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United States Senate

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

November 1, 2013

The Honorable Gene Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Dear Mr. Dodaro:

I am writing to request that the Government Accountability Office (GAO) assess the extent to which the government has visibility into subcontractor selection, costs, and performance under federal construction contracts. I am concerned about the degree to which prime contractors' subcontractor selection procedures contribute to subcontractor performance issues and, ultimately, cost overruns and delays on these projects.

Typically, much of the work under construction projects is done by subcontractors (first-tier and below). GAO's past work on major defense weapon systems has found that contracting officers are hesitant to seek information about subcontractor performance because the government's contractual relationship is with the prime.¹ This means that the government may not be aware when a different subcontractor than proposed does the work, or when the prime contractor does not deal effectively with subcontractor performance issues that could result in a higher cost to the government.

In the context of construction projects, industry analysts have identified problems resulting from bid shopping, in which a successful prime contractor divulges the bid of one subcontractor to secure a lower bid from another subcontractor, and bid peddling, in which subcontractors seek to undercut the sub-bid the prime contractor included in its winning bid.² I have also been informed of situations where the subcontractors identified in the prime contractor's proposal not in fact the ones doing the work; instead, less experienced subcontractors were used, which affected the quality of the work.

¹ U.S. Government Accountability Office, *Defense Acquisitions: Additional Guidance Needed to Improve Visibility into the Structure and Management of Major Weapon System Subcontracts* (Oct. 28, 2010) (GAO-11-61R).

² Quality Construction Alliance, Statement to the House Committee on Oversight and Government Reform. *The State of Federal Contracting: Opportunities and Challenges for Strengthening Government Procurement and Acquisition Policies* (June 16, 2009) (available at <http://oversight.house.gov/wp-content/uploads/2012/01/20090616McNerney.pdf>).

In a recent report entitled “Additional Actions Needed to Decrease Delays and Lower Costs of Major Medical-Facility Projects,” GAO found major cost overruns and schedule delays for Veterans Administration (VA) medical center projects.³ GAO did not address the extent to which subcontractor selection procedures may have contributed to project delays and cost overruns. In addition, agencies other than VA, including the Army Corps of Engineers, Naval Facilities Engineering Command, and the General Services Administration, also award contracts for large construction projects.

I request that GAO assess a sampling of recent federal construction projects and determine:

- (1) The degree to which the government’s contract with the prime contractor contains clauses that allow government insight into subcontractor selection, performance, and costs;
- (2) Whether the subcontractors were identified in the prime contractor’s proposal and the extent to which the government was aware of whether these subcontractors actually performed the work;
- (3) Whether the prime contractor’s subcontractor selection procedures—including subcontractor substitutions by a prime contractor after a winning bid—contributed to performance issues leading to cost overruns and delays; and
- (4) the extent to which the government was aware of performance issues at the subcontractor level and whether it exercised appropriate oversight.

Please have your staff contact Margaret Daum with the Subcommittee on Financial and Contracting Oversight at (202) 224-7155 with any questions. Please send any official correspondence related to this request to Kelsey_Stroud@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Chairman
Subcommittee on Financial and
Contracting Oversight

cc: Ron Johnson
Ranking Member
Subcommittee on Financial and
Contracting Oversight

³ U.S. Government Accountability Office, *Additional Actions Needed to Decrease Delays and Lower Costs of Major Medical-Facility Projects* (Apr. 2013) (GAO-13-302).