationale for the ratings. Using the evaluation standards and rating definitions, identify all comments and questions below with the rating: (e.g., Initial Rating (IR), or Final Rating (FR). Use continuation sheets or a database as needed and a separate sheet for every factor.</i>	
STRENGTHS: The past performance of Signet as rated by the three customers was mostly excellent overall. When comments were given they were positive of the work being done. This demonstrates a highly relevant record in the performance of managing contracts in comparable size, scope and complexity as the IRS's \$20 million annual estimate. Based on these three evaluations we feel that little to no potential exists for disruption of schedule, increase in cost, and or degradation in the performance. . IR-FR Customer #1 TASC \$2.5 Million per year. The customer gave positive feedback. Customer #2 NASA \$71 Million per year. The customer gave positive feedback. Customer #3 Army \$50 Million per year. The customer gave positive feedback.	
WEAKNESS:	
DEFICIENCIES:	
Final Rating: Excellent The team concluded that highly relevant or relevant past performance record managing contracts similar in size, scope, and complexity to the solicitation requirements. Little to no potential exists for disruption of schedule, increase in cost, or degradation in quality of performance based on the contractor's past performance.	

In order to shore up her view on how Past Performance should be evaluated, Bracey changed the language from that in the original RFQ describing the evaluation process. The original RFQ used the following language, in relevant part:

The Past Performance factor shall be evaluated based on the relevancy, within the past 3 years, based on the size, scope, and complexity of the Contractor's past performance compared to the requirements specified in the statement of work.³²³

The Source Selection Decision, however, used different language:

The Past Performance factor will be evaluated by making an assessment of the Contractor's past performance **as a whole** in managing contracts within the past three years that are relevant, in terms of size, scope, and

³²³ PCEA RFQ at 38-39.

complexity, to the probability of successful accomplishment of this required effort.³²⁴

Notably, the Source Selection Decision added seemingly innocuous language about evaluating the past performance “as a whole”³²⁵ – language that was **not** included in the original RFQ. The change in evaluation criteria, evidenced by this change in language, was critical to Strong Castle receiving an “Excellent” evaluation for Past Performance.

Given the large size and product-based nature of the acquisition, it seems strange that IRS officials would care more about the comments provided on the evaluations than about whether the evaluations dealt with acquisitions of similar “size, scope, and complexity.” Parrish and Bracey’s respective roles in changing the evaluations raise serious concerns. Bracey attempted to minimize her role in the process during an interview with Committee investigators.³²⁶ If she had not recalled the TET, however, the original evaluations would have stood and Strong Castle would not have had the requisite Past Performance evaluation to win the award.

Further, IRS officials do not seem to give weight to the evaluation factors that they themselves create. In her e-mail memorializing the Past Performance Evaluation changes, Parrish wrote that “there is very little difference between good and excellent” in making an award.³²⁷

From:	Parrish Karen P
Sent:	Monday, September 17, 2012 3:13 PM
To:	Parrish Karen P; Bracey Stephanie L
Subject:	RE: Conversation for Laptop/Desktop

Attendees: Karen Parrish, Stephanie Bracey Smith, Danny Rinaldi, Paul Cummings, Margaret Blankenship

Discussion was held today to discuss Past Performance and how it was rated. Tech Team stated that they reviewed all the documentation on an individual basis and each one was rated on its own merit similar to size scope and complexity and then rolled up into the overall rating. The Tech Team felt that scope, size and complexity was the discriminating factor and should be rated on its own merit. For example, if a \$2m or \$7m contract was rated excellent by the customer, the team members wanted the ability to differentiate from vendors who provided all three Past Performance Evaluations within size, scope and complexity and those that only provided one or two that met the size, scope and complexity requirement. As a result, the Technical Team stated that since there is very little difference between good and excellent, they could see reasons and support why an award could be made to someone that was not excellent across the board. The Team Members agree that the Evaluation was done on the data provided and not hands on knowledge .

“[T]here is very little difference between good and excellent . . .”

It is not clear why the IRS would make a distinction between “Good” and “Excellent” rankings in the first place if that distinction apparently carries no weight when evaluating proposal submissions.

³²⁴ PCEA Source Selection Decision at 7-8 (emphasis added).

³²⁵ *Id.* at 7.

³²⁶ *See, e.g.*, Bracey Tr. at 119, “The technical team wrote this, okay, not Stephanie.”

³²⁷ E-mail from Karen Parrish to Stephanie Bracey (Sept. 17, 2012, 3:13PM).

8. Contract Review Board

An “informal” Contract Review Board was held at some point between the decision to award the contract to Strong Castle, and the actual award to Strong Castle.³²⁸ The IRS never produced the minutes from the Contract Review Board Meeting to the Committee. It is unclear why an “informal” Contract Review Board would be convened instead of a “formal” Contract Review Board. Parrish testified as to her recollection of the award discussion at the CRB meeting:

A. At the pre-award CRB, we explained to them -- when I say "we," Stephanie explained to them what her decision was going to be, what the actual dollar value was going to be, the time frame it was going to be, what vendor it was going to go to. And basically that's it.

Q. Do you recall at the pre-award CRB whether there was a discussion of the fact that the price that Signet was offering was higher than the price of some of the other offerees?

A. Yes.

Q. And can you describe what you remember of that discussion?

A. I remember we talked about that they were higher than the lowest-priced vendor. And when we looked at everything, was it reasonable to still continue to make the award to a HUBZone company? And we felt for the life of the contract it was.³²⁹

What is clear, however, is that Roseman did not recuse himself from the process. As discussed above, numerous IRS officials that report to Roseman testified that he should have recused himself from signing off on a contract to awarded to a company owned and operated by his friend.³³⁰

9. Award of the BPA

Bracey chose to award the PCEA BPA to Strong Castle, as the company had the lowest price of the four companies ranked number one.³³¹ Strong Castle, however, did not have the lowest price overall. Of the ten proposals, Strong Castle’s price was only the fifth lowest.³³² When compared to other companies that received “Excellent” ratings for Past Performance and Past Experience, but did not receive an “Excellent” rating for Socioeconomic Status, two

³²⁸ Parrish Tr. at 286.

³²⁹ *Id* at 287.

³³⁰ REPORT, *infra* at 86-89.

³³¹ Bracey Tr. at 132.

³³² PCEA Source Selection Decision at 21.

companies had a lower price.³³³ In the Source Selection Decision, Bracey argued that the “higher” socioeconomic status from Strong Castle trumped the lower price—by \$3.5 million, or over 4 percent—from Government Acquisitions.³³⁴ Similarly, Bracey found that the “higher” socioeconomic status of Strong Castle trumped the lower price—by \$2.8 million, or over 3 percent—from NCS Technologies.³³⁵

Bracey made the determination that Strong Castle’s socioeconomic status was worth spending the extra \$3.5 million in taxpayer money. She was unable to describe at what point a lower price would trump not having an “Excellent” or “Good” socioeconomic status rating. In her eyes, the trade off was valid because “\$3 million ... is not a huge hunk of money.”³³⁶ Further, Bracey made this determination without any formal training whatsoever on how to weigh socioeconomic status versus price when conducting a best-value analysis for a large acquisition.³³⁷

10. Post-Award Debrief

During a typical post-award debrief for unsuccessful offerors, the contracting officer gives an overview of the acquisition, focusing on the evaluation criteria and source-selection process.³³⁸ The contracting officer then discusses the relative strengths and weaknesses of the offeror’s proposal, including the company’s general ranking so that the company can improve for its next proposal.³³⁹

For the PCEA BPA, a whopping seven of the nine unsuccessful bidders asked for a post-award debrief after the contract was awarded to Strong Castle.³⁴⁰ This was only the second acquisition in Stephanie Bracey’s 11 years at the IRS that led to a post-award debrief.³⁴¹ Bracey left for vacation immediately after the IRS awarded the PCEA contract to Strong Castle, and was thus unavailable to lead the debriefs. Patrick Bergin, the Branch Chief for the TIPSS Program, led five of the seven debriefs.³⁴² Karen Parrish, Paula Cheetham, and Greg Roseman also attended some of the debriefings.³⁴³ Although it is extremely uncommon for someone of Roseman’s level to attend a post-award debrief, Roseman attended at least two of the debriefs after the PCEA award.³⁴⁴ No IRS participants were able to explain why Roseman attended some of the seven debriefs.³⁴⁵

³³³ PCEA Source Selection Decision at 12, 21. Strong Castle’s final price was \$79,951,522. NCS Technologies’ final price was \$77,150,876. Government Acquisitions’ final price was \$76,413,822.

³³⁴ PCEA Source Selection Decision at 23.

³³⁵ *Id.* at 24.

³³⁶ Bracey Tr. at 139.

³³⁷ *Id.* at 143.

³³⁸ Bergin Tr. at 22.

³³⁹ *Id.* at 22-23.

³⁴⁰ *Id.* at 26.

³⁴¹ Bracey Tr. at 197.

³⁴² *Id.* at 201, Bergin at 26.

³⁴³ Bracey Tr. at 203; Bergin Tr. at 29-30.

³⁴⁴ Bergin Tr. at 30-31.

³⁴⁵ *See, e.g.*, Bergin Tr. at 41-42.

Prior to conducting the briefings, Bergin reviewed questions submitted by the vendors, the source selection document, the overall rankings, and individual summary sheets for each offeror.³⁴⁶ While some of the questions submitted questioned Roseman's relationship with Castillo, the Committee is unaware of any the IRS attendees at the post-award debriefs subsequently asking Roseman about this relationship, or informing TIGTA that allegations of an improper relationship had been raised.³⁴⁷

11. The Protest

The PCEA BPA resulted in many firsts for Stephanie Bracey: her first acquisition as a contracting officer using socioeconomic status as the primary factor; the first time she did not give the post-award debrief; and the first time in her 11-year IRS career that one of her acquisitions was protested. She testified:

Q. In the last 6 or 7 years, this is the first time that you've used socioeconomic status as a contracting officer?

A. As a contracting officer, yes.

Q. As the primary evaluation factor?

A. Yes.

Q. **This is the first time you've ever had an award protested?**

A. **Yes.**

Q. Only once before have you ever given a post-award debrief to an unsuccessful offerer?

A. Only one time it was requested I give a debriefing.

Q. And that was by one company?

A. That was by one company.

Q. And on this particular contract, there were four or five different companies that requested that?

A. Correct.³⁴⁸

³⁴⁶ Bergin Tr. at 26-27.

³⁴⁷ *Id.* at 110.

³⁴⁸ Bracey Tr. at 204, 208. Bracey may have had one additional protest when she was a Contracting Specialist. *Id.* at 207.

Two bidders protested the decision to award the contract to Strong Castle – one company with a HUBZone certification, and one without. The protest centered on whether the language that HUBZone contractors must be certified “at time of solicitation and at time of award” imposed a requirement that contractors must have been HUBZone certified by the date the RFQ was issued, June 6, 2012.³⁴⁹ The protest also challenged whether the IRS adequately documented its “best value selection” of Strong Castle.³⁵⁰ GAO decided the protest in favor of the IRS, holding that the acquisition was properly awarded under the terms of the RFQ, and that the award decision was “adequately documented” in the source selection decision.³⁵¹ Those were not areas of focus for the Committee’s investigation.

Although the GAO protest has concluded, Committee staff asked Stephanie Bracey for her interpretation of the language “at the time of solicitation.” Bracey is in the best position to evaluate what was meant in the PCEA BPA RFQ regarding this language, as she wrote the RFQ. Bracey—before being interrupted by counsel and changing her testimony—testified about the meaning of this language in the RFP:

Q. Yeah. Flip to the second page down there. There is an asterisk down there. It says, "HUBZone contractors must be certified by the Small Business Administration at time of solicitation and at time of award." **What does that mean, "at time of solicitation"?**

A. **When the solicitation went out.**³⁵²

That day was June 6, 2012. Strong Castle was not certified as a HUBZone company on June 6, 2012. Somehow, Strong Castle still won the award.

F. IBM Blanket Purchase Agreement

FINDING:	Though Strong Castle admittedly had no track record of past performance, and IRS contracting officials deemed the company to have an inferior technical bid, Strong Castle won the “biggest [contract] coming out of the IRS in the past 15 years.”
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In December 2012, the IRS released an RFQ for an IBM Blanket Purchase Agreement with an estimated total dollar value of \$300 million over five years.³⁵³ According to Braulio Castillo, the acquisition was the “biggest thing coming out of the IRS in 15 years.”³⁵⁴ The IRS required “**an experienced and reliable provider of IBM products, focused on providing high**

³⁴⁹ Matter of Gov’t Acquisitions, Inc. and PCiTech, Inc., GAO Decision File B-407877.2, B-407877.3, B-407877.4 (Mar. 25, 2012).

³⁵⁰ *Id.* at 5.

³⁵¹ *Id.* at 6.

³⁵² Bracey Tr. at 39.

³⁵³ Solicitation/Contact/Order for Commercial Items, Solicitation Number TIRNO-13-Q-00028 at 6 (Dec. 11, 2012) [hereinafter IBM RFQ].

³⁵⁴ B. Castillo Tr. at 225.

quality service.”³⁵⁵ Strong Castle, a company with no track record of prime contracting in the federal government until just months before the RFQ was released, seemed an unusual fit for what the IRS had made clear it was seeking.

1. Roseman Wants a HUBZone

In the fall of 2012, Greg Roseman and Bobby McCane informed Brian Carper, the contracting officer for the IBM BPA, that the RFQ would include a socioeconomic preference, with the greatest preference for a HUBZone company as the prime contractor. Carper testified:

A. Okay. Beginning of October, or, actually, October-September range, **management had already provided input that this was going to be a HUBZone preference.** So that had already kind of been decided at that point when the acquisition plan was being developed.

Q. Do you know who made that decision?

A. That was Bobby McCane, and I believe Greg may have had some input on that, as well.

Q. And is that who you are referring to when you say "management," Mr. McCane and Mr. Roseman?

A. Correct.³⁵⁶

Roseman and McCane also communicated this HUBZone preference to Patricia Hoover, who sent the request downstream to Brian Carper through at least three e-mails.³⁵⁷ Neither Roseman nor McCane told Carper why the RFQ had to be a HUBZone-preferred contract. Carper testified:

Q. Did they tell you why they wanted to make this a socioeconomic-preferred contract?

A. No.

Q. They just said, let's do it this way?

A. Correct.³⁵⁸

Carper, who had recently joined OITA, concurred with the decision of his superiors,

³⁵⁵ IBM RFQ, *supra* note 351, at 6 (emphasis added).

³⁵⁶ Carper Tr. at 24-25 (emphasis added).

³⁵⁷ *Id.* at 29. The IRS never provided these e-mails to the Committee—despite specific requests by the Committee to see them.

³⁵⁸ *Id.* at 25.

which he described as a “final decision.”³⁵⁹ Carper further testified that had he not concurred, he could have removed himself from the acquisition.³⁶⁰

2. Castillo Targets the Contract

Strong Castle began working on the IBM acquisition months before the IRS released the RFQ. In September or October, Castillo used the son of a coworker to broker a teaming arrangement with the prime contract holder on the contract at the time, Presidio. As discussed below, without Presidio serving on Strong Castle’s team, Strong Castle would not have had the necessary Past Performance to win the contract. Braulio Castillo testified:

So he brokered a meeting between us and Presidio, the incumbents. And we gave Presidio right of first refusal on the contract as part of our team partner. And so we brought them on the team. And so they as the incumbents -- or the incumbents . . . worked with us on the submission. That was probably 2 or 3 months prior to the solicitation coming out.³⁶¹

During the same time period, Castillo and Roseman exchanged many texts that expressed a heightened need to talk. Although Castillo could not recall when he first spoke with Roseman about the acquisition,³⁶² text messages between Castillo and Roseman between the end of September and December 2012 reference numerous meetings and phone calls:³⁶³



³⁵⁹ *Id.* at 54, 56.

³⁶⁰ *Id.* at 54.

³⁶¹ B. Castillo Tr. at 221.

³⁶² *Id.* at 221.

³⁶³ *See, e.g.*, Text messages from Braulio Castillo to Greg Roseman (Sept. 27, 2012, 6:10PM, Sept. 28, 2012, 8:20AM; Oct. 3, 2012, 9:05AM; Oct. 3, 2012, 2:27PM; Oct. 3, 2012, 7:53PM; Oct. 27, 2012, 4:20PM, Nov. 9, 2012, 4:48PM, Nov. 21, 2012, 4:48PM; Nov. 21, 2012, 8:00AM; Dec. 4, 2012, 12:27PM) [SCI 135157–SCI 135163].

Oct 3, 2012, 9:05 AM

You asked me to call you last and/or this morning. Please call me when you get a chance.

Oct 3, 2012, 2:27 PM

Thought we were taking last night or this morning?

Oct 3, 2012, 7:53 PM

Just landed in Greenville. Please call when you get a chance.

Oct 27, 2012, 4:20 PM

Missed your call, just calling you back

Nov 9, 2012, 4:48 PM

Please call me on my mobile phone at [REDACTED]

Nov 21, 2012, 8:00 AM

Do you have any time this morning?

Dec 4, 2012, 12:27 PM

Are you here? I am on the first floor for the IRS tech expo

In all, Castillo and Roseman exchanged 36 phone calls between September 1 and October 28, 2012.³⁶⁴ During the same period, they exchanged numerous text messages that were not produced to the Committee as they fell in the “blackout” period.³⁶⁵ In short, Castillo and Roseman had a myriad of opportunities to discuss “the biggest thing coming out of the IRS in 15 years.”

3. Market Research Meeting

On November 14, 2012, Brian Carper held a Market Research and Capabilities Meeting to determine if HUBZone companies would be capable of performing the work required for the IBM BPA.³⁶⁶ Roseman e-mailed Carper a list of three HUBZone vendors to invite to the meeting. Strong Castle was at the top of the list:³⁶⁷

[PAGE INTENTIONALLY BLANK]

³⁶⁴ The Committee does not have copies of Castillo’s phone records after October 28, 2012. Surely the pattern of phone calls would continue if later records were examined.

³⁶⁵ B. Castillo AT&T Phone Records (Sept. 1 2012 to Oct. 28, 2012) [SCI 0135401–SCI 0135411, SCI 0135373 – SCI 0135381].

³⁶⁶ Carper at 31-32; Market Research /Capability Meeting Invitation to Braulio Castillo et al., via undated e-mail [SCI 002266].

³⁶⁷ E-mail from Gregory Roseman to Patricia Hoover and Brian Carper (Nov. 1, 2012, 12:27PM).

From: Roseman Gregory P [REDACTED]
Sent: Thursday, November 01, 2012 12:27 PM
To: Hoover Patricia V; Carper Brian M
Subject: Hubzones
Attachments: How to UNZIP.html; SecureZIP Attachments.zip

1) Signet Computers, Incorporated/Strong Castle, Inc.
GSA IT Schedule 70 # GS-35F-0319Y
DNB 05-282-1050
CAGE 093L6
EIN 54-2046338

Braulio M. Castillo
President & CEO

202 Church Street, SE
Suite 100
Leesburg, VA 20175

Mobile: [REDACTED]
Office [REDACTED]
Fax: 202-803-2927
Email: [REDACTED]
<http://www.strong-castle.com>

2) Blue Tech,
Susan Stone CEO – [REDACTED]
2251 San Diego Ave. Suite B-155 San Diego, CA 92110

3) PanaAmerica Computers Inc.
PCi Tec
1386 Big Oak Road
Luray VA, 22835
Tel: [REDACTED]
Fax: (540)635-8871
Email: info@panamcomp.com
24x7 Customer Service: [REDACTED]

Carper testified that he had not heard of Strong Castle or Braulio Castillo before receiving Roseman's e-mail.³⁶⁸

At the Market Research and Capabilities Meeting, Carper asked the companies to discuss their general capabilities to determine whether a HUBZone company could provide the required work for the \$300 million IBM BPA.³⁶⁹ He did not, however, request information about work

³⁶⁸ Carper Tr. at 32.

³⁶⁹ *Id.* at 35.

performed on previous contracts that were of a similar size and scope to the \$300 million IBM BPA.³⁷⁰ Learning general information about these companies' capabilities was enough for Carper to determine that a HUBZone company could provide the work in question and satisfy Federal Acquisition Regulation requirements.

Castillo had at least one conversation with Roseman about the acquisition prior to this November Market Research meeting. Shortly before the meeting began, Castillo e-mailed Roseman:³⁷¹

From: Roseman Gregory P [REDACTED]
Sent: Wednesday, November 14, 2012 10:33 AM
To: Braulio Castillo [REDACTED]
Subject: Re: Market Research/Capabilities Meeting

At the dentist. Crown replacement. Sorry.

Greg Roseman

From: Braulio Castillo [REDACTED]
Sent: Wednesday, November 14, 2012 10:01 AM
To: Roseman Gregory P
Subject: FW: Market Research/Capabilities Meeting

I thought that you said that you were coming to the SRO event today so I am forwarding you the info that I sent to Brian and team earlier today.

After viewing this document, Castillo recalled that he had a conversation with Roseman about the IBM BPA prior to the November meeting. Castillo testified that during this conversation, Roseman informed him that the IBM BPA was coming out, and that he should "[t]alk to Patty about it or something."³⁷² Carper testified that he was surprised that Castillo would have had a conversation with Roseman about the meeting given that Carper had scheduled the meeting.³⁷³ Carper did not invite Roseman to the meeting.³⁷⁴

4. Release of Request for Proposal

As directed by Roseman and McCane months earlier, the primary evaluation factor for the IBM BPA included a preference for HUBZone companies. Roseman even provided sample language for how the socioeconomic preference portion of the RFQ should read.³⁷⁵ The RFQ stated:

³⁷⁰ *Id.* at 35.

³⁷¹ E-mail from Gregory Roseman to Braulio Castillo (Nov. 14, 2012) [SCI 032145]; Market Research/Capability Meeting Invite to Braulio Castillo, et al., via undated e-mail [SCI 002266].

³⁷² B. Castillo Tr. at 223.

³⁷³ Carper Tr. at 42.

³⁷⁴ *Id.* at 42.

³⁷⁵ *Id.* at 100-101.

D.4.1 Evaluation Factors

IRS will evaluate quotes using the following evaluation factors, which are listed in descending order of importance:

1. Socioeconomic Status
2. Technical Capability
 - a) Subfactor – Technical Approach/Experience
 - b) Subfactor -Teaming Agreements between Team Lead and all Team Members (if applicable – does NOT include quotations with only Subcontracting)
3. Past performance
4. Price

D.4.1.1 Socioeconomic Status

It is the policy of the Government to maximize participation of small businesses in the procurement process. This acquisition will have a preference for small business concerns. The greatest preference will be to establish a BPA with a HUBZone small business as a Lead contractor. The next preference will be to establish a BPA with a Service Disabled Veteran Owned Small Business (SDVOSB) Small Business as a Lead contractor. The next preference is for all other small businesses.

Definition	Rating
*HUBZone Small Business (HUBZone)	Exceptional
Service-Disabled Veteran-Own Small Business (SDVOSB)	Good
All Other Small Businesses	Acceptable
Large Business	Neutral

*HUBZone contractors must be certified by the Small Business Administration (SBA) at time of solicitation and at time of award.

This unusual structure of evaluation factors appears to be unique to the IRS. Braulio Castillo testified that he has not seen this language in other agencies:

Q. But you haven't seen that elsewhere?

A. No, I don't recall seeing it elsewhere.³⁷⁶

When acquisitions are potentially worth hundreds of millions of dollars, concerns about the use of socioeconomic preferences become more pronounced. While the IRS appears to favor high-dollar acquisitions for socioeconomic preferences as a way to meet its small business goals, nearly 99 percent of the dollars in acquisitions such as the IBM BPA go to large businesses—in this case IBM.

³⁷⁶ B. Castillo Tr. at 306.

5. Roseman Helped Castillo “Successfully Compete” on the Request for Quotation

FINDING: Greg Roseman wanted a HUBZone contractor to win the IBM BPA—and Strong Castle was at the top of his list. Braulio Castillo also solicited Greg Roseman’s help in modifying Strong Castle’s GSA Schedule so that Strong Castle could “successfully compete” on the IBM acquisition.

On December 11, 2012, the IRS issued the RFQ for the IBM BPA. The following morning, Castillo e-mailed Roseman outlining a series of changes that needed to be made to Strong Castle’s GSA Schedule “to successfully compete on the current IRS IBM Enterprise BPA.”³⁷⁷ The e-mail stated:³⁷⁸

From: Braulio Castillo [REDACTED]
Sent: Wednesday, December 12, 2012 10:07 AM
To: Roseman Gregory P
Subject: Modifications to Signet Computers, GS-35F-0319Y

“To successfully compete on the current IRS IBM Enterprise BPA . . .”

Since September 2012, Signet Computers has been working directly with our Contracting Officer to execute the requested changes below to our GSA Schedule, GS-35F-0319Y. We had a teleconference on 20 November 2012 with Sharhanda Chivers, CO, and Jane Scroggins, GSA Supervisor, to address each of these requested changes and have followed up by supplying all of the requested information documentation to each of these change. To successfully compete on the current IRS IBM Enterprise BPA, Signet Computers, will need the labor category minimum requirements revised, as well as the addition of SIN 132-3, SIN 132-33 and the approval of the EULA, all of which have been submitted via email.

Roseman, the former Director of IT Schedule Programs at GSA, replied to Castillo, asking for the phone number of Strong Castle’s contracts manager.³⁷⁹ Castillo provided Roseman with the information.³⁸⁰

Castillo dodged direct answer questions about why he contacted Roseman regarding the changes to Strong Castle’s GSA Schedule in order to “successfully compete” on the IBM BPA. Castillo testified:

Q. Why did Signet need its GSA schedule changed in order to compete this requirement?

³⁷⁷ E-mail from Braulio Castillo to Gregory Roseman (Dec. 12, 2012, 10:07AM) [SCI 011414].

³⁷⁸ *Id.*

³⁷⁹ E-mail from Gregory Roseman to Braulio Castillo (Dec. 12, 2012, 11:56AM) [SCI 011414].

³⁸⁰ E-mail from Braulio Castillo to Gregory Roseman (Dec. 21, 2012, 12:06PM) [SCI 011414].

- A. We didn't, because we operated under a CTA with IBM. So through our CTA with IBM we have access to SINS 32-3, 32-33. So we don't need it on our own GSA schedule.
- Q. So why did you say to successfully compete we will need the minimum requirements revised?
- A. No, no. I think that's – so I think this is my email to GSA, I'm guessing? That this little piece here –
- Q. So did you cut and paste the email from GSA into an email to Greg Roseman?
- A. I sent – I don't know the genesis of this. So to successfully compete for the IRS opportunity we will need labor categories revised, as well as the additions of 132, 133. Yeah, so this is in essence my telling GSA to hurry up.
- Q. Okay. So why did you send it to Greg then?
- A. I think the question of the contracting officer was -- the ask was, did we have 132 – did we have software SINS on our schedule. That's the only thing I can think about.³⁸¹

It remains unclear why Castillo sent this e-mail to Roseman. From the face of the document, it appears that Castillo requested Roseman's assistance to enable Strong Castle to "successfully compete on the current IRS IBM Enterprise BPA." It also remains unclear why Castillo had these communications with Roseman instead of with the contracting officer, Brian Carper. In fact, Carper testified that it would not be proper for Roseman to intervene on behalf of a vendor with GSA to make that vendor a more competitive bidder for a specific requirement.³⁸²

Furthermore, Castillo's December 12 e-mail to Roseman indicates that the proposed modifications to the GSA Schedule were submitted to GSA days before the IBM BPA was released.³⁸³ This reflects either an incredible coincidence that Strong Castle requested the modifications just days before the RFQ was released—modifications that would allow Strong Castle to "successfully compete" on the IBM BPA—or that Castillo knew detailed, substantive information about what the RFQ included before it was released.

³⁸¹ Braulio Castillo testified that the schedule changes were not necessary because one of their teaming partners had the necessary SINS on their GSA schedule already. B. Castillo Tr. at 227-228.

³⁸² Carper Tr. at 48.

³⁸³ E-mail from Braulio Castillo to Gregory Roseman (Dec. 12, 2012, 10:07AM) [SCI 011414] (describing three GSA Schedule proposed contract modifications submitted on December 7 and 10, 2012).

6. A Short Time Frame to Submit Bids

The IBM BPA RFQ was put onto eBuy³⁸⁴ on December 11, 2012. Proposals were initially due to the IRS by December 17, 2012, at 10:00 a.m.—an extremely quick turnaround given the size of the acquisition. Castillo testified that he had every intention of bidding for the acquisition.³⁸⁵ Despite the size of the acquisition, Castillo’s claim that the IBM BPA was “the biggest thing coming out of the IRS in 15 years,” other companies were decidedly less interested. Ultimately, only three companies submitted proposals: Strong Castle, Blue Tech, and Analytica.

Blue Tech, one of the three companies that attended the November market research meeting, was hesitant to bid on the requirement due to the tight turnaround and “extensive” paperwork a submission would require.³⁸⁶ After Blue Tech communicated the decision not to bid to IBM, the company received “aggressive” follow up from IBM “in an effort to secure [an] agreement to bid.”³⁸⁷ Patricia Hoover also called Blue Tech to express that the IRS “very much” wanted the company to submit a bid. Hoover even asked if the company would submit a bid if given more time.³⁸⁸ Blue Tech representatives told Hoover that they expected Strong Castle to win the BPA, and expressed frustration about the similarly-competed PCEA BPA.³⁸⁹ Nevertheless, the IRS offered a small extension to the due date, and Blue Tech submitted a bid. Without a second bid, the acquisition would have had the appearance a sole-source award.

After submitting Strong Castle’s proposal, the company’s contracts manager recommended that Castillo call to confirm receipt of the proposal.³⁹⁰ Within a few minutes, Castillo replied that he had a phone conversation with Patricia Hoover—the same IRS official who coaxed Blue Tech into submitting a bid:³⁹¹

³⁸⁴ The GSA website describes eBuy as follows:

eBuy, a component of GSA Advantage!®, is an online Request for Quotation (RFQ) tool. eBuy is designed to facilitate the request for submission of quotations for a wide range of commercial supplies (products) and services under the following acquisition vehicles:

GSA Schedules

Technology contracts; i.e., GSA Schedule 70 (Information Technology), Governmentwide Acquisition Contracts (GWACs), and Network Services and Telecommunications contracts

U.S. General Servs. Admin., eBuy,

http://www.gsa.gov/portal/content/104675?utm_source=FAS&utm_medium=print-radio&utm_term=ebuy&utm_campaign=shortcuts (last visited June 18, 2013).

³⁸⁵ B. Castillo Tr. at 225.

³⁸⁶ E-mail from Blue Tech to IBM (Dec. 14, 2012, 12:55AM); E-mail from Blue Tech to H. Comm. on Oversight & Gov’t Reform Staff (May 31, 2012, 3:26PM).

³⁸⁷ E-mail from Blue Tech to Comm. on Oversight & Gov’t Reform Staff (May 31, 2013, 3:26PM).

³⁸⁸ *Id.*

³⁸⁹ *Id.*

³⁹⁰ E-mail from Jackie Wolfe to Braulio Castillo (Dec. 19, 2012, 11:27AM) [SCI009575].

³⁹¹ E-mail from Braulio Castillo to Jackie Wolfe (Dec. 19, 2012, 11:38AM) [SCI 009575].

From: Braulio Castillo <17034adfb75348e4b9bb4a0a90c8b06a-
[REDACTED]>
Sent: Wednesday, December 19, 2012 11:38 AM
To: Jackie Wolfe [REDACTED]
Subject: Re: Confirmation from CO?

I have verbal confirmation from Patty Hoover. We should be getting written from Brian Carper soon per Patty Hoover.

Castillo testified that he called Hoover instead of Carper because he maintains a closer relationship with Hoover:

- Q. So you had a phone conversation with Patty Hoover. **First question is why did you call Patty as opposed to Brian Carper?**
- A. **I don't know Brian Carper. I mean I just wouldn't have a relationship with him.** I don't know if I tried to. So this was bought at Christmastime, as you see.

* * *

- Q. You are pretty close to Patty Hoover too, though, right?
- A. Yeah.
- Q. You talked with her?
- A. **I would consider her a friend.**³⁹²

Carper testified that not only should Castillo have contacted him instead of Hoover, but Hoover did not even relay the content of this communication to Carper.³⁹³ As a result, the contracting officer was left out of the loop.

7. Evaluation of the Bids

The IRS received proposals from Strong Castle, Blue Tech, and Analytica, all of which came in over \$400 million, substantially higher than the IRS expected.³⁹⁴ Strong Castle's proposal was not the lowest price.³⁹⁵ The IRS then issued Amendment 3 to the RFQ, requesting changes in the pricing template from each of the companies. These changes required the companies to show the IRS their expected markup for the life of the contract. Representatives of Presidio—teamed with Strong Castle on the proposal—told Committee investigators that they

³⁹² B. Castillo Tr. at 231-232 (emphasis added).

³⁹³ Carper Tr. at 110-111.

³⁹⁴ *Id.* at 108.

³⁹⁵ *Id.* at 109.

had “never seen anything like it in their life.”³⁹⁶ Braulio Castillo testified that he, too, had never seen an agency before make this request:

Q. Can you recall another buy where you had to explicitly give your markup?

A. Never.

Q. You never had to do that?

A. First time ever, which I think this is a brilliant order for the IRS as of the – we as a community hate it.³⁹⁷

Analytica chose not to submit this markup and rescinded its bid. The company informed the IRS by letter that it was not in the best interest of its teaming agreements to continue in the bidding.³⁹⁸ Strong Castle and Blue Tech submitted revised bids.³⁹⁹

The IRS then convened a telephonic Contract Review Board (CRB) to review the two bids prior to making the award. Bobby McCane, Patricia Hoover, Brian Carper, and Greg Roseman all attended the CRB. CRB participants reviewed the evaluation results as compiled by the Technical Evaluation Team:

Request for Quotations (RFQ) posted on GSA eBuy along with the Brand Name Justification on December 11, 2012. Quotation submission date was December 19, 2012. Three offers were received initially; two final offers were received on December 21, 2012. (Third offeror rescinded bid in writing.)

Evaluation results:

	<u>Strong Castle</u>	<u>Bluetech</u>
Socioeconomic	Exceptional	Exceptional
Tech Approach/Experience	Good	Exceptional
Teaming Arrangement	Exceptional	Exceptional
Past Performance	Exceptional	Exceptional
Evaluated Price	\$253,950,000	\$254,375,000

³⁹⁶ Telephone interview with Presidio, June 7, 2013.

³⁹⁷ B. Castillo Tr. at 232-233.

³⁹⁸ Carper Tr. at 108-110.

³⁹⁹ Carper Tr. at 108.

Both Strong Castle and Blue Tech received “Exceptional” ratings for Socioeconomic Status, Evaluation Factor 1; Teaming Arrangement, Evaluation Factor 2(b), and Past Performance, Evaluation Factor 3. For Technical Approach/Experience, Evaluation Factor 2(a), Blue Tech received an “Exceptional” rating while Strong Castle merely received a “Good” rating.

According to Carper’s December 27, 2012 BPA Award Determination memorandum, Blue Tech received an overall rating of “Exceptional,” and Strong Castle received an overall rating of “Good.”⁴⁰⁰ The CRB concluded, however, that although Blue Tech received an overall “Exceptional” rating, the Strong Castle quotation was the most advantageous because “there was not a sufficient trade-off to support an award to a higher price quotation.”⁴⁰¹

The same day as the Contract Review Board meeting, Hoover informed Roseman that the Blue Tech price was \$425,000 higher than Strong Castle on the task order level—a difference of 1/6 of 1 percent, an extraordinarily small amount given that the overall value of the BPA was \$266 million.⁴⁰² This small price difference is even more astonishing given that both companies initially submitted bids above \$400 million. Roseman offered his perspective on the award via e-mail:⁴⁰³

From:	Roseman Gregory P [REDACTED]
Sent:	Friday, December 21, 2012 1:05 PM
To:	Hoover Patricia V
Cc:	Carper Brian M
Subject:	Re:

“They r both hz too bad we could use signeyts sdvosb.”

Is the difference in price markup for attachments 1 and 2 worth the risk in lessor past performance and experience?
They r both hz too bad we could use signeyts sdvosb.

Greg Roseman

Brian Carper’s impression upon reading this e-mail was that Roseman was reminding him that the IRS would receive “double credit” for awarding the contract to Strong Castle:

- Q. When you say you saw an email about getting credit for both SDVOSB and HUBZone, who was the author of that email?
- A. That was Greg.
- Q. And who was that email directed to?
- A. Myself and Patty Hoover.

⁴⁰⁰ BPA Award Determination-IBM SRO, TIRNO-13-Q-00028 at 7-8 (Dec. 27, 2012) [hereinafter IBM BPA Award Determination].

⁴⁰¹ IBM Software Relationship Offering, Contract Review Board Minutes (Dec. 21, 2012).

⁴⁰² E-mail from Patricia Hoover to Gregory Roseman and Brian Carper (Dec. 21, 2012, 1:00PM).

⁴⁰³ E-mail from Gregory Roseman to Patricia Hoover and Brian Carper (Dec. 21, 2012, 1:05PM).

- Q. And when was that email sent to you?
- A. I don't know the exact date of that.
- Q. Was the email concerning the IBM SRO contract?
- A. Correct.
- Q. And what was the text of the email?
- A. What you mentioned earlier about getting double credit for a service-disabled vet and HUBZone.
- Q. Did the text of the email mention Strong Castle specifically?
- A. It did.
- Q. Can you be more specific?
- A. **It mentioned that if it was awarded, just it would be nice about Strong Castle is we would get credit for service-disabled vet and also HUBZone.**⁴⁰⁴

8. Evaluation Factors

As with many of the IRS acquisitions Strong Castle won, socioeconomic status was the number one evaluation factor. Two of the other evaluation factors in this acquisition, however, also deserve special attention: Technical Capability and Past Performance.

a. Technical Capability

Technical Approach, the number two evaluation factor, assessed the ability of each reseller to perform the requirements of the BPA, namely, to support the purchase and transfer of IBM products to the IRS. It was comprised of two equal subfactors: (1) Technical Approach/Experience and (2) Teaming Agreements between Team Lead and all Team Members. According to Carper, Blue Tech received an “Exceptional” rating for going “above and beyond the requirement” while Strong Castle received a “Good” rating for meeting “the minimum requirement.”⁴⁰⁵

Blue Tech offered a dedicated team to manage the BPA and a communications plan that exceeded any management process provided by IBM. Strong Castle, on the other hand, offered only what IBM provided for the deal. In fact, Strong Castle’s only strength was that it had paired

⁴⁰⁴ Carper Tr. at 181-182

⁴⁰⁵ *Id.* at 117.

with another vendor, Presidio, which had experience on an earlier iteration of this acquisition.⁴⁰⁶ Braulio Castillo's legwork in fall 2012 – possibly at Roseman's suggestion – to have Presidio join the Strong Castle team was critical. Stephen Briley, a member of the Technical Evaluation Team, explained the differences between the proposals as follows:⁴⁰⁷

It's kind of hard for me to differentiate Bluetech over Strong Castle because it's more about how Strong Castle only states what IBM provides for almost all the requirements while Bluetech provides that as well as some of their own stuff. And Analytica does that even more.

Despite the difference between the proposals, IRS employees determined that the technical capabilities of the two proposals were close enough for Strong Castle's ever-so-slightly lower price, the Number Four evaluation factor, to trump Blue Tech's higher Technical Approach, the Number Two evaluation factor.

b. Past Performance

Strong Castle not only relied on its teaming partners to meet the Technical Capabilities requirement of the solicitation but also to obtain the necessary Past Performance. The Number Three evaluation factor, Past Performance was to be judged on the quality of the contractor's past record "managing contracts similar in size, scope, and complexity to the solicitation requirements."⁴⁰⁸ Both Strong Castle and Blue Tech received an "Exceptional" rating, meaning that the companies had "highly relevant past performance record managing contracts similar in size, scope, and complexity to the solicitation requirements."⁴⁰⁹

The RFQ allowed for companies to include the past performance of their teammates.⁴¹⁰ But for this allowance, Strong Castle would not have had the requisite past performance to win the award. Internal e-mails show Strong Castle employees scrambling to find something – anything – that could be included as past performance. Laretta Brown e-mailed Braulio Castillo about Strong Castle's lack of past performance:⁴¹¹

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⁴⁰⁶ IBM BPA Award Determination at 7-8.

⁴⁰⁷ E-mail from Stephen Briley to Brian Carper (Dec. 21, 2012, 5:26PM).

⁴⁰⁸ IBM RFQ at 39-40.

⁴⁰⁹ IBM BPA Award Determination at 7-8; IBM RFQ at 39-40.

⁴¹⁰ IBM RFQ at 39.

⁴¹¹ E-mail from Laretta Brown to Braulio Castillo et al. (Dec. 13, 2012, 12:53PM).

On Dec 13, 2012, at 12:53 PM, "Lauretta Brown"

"In reviewing Signet's past performance, I do not believe we have anything usable."

Braulio,

In reviewing Signet's past performance, I do not believe we have anything usable.

The requirement is :

- 1) within the last three years (we barely squeezed in on PCEA), but it is outside of three years now
- 2) that it be in a "prime" position – we have not been in a Prime position on any contract that has a "past performance"
- 3) we will have to "market" our wins- but I don't believe we can put anything in Past Performance
- 4) luckily between IBM and Presidio, we will be covered- so either way we go, we should be fine. Team mates serving as prime will work.

Lauretta Brown

Strong Castle ultimately included a Past Performance evaluation from the Informatica BPA—a Past Performance evaluation which Strong Castle employees internally admitted was insufficient. Lauretta Brown stated:⁴¹²

From: Lauretta Brown

Sent: Thursday, December 13, 2012 1:40 PM

To: Jackie Wolfe

Cc: Braulio Castillo; Karla Tropea

Subject: RE: Past Performance

Oh, yes, we were talking about CSIRC (HP) and Informatica. We can probably use these- although they clearly do not meet the "relevancy" test of : complexity, magnitude, and type.

Lauretta Brown

The Informatica BPA that Strong Castle submitted as evidence of past performance as a prime contractor had a final price of \$4.9 million—a fraction of the \$300 million ceiling for the IBM BPA.⁴¹³ Further, the Contracting Officer listed on the past performance evaluation was Patricia Hoover—the same Patricia Hoover who asked Blue Tech to submit a bid for the IBM BPA, and the same Patricia Hoover that had a phone conversation with Braulio Castillo after he submitted his bid for the IBM BPA.⁴¹⁴

Bobby McCane testified that he was not concerned that, by its own admission, Strong Castle had no past performance on any contracts approaching the size or complexity of the IBM BPA as the company entered into teaming agreements with Presidio and IBM.⁴¹⁵ According to McCane, the IRS has permitted vendors to use the past performance of team members for as long as the GSA has allowed this to be considered. McCane testified:

Q. So it's not concerning to you in the least that Signet has admittedly no past performance on a \$266 million BPA that

⁴¹² E-mail from Lauretta Brown to Jackie Wolfe et al. (Dec. 13, 2012, 1:40PM).

⁴¹³ Strong Castle Past Performance Submission, RFQ #TIRNO-13-Q-00028 (Dec. 17, 2012) [SCI 006268] at 2.

⁴¹⁴ *Id.*

⁴¹⁵ McCane Tr. at 178.

was awarded to the company?

- A. With regard to the fact that they came in under a teaming arrangement and with regard to the fact that one of the team members does, in fact, have the experience, the answer to the question becomes no.⁴¹⁶

Despite McCane’s contention, it strains credulity that an agency would award a \$266 million acquisition to a prime contractor that by its own admission has no relevant past performance. In fact, the IRS’s decision in this regard put tax dollars in jeopardy.

G. IRS Continues to Award Contracts to Strong Castle

FINDING: Since the Committee’s investigation began and the IRS was made aware of the contracting improprieties, the IRS has awarded nearly \$4 million in contracts to Strong Castle. Last month, the IRS awarded Strong Castle its first task order for work under the Affordable Care Act.

FINDING: A senior IRS procurement official testified that if Strong Castle “misrepresented some facts ... I would immediately cancel the award, and then I would go out and re-solicit for those requirements.” Although Strong Castle intentionally deceived at least the SBA, the IRS will not cancel the \$266 million contract.

Since Chairman Issa sent his first letter to Acting Treasury Secretary Wolin about potential IRS contracting improprieties with Strong Castle on February 20, 2013, the IRS has continued to award contracts to Strong Castle. For months, IRS officials insisted to the Committee that nothing was wrong with their procurement process. IRS officials were content doing nothing until TIGTA completed its investigation—an investigation that, after being stalled for months, gained renewed vigor from Chairman’s Issa letter. IRS officials, including Deputy Commissioner Beth Tucker, saw no need to make any changes in the interim. As a result, between February 20 and June 19, 2013, the IRS awarded Strong Castle eight additional orders with a total value of \$3,841,563.⁴¹⁷

In the month after the Committee’s investigation began, the IRS gave \$928,711 in tax dollars to Strong Castle. In April 2013—the height of tax season—the IRS awarded \$1,815,109 in tax dollars to Strong Castle. In May 2013, the IRS continued to give over \$1 million collected from American taxpayers to Strong Castle.

⁴¹⁶ *Id.* at 190.

⁴¹⁷ USAspending.gov

No other federal agency has awarded a single dollar to Strong Castle since the Committee’s investigation began. In fact, the last contract or order awarded by any federal agency other than the IRS to Strong Castle occurred back in September 2012.⁴¹⁸

Below is a chart of the contracts the IRS has awarded to Strong Castle since the inception of this investigation:

All Dollars Obligated To Strong Castle Since February 20, 2013			
Department/Agency:	Product/Service:	Date:	Dollar Amount:
Internal Revenue Service	IT & Telecom – Data Entry	3/11/2013	\$ 350,000
Internal Revenue Service	IT & Telecom – Facility Operation & Maintenance	3/22/2013	\$ 578,711
Internal Revenue Service	Support – Professional Program Management/Support	4/4/2013	\$ 1,366,894
Internal Revenue Service	IT & Telecom – Data Entry	4/4/2013	\$ 299,505
Internal Revenue Service	ADP Software	4/5/2013	\$ 99,002
Internal Revenue Service	ADP Software	4/30/2013	\$ 85,618
Internal Revenue Service	IT & Telecom – Programming	5/7/2013	\$ 665,645
Internal Revenue Service	ADP Software	5/21/2013	\$ 396,188
Total Dollars Obligated:			\$3,841,563⁴¹⁹

This chart does not include, however, a recent task order the IRS awarded to Strong Castle under the Affordable Care Act. Braulio Castillo testified about Strong Castle’s Affordable Care Act work:

Q. So you haven't done any IRS Affordable Care Act since you came to Signet?

A. **We just were awarded the first task order off of our ITS contract. It's for ITS support. We haven't started on it yet.**

Q. **And that was for the IRS Affordable Care Act?**

A. **Yes.**

Q. What can you tell me about this task order you were just awarded?

A. We were awarded just some program oversight. So just it's a staff aug, staff augmentation contract. So the IRS says I need three Oracle DBAs or whatever. And actually it's a small, little

⁴¹⁸ *Id.*

⁴¹⁹ *Id.*

four-person task order.

Q. When was that awarded to you?

A. Well, that's why it doesn't show up on your records, because no revenue has been posted against it. I would say less than a month ago it's been awarded.⁴²⁰

Bobby McCane, Director of OITA, testified that he would cancel Strong Castle's contracts if it became apparent that Strong Castle misrepresented facts to the SBA, resulting in the company's decertification. Speaking specifically about the IBM BPA, McCane testified:

Now if in fact -- now if in fact it was determined, for example, that Strong Castle misrepresented -- intentionally misrepresented some facts, I would turn that matter over to TIGTA, **I would immediately cancel the award, and then I would go out and re-solicit for those requirements.**⁴²¹

As the SBA's Notice of Final Decertification makes clear, Strong Castle did in fact lose its certification—in large part because records the company provided to the SBA were “false and inaccurate.”⁴²² The SBA also found that Strong Castle was improperly and intentionally classifying employees as “consultants,”⁴²³ potentially to keep these employees off the books, and out of any HUBZone calculations.

Neither Bobby McCane nor the IRS has fulfilled the commitment made to the Committee to cancel Strong Castle's contracts. Instead, the IRS is continuing to award millions of dollars worth of contracts to a company that has intentionally misrepresented itself to multiple federal agencies.

X. Government-wide Implications

This investigation demonstrates the need for better fraud controls in the socioeconomic programs as well as the need for better training and acquisition officials at the IRS and other agencies. Congress created several socioeconomic programs, referred to here as set-asides, to assist small businesses in winning contracts with the federal government. Documents and testimony show that, in many ways, Strong Castle was strategically formed to take advantage of set-aside programs meant to benefit companies that employ people from historically underutilized areas as well as companies owned by service-disabled veterans. Documents and testimony also show the need for more rigorous training for acquisition professionals.

⁴²⁰ B. Castillo Tr. at 244.

⁴²¹ McCane Tr. at 127 (emphasis added).

⁴²² Pardo Letter, May 23, 2013, *supra* note 78, at 16.

⁴²³ *Id.*

As detailed in the previous sections, Strong Castle benefited from two set-asides: the HUBZone set-program and the SDVOSB program.

By employing college students living in northeast Washington, D.C., and paying them \$10 per hour, Strong Castle was able to become a HUBZone-certified company. Documents and testimony show, however, that Strong Castle’s student-employees often failed to fulfill their minimum hourly requirements. The company also provided false documents to the SBA, which the agency considered in reviewing and approving Strong Castle’s HUBZone application.

Strong Castle received SDVOSB certification based on an injury to Castillo’s left foot that Braulio Castillo sustained in 1984 while he was enrolled at the U.S. Military Academy Preparatory School, a school located, at the time, in Ft. Monmouth, NJ. Documents and testimony provided to the Committee raise questions about the extent of Castillo’s injury. Castillo graduated from USMAPS and eventually attended the University of San Diego, where he played quarterback and linebacker on the football team. Having gone 27 years since his injury without applying for service-disabled status until just months before he purchased Signet Computers, however, Castillo took advantage of the SDVOSB program to better position his new company to win government contracts.

The program weaknesses that allowed Strong Castle to become eligible for HUBZone and SDVOSB contracts may be symptomatic of a widespread problem. At the very least, the weaknesses identified during the course of the Committee’s investigation strongly suggest that the certification process is inadequate to the point that the spirit of the set-aside programs is undermined.

A. A History of Fraud and Abuse in Government Set-Aside Programs

FINDING:	Strong Castle is a prime example of the unintended consequences of small business socioeconomic programs.
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Since 1958, when Congress first articulated a policy of advancing small businesses, Congress has routinely carved out benefits in federal contracting to provide underutilized and disadvantaged populations with the opportunity to win federal government contracts. The HUBZone and SDVOSB programs—of which Strong Castle appears to have taken full advantage—are two such programs. On multiple occasions, the Government Accountability Office (GAO) has raised concerns about the integrity of the various set-aside programs. Since March 2009, GAO has issued six reports uncovering fraud and abuse in the set-aside programs.

1. Weaknesses in the SDVOSB Program

The GAO found that agencies have taken no action to “improve fraud-prevention controls” in the government-wide SDVOSB program.⁴²⁴ According to GAO, the departments

⁴²⁴ Kate M. Manuel & Erika K. Lunder, Cong. Research Serv., *Set-Asides for Small Business: Legal Requirements & Issues*, CRS no. R42981, Feb. 28, 2012, at 4-5.

and agencies continue to rely “almost solely on firms’ self-certification, [therefore] the program continues to lack controls to prevent fraud and abuses.”⁴²⁵

During the course of its review, GAO uncovered at least five cases of “potentially ineligible” firms receiving contract awards under the SDVOSB program.⁴²⁶ These five firms received approximately \$190 million in contracts from agencies such as GSA and the Department of Interior.⁴²⁷

These concerns played out at the IRS. Employees admitted that they do not receive training related on how to identify fraud in government contracting. The inherent weaknesses in the SDVOSB certification process allowed Braulio Castillo to, after 27 years, all of a sudden receive a disability rating to enable his company access to lucrative government set-aside contracts.

2. Weaknesses in the HUBZone Program

In June 2010, GAO found significant weaknesses in the HUBZone program. Specifically, GAO stated that the program “remains vulnerable to fraud and abuse.”⁴²⁸ To test the HUBZone certification system, GAO filed for and received HUBZone certifications for three fictitious firms established at fraudulent addresses.⁴²⁹

In the wake of GAO’s 2010 report, the SBA made improvements to the HUBZone certification process. However, SBA officials, who are not trained investigators, lack the skills necessary to identify potential fraud. Because Strong Castle withheld certain information from the SBA, such as the existence of employees they labeled “consultants,” the SBA would not likely have decertified Strong Castle if the Committee’s investigation had not brought the false and misleading information to its attention. Aside from these concerns, the Committee observed that the HUBZone office at SBA strives to diligently execute its role as HUBZone adjudicator. As a result of the Committee’s investigation, the SBA has already adjusted its practices to better capture information on consultants and employees.

3. Weaknesses in Other Set-Aside Programs

GAO has also scrutinized the SBA’s 8(a) Business Development Program as a set-aside program that is at high risk for fraud and abuse. The 8(a) Program helps small, disadvantaged businesses compete in the marketplace.⁴³⁰

⁴²⁵ *Id.*

⁴²⁶ *Id.*

⁴²⁷ *Id.*

⁴²⁸ U.S. Gov’t Accountability Office, Small Business Admin.: *Undercover Tests Show HUBZone Program Remains Vulnerable to Fraud & Abuse*, GAO-10-759, June 2010.

⁴²⁹ *Id.*

⁴³⁰ SBA website, “8(a) Business Development Program,” available at <http://www.sba.gov/category/navigation-structure/contracting/contracting-support-small-businesses/8a-business-developme> (last accessed Jun. 18, 2013).

On March 30, 2010, GAO released a report finding \$325 million worth of set-aside and sole source contracts were awarded to “firms not eligible for the 8(a) program.”⁴³¹ According to GAO, most of the contracts were “obtained through fraudulent schemes.”⁴³²

GAO’s findings with respect to misconduct, lack of controls, and failure to identify indications of fraud in the SDVOSB, HUBZone, and 8(a) programs are consistent with the Committee’s findings in the investigation of the contracts the IRS awarded to Strong Castle. Other small businesses may also take advantage of the program weaknesses that Strong Castle exploited. These program weaknesses—and the possibility that they are being widely exploited—have a chilling effect on small businesses that want to play by the rules but experience difficulty competing against companies that have improperly received contracting preferences.

B. IRS Acquisition Professionals Lack Training

FINDING:	The Committee’s investigation has identified a significant need for enhanced training of acquisition professionals in the government.
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1. IRS Officials Not Adequately Trained to Recognize Fraud

Documents and testimony show that IRS acquisition professionals lack the requisite training to identify individuals and entities that may be engaged in fraud. Moreover, there are no policies and procedures for referring indications of fraud or unethical behavior to the proper authorities, such as TIGTA.

For example, IRS employee Karen Parrish testified that she lacks the training to deal with indications of fraud. She stated:

- Q. Okay. In any of that training, **are you trained to spot indicia of fraud?** Do you know what that means? Fraud indicators?
- A. I know what that means, but I'm thinking, **no, not that I am aware of.**
- Q. Okay. If you did suspect fraud in one of the socioeconomic programs, what would you do?
- A. I would, if I suspected fraud, bring it up to Paula Cheetham. We would bring it up to Greg Roseman, Bobby McCane. We would go to counsel for advice. And if need be, depending on if it's a HUBZone, service-disabled vet, we would also ask SBA to look into it.

⁴³¹ U.S. Gov’t Accountability Office, *8(a) Program: Fourteen Ineligible Firms Received \$325 Million in Sole-Source & Set-Aside Contracts*, GAO-10-425, Mar. 30, 2010.

⁴³² *Id.*

Q. But that's nothing you've ever been taught to do; that's just what you would do, right?

A. Right.⁴³³

The lack of training and procedures is problematic, especially in cases where an employee recognizes that his or her supervisor may be engaged in fraud. IRS should implement a policy whereby employees are trained to refer allegations of misconduct to an independent, high-ranking official within IRS, as well as to a third party such as TIGTA.

2. IRS Officials Not Adequately Trained on Conflicts of Interest

Committee investigators interviewed numerous IRS employees about the agency's procurement policies and training relating to ethics and conflicts of interest. Witnesses consistently testified that IRS training lacked clarity with respect to when employees should seek legal counsel or recuse themselves from procurement decisions, and what types of relationships require a recusal.

Currently, IRS employees undergo annual training sessions that provide guidance on procurement ethics.⁴³⁴ The sessions are largely based on the IRS's "14-point" ethics plan, which addresses financial and personal conflicts of interest.⁴³⁵ However, despite the annual training, most witnesses—including Karen Parrish, the IRS official who administers the training sessions—were unable recite any of the "14 points," or provide substantive information regarding the "14 points." Instead, several witnesses presumed that one of the "14 points" prohibits employees from awarding contracts to their friends.⁴³⁶

The IRS provides loosely-defined language and little guidance regarding procurement ethics. For instance, Bobby McCane, Director of OITA, testified as to his understanding of the policies. He stated that "potentially [an employee] **should perhaps** recuse" himself from procurement decisions concerning vendors with whom the employee has "more than a professional relationship" because such relationships may impair the employee's professional judgment.⁴³⁷ When the Director of the entire IT procurement department cannot state a clear policy, then it is time for the IRS to craft better rules.

Many witnesses testified that the annual ethics training generally covered the recusal requirements related to employee-contractor friendships. However, the IRS does not have a definition of the word "friend" to guide an employee's recusal decision. When Committee investigators asked the witnesses to define "friend," the witnesses relied on their own subjective definitions. As employees have wide discretion to make recusal decisions, it is important that

⁴³³ Parrish Tr. at 115-117. (emphasis added)

⁴³⁴ McCane Tr. at 18.

⁴³⁵ Cheetham Tr. at 65-66; *see* McCane Tr. at 18.

⁴³⁶ *See* Smith Tr. at 89-90.

⁴³⁷ McCane Tr. at 18 (emphasis added).

the agency provide its employees with specific training and written guidance as to what constitutes a “friend” within the procurement context.

3. IRS Contracting Officers Not Adequately Trained on Basic FAR Requirements

Stephanie Bracey was one of several IRS employees working on IT acquisitions that was interviewed by the Committee. Bracey is the contracting officer for the Personal Computers Equipment and Accessories (PCEA) BPA.

Prior to making a contract award, the FAR requires that a contracting officer conduct a responsibility determination. This includes reviewing the prospective contractor’s financial stability, performance record, ability to comply with the contract requirements, and, perhaps most importantly, the contractor’s “record of integrity and business ethics.”⁴³⁸

Committee investigators asked Bracey how she determined Strong Castle was a responsible contractor pursuant to FAR Subpart 9.1. She stated:

Q. Doesn't the FAR require the contracting officer, before awarding a contract, to make a responsibility determination, yes or no?

A. We have to do due diligence on a contract. Is that what you mean? I'm not sure I'm understanding what you mean.

Q. No. I mean does the FAR require that a contracting officer, before awarding a contract, make a responsibility determination, yes or no?

Mr. Sherman. That's a specific term, right, Ashley?

Ms. Callen. Which one? FAR? Responsibility? Determination?

Ms. Bracey. I don't know that.

Q. Okay. So, for the record, you're not familiar with - -

A. The FAR is as big as the Bible.

Q. I'm familiar with it.

A. So - -

Q. But you're not familiar with the term ‘responsibility determination’?

⁴³⁸ See FAR Subpart 9.104-1(d).

- A. No. And it's a Bible. It's big, and you have to refer back to it on almost every occasion to make sure you're following what you're doing. You can't remember all that stuff.⁴³⁹

Although Bracey was not required to make a responsibility determination when establishing a BPA off the GSA Federal Supply Schedule, it is disconcerting that a contracting officer with 12 years experience would not have basic knowledge of the FAR and these pre-award requirements.⁴⁴⁰ It is the Committee's position that every contracting officer, when awarding a BPA off the FSS, should be required to make an affirmative determination of responsibility when the contract award is for \$10 million or more annually.

Karen Parrish, another contracting official within OITA, was also unfamiliar with this fundamental contracting requirement. She testified:

- Q. And so SAM is a snapshot of a vendor, essentially?
- A. Correct.
- Q. Those things that you said you needed to verify sound like part of a responsibility determination? Is that correct?
- A. I don't know if it's called that. We just need to validate the data is accurate.

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⁴³⁹ Bracey Tr. at 187-188.

⁴⁴⁰ FAR Subpart 9.104-1 states:

9.104-1 General standards.

To be determined responsible, a prospective contractor must—

- (a) Have adequate financial resources to perform the contract, or the ability to obtain them (see 9.104-3(a));
- (b) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
- (c) Have a satisfactory performance record (see 9.104-3(b) and Subpart 42.15). A prospective contractor shall not be determined responsible or nonresponsible solely on the basis of a lack of relevant performance history, except as provided in 9.104-2;
- (d) Have a satisfactory record of integrity and business ethics (for example, see Subpart 42.15).
- (e) Have the necessary organization, experience, accounting and operational controls, and technical skills, or the ability to obtain them (including, as appropriate, such elements as production control procedures, property control systems, quality assurance measures, and safety programs applicable to materials to be produced or services to be performed by the prospective contractor and subcontractors). (See 9.104-3(a).)
- (f) Have the necessary production, construction, and technical equipment and facilities, or the ability to obtain them (see 9.104-3(a)); and
- (g) Be otherwise qualified and eligible to receive an award under applicable laws and regulations (see also inverted domestic corporation prohibition at FAR 9.108).

XI. Conclusion

The case of Strong Castle and its cozy relationship with the IRS is but one example of a deeply flawed procurement process in the federal government. The company took advantage of small business socioeconomic programs – intended to bolster job creation and spur economic growth in blighted areas – to get lucrative IRS contracts. The IRS also took advantage of these programs, counting the full dollar amount of the awards towards its small business goals, when in fact only a small fraction of the dollars actually went to a small business. While the IRS has professed to Committee staff on multiple occasions that it is the only federal agency to meet its small business goals for the past two years, a deeper look at IRS procurement practices has revealed that this IRS talking point is highly misleading.

The IRS’s cavalier attitude towards the impartiality that the acquisition process requires, the lack of proper training for IRS acquisition officials, and a reluctance to admit a problem and face it head-on resulted in awards—over just a six month period—with a potential value of over \$500 million to a company with no track record and whose average annual revenues were \$250,000. In fact, since this Committee’s investigation began in February 2013, the IRS has issued 18 awards to Strong Castle, totaling nearly \$4 million. The IRS is the only federal agency to grant an award to Strong Castle in this time period.

Even though the Committee’s investigation has unveiled serious wrongdoing with IRS procurement practices, the IRS has chosen to ignore these findings and continue to award contracts that have an appearance of impropriety. This comes despite the pledge of the Director of IT Procurement, who testified that if Strong Castle “misrepresented some facts ... [he] would immediately cancel the award, and then [he] would go out and re-solicit for those requirements.” The IRS has instead committed to moving forward on the \$266 million award, further perpetuating the cycle of improprieties and further wasting taxpayer dollars.

In addition, the lack of communication among agencies – GSA, VA, SBA, and IRS – allowed these flaws to slip through the cracks. If these agencies, especially the IRS, had been more proactive in identifying and communicating shortcomings in the acquisition process – in particular, impermissible preferential treatment – they could have avoided many of the problems the Committee’s investigation has revealed. Moreover, whistleblowers contacted TIGTA about this matter in August 2012. Yet, it was not until Chairman Issa sent a letter to Acting Secretary Neal Wolin six months later that TIGTA finally began making headway in its own inquiry. IRS officials, including Deputy Commissioner Beth Tucker, told the Committee on multiple occasions that they saw no need to take any intermediate steps until TIGTA concluded its investigation. Such a process could take 12 to 18 months—if it takes place at all.

If agencies cannot – or will not – take decisive action when a problem arises, waste, fraud, abuse, and mismanagement will persist. When this occurs, it is the taxpayers who suffer. In today’s post-sequestration climate of scarce resources and mounting deficits, every opportunity to control spending and eliminate waste is critically important. It is therefore ironic that the IRS—the agency responsible for collecting money from millions of hard-working Americans each year—lacks the foresight to address costly problems until it is too late. In order

to restore the trust of the American people, the IRS must take concrete steps to prove that it is capable of being a responsible steward of the money it collects.