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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

RICHARD J. KESSLER, STAFF DIRECTOR
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February 27, 2014

The Honorable John M. McHugh
Secretary of the Army
Department of Defense
101 Army Pentagon
Washington, DC 20318-9999

Dear Mr. Secretary:

On February 4, 2014, the Subcommittee on Financial and Contracting Oversight held a hearing on "Fraud and Abuse in Army Recruiting Contracts," specifically focusing on the Army's now-terminated Recruiting Assistance Programs (RAPs). I thank you for your staff's testimony at this hearing, as well as the cooperation and information they have provided to the Subcommittee during our investigation.

As part of the Subcommittee's ongoing investigation, I am writing to request information, and regular updates, about the RAP fraud cases that Criminal Investigative Command (CID) is pursuing and the Army's efforts to ensure that those who were responsible for detecting and preventing fraud, but failed to do so, are held accountable. In addition, during its investigation, the Subcommittee uncovered evidence of potential waste and abuse in other National Guard recruiting and marketing contracts besides RAP. I am also requesting information regarding these contracts.

To assist the Subcommittee with its oversight, I request that you provide the following information and documents:

- (1) A list of tools and actions the Army has to hold individuals accountable who cannot or will not be prosecuted, and the number of times each has been used;
- (2) Information and documents related to RAP, including
 - (a) The percentage of total Army National Guard, Army Reserve, and Regular Army recruits, respectively, who were recruited through RAP;
 - (b) A copy of the written legal approval that hearing witness Lt. Col. Kay Hensen (Ret.) testified that she received, allowing her to award the G-RAP task order on a marketing services contract;
 - (c) Information and documents sufficient to show how G-RAP passed through multiple legal reviews before it was established, but when reviewed in hindsight

the Office of the Assistant Secretary of the Army (Financial Management & Comptroller) preliminarily determined the entire program was an Anti-Deficiency Act Violation;

- (d) Notifications provided to U.S. Property and Fiscal Officers, as points of contact for all investigations affecting fiscal matters, by CID of alleged fraudulent activity by federally-paid recruiters;
- (3) The identity of the official(s) responsible for the following decisions or duties, and any adverse action taken, if any, to hold these individuals accountable for those decisions or that performance:
- (a) To begin G-RAP as task orders under a marketing services contract, even though G-RAP requirements were outside of the scope of that contract;
 - (b) To ensure that the contracting process began early enough for sufficient time to properly solicit, evaluate and award a new contract for G-RAP prior to reaching the original contract ceiling;
 - (c) To incorporate a document in which Docupak had substantial input into the Statement of Objectives for the G-RAP contract;
 - (d) To conduct the Principal Assistant Responsible for Contracting (PARC)-level review of the G-RAP contract prior to its award;
 - (e) To conduct the Head of Contracting Activity (HCA)-level review of the G-RAP contract prior to its award;
- (4) Information related to AR-RAP and A-RAP, including:
- (a) The identity of the office(s) that authorized and approved AR-RAP and A-RAP; the program office(s) responsible for administering AR-RAP and A-RAP; the contracting office(s) responsible for signing AR-RAP and A-RAP contracts; and the office that terminated A-RAP;
 - (b) The reason why, given the immediate apparent success of G-RAP, it took several years before AR-RAP and A-RAP began, and whether concern for potential fraud affected the start of those programs;
 - (c) The fraud detection and prevention measures, if any, that were used in AR-RAP and A-RAP that were not used in G-RAP;
 - (d) Information and documents sufficient to show why A-RAP was terminated, including whether potential fraud was a factor;
 - (e) All audits that were conducted of the AR-RAP and A-RAP contracts, similar to the audit of the G-RAP contract;

- (5) Information related to the “Audit of Contracts for the Guard Recruiting Assistance Program (August 1, 2013)” (“G-RAP Contracts Audit Report”) including:
 - (a) Seemingly conflicting statements that “According to the contractor, CID requested that it contact CID directly with suspicions of fraud and not to discuss the instances with NGB, so as not to affect criminal investigations” (page 44) and “...even after it was aware there were problems, the Guard continued to execute the program that was laden with program abuse and potentially fraudulent activity” (page 9), including information sufficient to show when and how the Army National Guard was informed about the extent of the abuse;
 - (b) The finding that the primary cause of the contract deficiencies was undue command influence by ASM leadership (page 36), including the reason why this was considered a primary cause, rather than the weakness of the contracting office, given that contracting officials did not report to ASM and that contracting officials are frequently subject to pressure from program offices;
 - (c) The Army Audit Agency’s completed fraud risk assessment and comprehensive audit (page 7);
- (6) Information related to the “Audit of Recruiting Assistance Programs- Reserve Components” (June 4, 2012), including:
 - (a) Whether the determination that there was systemic weakness in the program, justifying an audit, was made based on 21 cases of confirmed fraud prior to 2011 (page 3) or on a larger number of unconfirmed cases of potential fraud referred to CID and the number of unconfirmed cases of potential fraud referred to CID;
 - (b) Regarding the statement that CID had conducted 21 investigations of 48 individuals for RAP-related fraud or collusion as of February 2012 (page 13), including confirmation those numbers were the sum total of all investigations for RAP-related fraud that had been completed as of that February 2012 date and the number of cases of RAP-related fraud that had been reported or referred but not yet investigated as of that same date;
 - (c) The extent, if any, state Army Guard officials have been interviewed who had responsibility for coordinating G-RAP risk assessments and fraud monitoring with federal contracting officers and the contractor;
- (7) An explanation or correction of the “State-by-State” Recruiter Breakdown provided to the Subcommittee in which 40% of the total number of recruiters implicated in RAP fraud were not attributable to a particular state;
- (8) Information regarding CID’s investigation of RAP-related fraud, including the total number of investigations opened to date, by state, and whether targets are recruiters, RA’s or both in each case, whether the cases were referred, whether the cases were

- prosecuted, whether the cases were convicted and the status and disposition of each case. Please provide your response on a quarterly basis using the enclosed spreadsheet or a similar template if the material is already available in similar form;
- (9) Information regarding CID's investigation of RAP-related fraud, including a breakdown by Investigation Case Number or name; the date investigation opened; the state, territory or location; whether the fraud involved a recruiter, RA, or both; the dollar amount of fraud; the date that the Statute of Limitations is projected to expire; the current status (cleared, referred for prosecution, administrative action, other); the dollar amount of restitution; and the actual dollar amounts recovered. Please provide your response on a quarterly basis using the enclosed spreadsheet or a similar template if the material is already available in similar form;
 - (10) A list of U.S. Attorney's offices that have declined to prosecute referred cases due to Statute of Limitations concerns despite the availability of the Wartime Suspension of Limitations Act, the number of such cases for each office, and the total associated dollar amount of fraud for those cases;
 - (11) The Army Inspector General's report on alleged failure of senior officials to perform proper oversight of RAP (due in March 2014) and a briefing by the Office of the Army Inspector General to the Subcommittee regarding its findings;
 - (12) The following information regarding the Referral Bonus Program, referenced in the document provided to the Subcommittee as "Audit of Referral Bonus Programs" (March 28, 2013);
 - (a) A briefing by the Army on the program;
 - (b) The officials within U.S. Army Recruiting Command responsible for approving, establishing, administering and terminating the program;
 - (c) A briefing by CID on details of the completed investigation of "Sponsor 1" and "Sponsor 2";
 - (d) The officials within the Office of the Army's Judge Advocate General who communicated with and resolved the issue presented by "Sponsor 1" and "Sponsor 2";
 - (e) An assessment of the value to the government of the purportedly legal payments to "Sponsor 1" and "Sponsor 2", including whether their recruits would have likely enlisted even without their sponsorship;
 - (13) A briefing by the investigative officer who signed the document provided to the Subcommittee as "Preliminary Report of Anti-Deficiency Act Violation (Case Number 12-13)";

- (14) A briefing by the investigating officer who completed the AR 15-6 (Procedures for Investigating Officers and Boards of Officers) that was provided to the Subcommittee on January 17, 2014;
- (15) A list of all sports, teams, events and programs sponsored by the Army National Guard, the Army Reserve and the Regular Army over the last 10 years, such as NASCAR, the IndyCar Racing League, the National Football League, FLW Bass Fishing Tournaments and Olympic athletes. For each item on the list, please provide the Army component sponsoring the item, the name of the companies or firms party to the applicable sponsorship contract; the contract number and task order; the date of the contract award; the original contract ceiling; the contract type; the amount that has been disbursed to date; and a short description of the requirements of the contract or sponsorship. Please use the enclosed spreadsheet to provide your response;
- (16) A list of all Army National Guard, Army Reserve and Regular Army marketing contracts with a ceiling of at least \$1 million for the last ten years. For each item on the list, please provide the name of the contractor; the contract number; the date of the contract award; the original contract ceiling; the contract type; the amount that has been disbursed to date; and a short description of the requirements of the contract. Please use the enclosed spreadsheet to provide your response;
- (17) Any audits, investigations or reports related to items (15) and (16);
- (18) A briefing by the National Guard Bureau's Army Strength Maintenance Division on its marketing programs, to include sponsorships, recruiting promotional, presentation and recognition items, conferences and mobile event teams;
- (19) A briefing by the Office of the Assistant Deputy of the Army (Procurement) on its April 22, 2013 Procurement Management Review of the National Guard Bureau, previously provided to the Committee on November 14, 2013;
- (20) Information related to my original request for the second of two AR 15-6 (Procedures for Investigating Officers and Boards of Officers) investigations completed by the National Guard in June 2011, referenced in the Audit of G-RAP Contracts", pages 37-38, including:
 - (a) The number and grades of officers investigated;
 - (b) The number of allegations investigated;
 - (c) An approximate amount of the waste, fraud and abuse that was substantiated;
 - (d) Whether each of the three of the findings attributed to both AR 15-6 investigations collectively (Audit of G-RAP Contracts, page 38) were findings made by the second AR 15-6 specifically;
 - (e) Whether any of the findings included deficiencies in organizational culture;

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- (f) The reason these allegations were not investigated and included in the first 15-6;
and
- (g) A generalized description of potential criminal activity referred to Army Criminal
Investigative Command (e.g., "fraud").

I request that you provide these documents and information as soon as possible, but by **no later than March 31, 2014**. The quarterly information updates requested in items (8) and (9) should be provided by March 31, 2014, and every three months following.

I appreciate your assistance. Please contact Jackson Eaton with the Subcommittee at (202) 224-6579 with any questions. Please send any official correspondence relating 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

Attachments