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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

July 3, 2018

The Honorable Linda McMahon
Administrator
U.S. Small Business Administration
409 3rd Street, SW
Washington, D.C. 20416

Dear Madam Administrator:

I am writing regarding allegations that three individuals fraudulently obtained millions of dollars' worth of government contracts that were meant for small disadvantaged businesses.

Forfeiture proceedings have been brought against three men in Kansas and Missouri that are accused of fraudulently applying for and obtaining more than \$350 million worth of government contracts that were meant for qualified Service-Disabled Veteran-Owned Small Businesses (SDVOSB) or contractors in the 8(a) Business Development Program.¹

In this case, the contractors certified that a person from a minority demographic was a majority owner of the business and running the day-to-day operations. However, according to a complaint filed in federal court, the minority owner was not actually running the day-to-day operations of the company, as required by the 8(a) program.² As you know, in order to qualify for an 8(a) contract, companies must qualify as a small business under the North American Industry Classification System (NAICS), not have already participated in the 8(a) program, be at least 51% owned and controlled by U.S. citizens who are economically and socially

¹ *Topeka Businessman Accused of Participating in Fraudulent "Rent a Vet" Scheme Worth \$352M*, Topeka Capital-Journal (May 22, 2018) (www.cjonline.com/news/20180522/topeka-businessmen-accused-of-participating-in-fraudulent-rent-vet-scheme-worth-352m);

² Complaint for Forfeiture in Rem (Mar. 16, 2018), *United States of America v. Real Property in Parkville, Missouri, Real Property in Palm Beach Gardens, Florida, Real Property in Cave Creek, Arizona, National Financial Services IRA Account XXXXXX2585, National Financial Services IRA Account XXXXXX2665, \$11,218 and Accrued Interest in Wells Fargo Advisors Account XXXXXX1125, \$69,079 and Accrued Interest in Wells Fargo Advisors Account XXXXXX4187, Pershing LLC Account XXXXXX8721, Pershing LLC Account XXXXXX2203, All Funds in Platte Valley Bank Account XXXX2022 in the name of Zieson Construction Company, LLC, All Funds in Platte Valley Bank Account XXXXXX2207 in the name of Zieson Construction Company* (Case No. 18-6028-CV-SJ-ODS).

disadvantaged, be owned by someone with limited adjusted gross income and assets, and be owned by someone who demonstrates “good character.”³

It is unclear how these contractors were able to circumvent controls in the program for at least a decade, but the result is that qualified economically disadvantaged small businesses owners may have been denied the opportunity to compete and obtain government contracts. As you may know, I repeatedly raised concerns about SBA’s oversight of the 8(a) program. Most recently, I sent a letter to SBA in April 2016, following the release of a Government Accountability Office (GAO) report which found that SBA struggled to enforce regulations prohibiting the subsidiaries of Alaska Native Corporations (ANCs) from operating in the same primary line of business as sister firms.⁴ In this report, GAO found that SBA’s documentation for 8(a) program compliance was inconsistent, incomplete, and lacked supervisory oversight.⁵ As of the date of this letter, GAO’s recommendation that SBA improve information sharing across district offices remains open.⁶

In order to better understand SBA’s process for preventing fraud and overseeing contractors in the 8(a) program and efforts to implement GAO’s recommendation to ensure that district offices have complete information, I request that your office provide a briefing to my staff and responses to the following questions on or before July 24, 2018:

1. In order to be identified as an 8(a) qualified business, an individual must self-certify their status in connection with specific eligibility requirements annually.⁷
 - a. Besides self-certification, what other steps does SBA take prior to the awarding of a contract to certify that an 8(a) business owner is in fact owned and operated by a qualified individual(s)?
2. As part of an annual review, each participant must submit qualifying information to one of SBA’s servicing district offices.⁸
 - a. If staff at a district office determine that information may be fraudulent, how are those concerns investigated?

³ 13 C.F.R. §124.108a

⁴ Letter from Senator McCaskill to Administrator Maria Contreras-Sweet, Small Business Administration (Apr. 19, 2016).

⁵ Government Accountability Office, *Alaska Native Corporations: Oversight Weaknesses Continue to Limit SBA’s Ability to Monitor Compliance with 8(a) Program Requirements* (GAO-16-113) (Mar. 2016).

⁶ *Id.*

⁷ 13 C.F.R. § 124.204a

⁸ 13 C.F.R. § 124.112b

- b. Which district office reviewed the contractors in this case?
 - c. How many annual reviews of the contractors were conducted?
 - d. What were the results of these annual reviews?
3. A contracting officer may challenge a proposed awardees' qualifying status if there is suspicion of fraud. In a case like this, the contracting officer could submit a protest by presenting evidence that the business is not 51% owned and operated by a qualifying 8(a) business owner.
 - a. Did SBA received any written protests related to the contractors in this case?
 - b. If so, what were the results of these protests?
4. In the past ten years, how many 8(a) businesses have been found by SBA to be fraudulently obtaining contracts while not being owned and operated by a qualifying business owner?
 - a. Please provide a breakdown by field office jurisdiction as it relates to 8(a) businesses that have violated ownership and management requirements.
 - b. How were the fraudulent businesses ultimately identified by SBA as not being owned and operated by a qualifying business owner?
5. How does the SBA ensure that district offices have the information and resources needed to vet 8(a) program participants? How has SBA addressed GAO's recommendation to improve information sharing in district offices?

If you have any questions regarding this request, please contact Hannah Berner with my staff at Hannah_Berner@hsgac.senate.gov. Please send any official correspondence related to this request to Rina_Patel@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman