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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

July 22, 2011

The Honorable Charles F. Bolden
Administrator
National Aeronautics and Space Administration
300 E Street S.W.
Washington, DC 20546

Dear Mr. Administrator:

I am writing to request a briefing regarding a contract recently awarded by the National Aeronautics and Space Administration (NASA) to ASRC Research and Technology Solutions.

On June 20, 2011, NASA announced that it had awarded a \$46 million contract for Spectrum Management, Engineering Services, and Programmatic Resource Management Support to ASRC Research and Technology Solutions, which is a subsidiary of the Arctic Slope Regional Corporation, an Alaska Native Corporation. According to NASA, the contract was awarded without competition under the Small Business Administration's 8(a) program.¹

On July 16, 2009, the Subcommittee on Contracting Oversight held a hearing on contracting preferences for Alaska Native Corporations (ANCs). At the hearing, the Subcommittee heard testimony relating to the ability of ANCs participating in the Small Business Administration's 8(a) program to receive sole-source contracts without complying with the CICA requirements. Thanks to a series of legislative and regulatory loopholes, ANCs could receive sole-source contracts of unlimited value regardless of circumstances and without any need for justification and approval by contracting officers and agency officials.²

On October 28, 2009, the President signed into law the National Defense Authorization Act for Fiscal Year 2010 (NDAA). Section 811 of the NDAA mandates that federal agencies may not award sole-source contracts in excess of \$20 million without written justification and approval from the relevant

¹National Aeronautics and Space Administration, *Press Release: NASA Awards Spectrum Management And Engineering Services Contract* (June 20, 2011) (online at http://www.nasa.gov/home/hqnews/2011/jun/HQ_C11-027_Spectrum_Managed.html).

²Senate Homeland Security and Governmental Affairs Committee, Subcommittee on Contracting Oversight, *Hearing on Contracting Preferences for Alaska Native Corporations* (July 16, 2009). See also Senate Homeland Security and Governmental Affairs Committee, Subcommittee on Contracting Oversight, *Majority Staff Analysis: New Information on Contracting Preferences for Alaska Native Corporations (Part II)* (July 16, 2009).

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agency official responsible for such awards.³ In effect, this provision extends the justification and approval requirements of the Competition in Contracting Act (CICA) to sole-source contracts above this dollar threshold, which are awarded to ANCs and other entities under the 8(a) program.⁴

To better understand how NASA has implemented these requirements and their application to the Spectrum Management contract awarded to ASRC, I request that you provide a briefing for Subcommittee staff on or before **August 5, 2011**.

The jurisdiction of the Subcommittee on Contracting Oversight is set forth in Senate Rule XXV clause 1(k); Senate Resolution 445 section 101 (108th Congress); and Senate Resolution 73 (111th Congress).

Please have your staff contact Margaret Daum with the Subcommittee staff at (202) 224-8316 with any questions and to schedule the requested briefing. Please send any official correspondence related to this request to Kelsey Stroud at Kelsey_Stroud@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Chairman
Subcommittee on Contracting Oversight

cc: Rob Portman
Ranking Member
Subcommittee on Contracting Oversight

³ Pub. L. 111-84, Sec. 811 (Oct. 28, 2009).

The requirement was implemented in the Federal Acquisition Regulation (FAR) on March 16, 2011. Federal Acquisition Circular 2005-50 (March 16, 2011).

⁴ Pub. L. 111-84, Sec. 811(c)(1)(A)(Oct. 28, 2009); 10 U.S.C. § 2304.