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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

July 3, 2018

Peter O'Rourke
Acting Secretary
Department of Veterans Affairs
810 Vermont Ave., NW
Washington, DC 20420

Dear Mr. O'Rourke:

I am writing regarding allegations that three individuals fraudulently obtained millions of dollars' worth of government contracts that were meant for service-disabled veterans.

Forfeiture proceedings have been brought against three men in Kansas and Missouri who 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

This case involved the use of a so-called "rent-a-vet" scheme, where the contractors certified that a service-disabled veteran was a majority owner of the business and running the day-to-day operations. However, according to a complaint filed in federal court, while a service-disabled veteran was technically a 51% owner of the company, he was not running the day-to-day operations of the company.² As you know, in order to qualify for a SDVOSB contract, companies must be deemed a small business, be at least 51% owned and controlled by one or more service-disabled veterans, and have one or more service-disabled veterans manage the day-to-day operations and make long-term decisions.³

¹ 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).

² *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).

³ 13 C.F.R. §125.14a

The Department of Veterans Affairs (VA) has had numerous challenges managing and overseeing the SDVOSB program. In reports released in 2012, 2013, and 2016, the Government Accountability Office (GAO) outlined several ways in which the SDVOSB program is vulnerable to fraud.⁴ Namely, GAO found that VA needs to improve its verification process for contractors, provide alternative ways to identify fraud other than through formal bid protests, and develop a comprehensive plan to address verification issues and long-term goals. I am concerned that continued challenges with vetting participants in the program can enable this kind of fraudulent activity and will prevent qualified service-disabled veteran-owned small businesses from fairly competing for government contracts.

In order to better understand VA's process for vetting participants in the program and preventing fraud in the SDVOSB program, 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 a SDVOSB, an individual must self-certify their status in connection with specific eligibility requirements annually.⁵
 - a. Besides self-certification, what other steps does VA take prior to contract award to certify that an SDVOSB is in fact owned and operated by a service-disabled veteran?
2. The Center for Veterans Enterprise (CVE) was created in order to, among other things, verify that applicants meet the veterans and service-disability requirements of the SDVOSB program.
 - a. Did the CVE verify the three applicants from Kansas and Missouri mentioned in this letter?
 - b. If not, why did that process not occur?
 - c. Please provide a breakdown of staffing at the CVE, including the number of staff dedicated to vetting program participants.

⁴ Government Accountability Office, *Service-Disabled Veteran-Owned Small Business Program Vulnerability to Fraud and Abuse Remains* (GAO-12-697) (Aug. 2012); Government Accountability Office, *Planning and Data System for VA's Verification Program Need Improvement* (GAO-13-95) (Jan. 2013); Government Accountability Office, *VA Improved Its Verification Program but Lacks an Effective Operational Plan for Ongoing Efforts* (GAO-16-129) (March 2016).

⁵ 13 C.F.R. §125.33

3. VA has an Office of Small and Disadvantaged Business Utilization (OSDBU) that is charged with ensuring that small business receive a fair proportion of the federal contracts from VA.⁶
 - a. What is OSDBU's role in conducting oversight regarding whether a SDVOSB is in fact owned and operated by a service-disabled veteran?
 - b. What, if any, steps does OSDBU take in order to verify whether a SDVOSB is owned and operated by a service-disabled veteran?
 - c. Has OSDBU's 2017 plan and procedural workflow been implemented? How is this being used to ensure program compliance?
4. A contracting officer may challenge a proposed awardees' service-disabled veteran 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 service-disabled veteran.
 - a. Did VA contracting officers submit any written protests regarding the firms involved in the fraud?
 - b. Were any complaints filed with VA regarding the veracity of the owners' claims of veteran and service-disability status?
 - c. Since 2012, has VA conducted any internal reviews of the SDVOSB program, specifically looking at its vulnerability to fraud?
 - d. How many contractors does the VA vet annually?
 - e. How many contractors is VA able to assess specifically on the issue of majority ownership and control?

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.

⁶ 13 C.F.R. §125.1

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Sincerely,

A handwritten signature in blue ink, appearing to read "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" being more prominent and the last name "McCaskill" following in a similar style.

Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman