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RANKING MEMBER

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515–6315

August 29, 2023

The Honorable Isabella Casillas Guzman
Administrator
U.S. Small Business Administration
409 3rd Street SW
Washington, D.C. 20416

Mr. Patrick Ingram
Chief Acquisition Officer
Office of Performance, Planning, and the Chief Financial Officer
U.S. Small Business Administration
409 3rd Street SW
Washington, D.C. 20416

Dear Administrator Guzman and Mr. Ingram:

The House Committee on Small Business (Committee) is investigating the Small Business Administration's (SBA) contract awards for staffing support for COVID-19 economic relief loan programs. In particular, the Committee is interested in the SBA's contracts with Highlight Technologies, LLC (Highlight) as evaluated by the SBA Office of the Inspector General (OIG) Report 23-11.[1] The Committee seeks to better understand the rationale behind the heightened contract costs, SBA's failure to consistently comply with Federal Acquisition Regulations (FAR), and the failure to conduct economic analyses prior to making certain contracting decisions. We write today to request documents and information.

SBA's initial agreement with Highlight was established under the 8(a) Business Development Program set-aside award, which limits competition to socially and economically disadvantaged small businesses.[2] The purpose of set aside contracts is to promote the interests of small businesses and preserve free competitive enterprise by ensuring small business owners can compete for a fair portion of government contracts.[3] However, the OIG found that in order to fulfill contract deliverables, Highlight subcontracted well over half its work to big business for

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[1] SMALL BUSINESS ADMINISTRATION OFFICE OF INSPECTOR GEN., REPORT 23-11, AWARDS FOR STAFFING SUPPORT FOR COVID-19 ECONOMIC RELIEF LOAN PROGRAMS (Jul. 26, 2023).
[2] *Id.* at 2.
[3] R. CORINNE BLACKFORD & ROBERT JAY DILGER, CONG. RESEARCH SERV., R45576, AN OVERVIEW OF SMALL BUSINESS CONTRACTING, 1 (last updated Jul. 29, 2022).

five separate orders, totaling nearly $2.7 million to ineligible businesses.[4] Small business retained only $200,000 of those five awards.[5] This is antithetical to the 8(a) program and a violation of the FAR regulation that no more than 50 percent of 8(a) contracts may be subcontracted out to larger businesses.[6] As the main advocate for small businesses within the Executive Branch, the SBA is responsible for safeguarding contracting benefits meant for intended recipients, and is required to effectively monitor contract compliance with small business set-aside subcontracting limitations.[7]

Prior to the pandemic, the agreement between SBA and Highlight had a potential value of $20 million over a five year period.[8] Yet the contracts involving pandemic lending programs actually accounted for $234 million.[9] The OIG found that these contracts included an overpayment of $3.8 million because the SBA paid all Highlight staff as if they were living in Washington, D.C.—the most expensive payment region available—whose rates were approximately 12 percent higher than those of the locations where much of the work was performed.[10] As the OIG noted, it is not a prudent business practice for the SBA to allow Highlight to charge the government using rates for the most expensive region when most of the work was projected to be performed largely outside of Washington, D.C.[11] In fact, it is not clear whether *any* Highlight staff actually lived in this region, as the OIG report shows staff in only Little Rock, AR, Fresno, CA, Citrus Heights, CA, and Dallas-Ft. Worth, TX.[12]

Federal regulations require a price evaluation to be completed for the total order when General Services Administration (GSA) schedule hourly rates are used. However, when the initially agreed upon rates were modified, the change was not evaluated or approved as fair and reasonable by the GSA.[13] A justification as to why the D.C. rates were appropriate was not provided and the contracting officer did not perform an analysis to determine whether the contract remained the best value for the government.[14] SBA argued in its response to the OIG's recommendation that they only have to do price evaluations for overarching blanket purchase agreements.[15] However, as the OIG responded, it is the call orders that establish the contractual obligation with the Government, and renewed analyses should be performed when values of the contract are changed. The SBA was required to issue the blanket purchase agreement, call

[4] SMALL BUSINESS ADMINISTRATION OFFICE OF INSPECTOR GEN., REPORT 23-11, AWARDS FOR STAFFING SUPPORT FOR COVID-19 ECONOMIC RELIEF LOAN PROGRAMS, 10 (Jul. 26, 2023).
[5] *Id.* at 10, 11.
[6] Prime contractor's Limitations on Subcontracting, 13 C.F.R. § 125.6, (2023).
[7] Limitations on Subcontracting, 48 C.F.R. §52.219-14(e), (2022).
[8] SMALL BUSINESS ADMINISTRATION OFFICE OF INSPECTOR GEN., REPORT 23-11, AWARDS FOR STAFFING SUPPORT FOR COVID-19 ECONOMIC RELIEF LOAN PROGRAMS, 2 (Jul. 26, 2023).
[9] *Id.* at 1.
[10] *Id.* at 6.
[11] *Id.*
[12] *Id.* at 7.
[13] *Id.* at 10.
[14] *Id.* at 5. Each time a contract ceiling price is increased, federal regulations require the contracting officer to conduct a pricing analysis so that any changes to contract terms still ensure they would be in the best interest of the government.
[15] *Id.* at 13.

orders, and contract modifications in accordance with federal regulations and written policies and procedures. In addition, the OIG found that the SBA did not consistently ask for contract discounts in order to be efficient stewards of taxpayer funds, as is required by the FAR.[16]

It is imperative to understand how the SBA allowed such lax compliance and poor stewardship of taxpayer funds. We therefore request the following documents and information, as soon as possible but no later than September 12, 2023:

1. Total number or percent of Highlight staffers residing in the Washington D.C. payment region during the call orders using those pay rates, including the number of days those staff were physically present in the area during the work period.

2. Whether or not the contracting officer determined whether any staffers actually lived in the Washington D.C. payment region before selecting it as the overall rate of pay for those call orders.

3. An explanation of why the SBA does not believe a price evaluation needs to be performed when the rate of pay is altered.

4. Justification for the SBA's response that the Limitation on Subcontracting rule should be applied at the blanket purchase agreement level to the OIG's Recommendation 4—that the Limitation on Subcontracting rule should be applied at the call order level.

5. Does the SBA advise other agencies that the Limitation on Subcontracting rule should be applied at the blanket purchase agreement level?

6. Justification for failing to perform audits at the conclusion of call orders resulting in repeated violations of subcontracting limitation rules for Call Orders 3, 5, 12, 15, and 22.

7. Evidence that the SBA conducted an evaluation of call orders under the blanket purchase agreement to determine compliance with the Limitation on Subcontracting Rule.

8. Reasons for the high staff turnover resulting in a loss of historical knowledge.

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[16] Price Reductions, FAR 8.405-4; *see also* Review of BPAs, FAR 8.405-3(e).

To schedule the delivery of responsive documents or ask any related follow-up questions, please contact Committee on Small Business Majority Staff at (202) 225-5821. The Committee on Small Business has broad authority to investigate "problems of all types of small business" under House Rule X. Thank you in advance for your cooperation with this inquiry."

In God we trust,

Roger Williams
Chairman
Committee on Small Business

Beth Van Duyne
Member of Congress
Committee on Small Business

cc: The Honorable Nydia M. Velasquez, Ranking Member
Committee on Small Business