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VETERANS AFFAIRS

Information on Professional Services Contracting Data and Conflict of Interest Regulations

Statement for the Record by Shelby S. Oakley, Director,
Contracting and National Security Acquisitions

Chairwoman Kiggans, Chairman Rosendale, Ranking Member Mrvan, Ranking Member Cherfilus-McCormick, and Members of the Subcommittees:

I am pleased to submit this statement that provides information on analysis of data on contract obligations made by the Department of Veterans Affairs (VA) for services associated with (1) professional, administrative, and management support and (2) special studies and analysis. This statement also summarizes portions of the Federal Acquisition Regulation (FAR) and VA Acquisition Regulation (VAAR) related to organizational and personal conflicts of interest.

We conducted the work on which this statement is based in accordance with all sections of GAO's Quality Assurance Framework that are relevant to our objectives. The framework requires that we plan and perform the engagement to obtain sufficient and appropriate evidence to meet our stated objectives and to discuss any limitations in our work. We believe that the information and data obtained, and the analysis conducted, provide a reasonable basis for any findings and conclusions in this product.

VA Contract Obligations for Professional, Administrative, and Management Support, and Special Studies and Analysis

We analyzed data from the Federal Procurement Data System on contract actions made by VA associated with (1) professional, administrative, and management support and (2) special studies and

analysis in fiscal years 2020, 2021, and 2022.¹ Professional, administrative, and management support contracts are coded in the Federal Procurement Data System as being in the Product and Service Code (PSC) group R, Support (Professional/Administrative/Management). Total obligations increased by approximately \$843 million from fiscal year 2020 to fiscal year 2021, while the number of vendors decreased by 81; obligations decreased by approximately \$360 million from fiscal year 2021 to fiscal year 2022, while the number of vendors increased by 9 (see table 1).²

Table 1: Department of Veterans Affairs Contract Obligations and Number of Vendors for Support (Professional/Administrative/Management), Fiscal Years 2020–2022 (fiscal year 2022 dollars)

| | Fiscal Year 2020 | Fiscal Year 2021 | Fiscal Year 2022 |
|-------------|------------------|------------------|------------------|
| Obligations | \$2,499,466,962 | \$3,342,064,918 | \$2,982,493,471 |
| Vendors | 1,472 | 1,391 | 1,400 |

Source: GAO analysis of Federal Procurement Data System data as of May 2023. | GAO-23-106961

Note: We used the ultimate parent unique entity identifier in the Federal Procurement Data System to identify vendors. There may be circumstances where the same legal entity appears in the Federal Procurement Data System with multiple ultimate parent unique entity identifiers. As a result, our count of unique vendors may be overstated.

We analyzed similar data reported by VA as being in the PSC group B, Special Studies/Analysis, Not Research and Development. Total obligations decreased by approximately \$8 million from fiscal year 2020

¹The Federal Procurement Data System is a comprehensive, web-based tool for agencies to report contract actions. It is a searchable database of contract information that provides a capability to examine data across government agencies and provides managers a mechanism for determining where contract dollars are being spent. The contracting officer who awards a contract has responsibility for the accuracy of the individual contract action information entered in the Federal Procurement Data System. FAR § 4.604(b). Agency senior procurement executives are responsible for developing a process and monitoring results to ensure timely and accurate reporting of contractual transactions in the Federal Procurement Data System, and agency chief acquisition officers are required to submit annual certifications about the accuracy and completeness of contract reporting to the Office of Federal Procurement Policy and the General Services Administration. See FAR § 4.604(a), (c); Office of Management and Budget, *Improving Federal Procurement Data Quality – Guidance for Annual Verification and Validation*, Office of Federal Procurement Policy Memorandum to Chief Acquisition Officers, Senior Procurement Executives, and Small Agency Council Members (Washington, D.C.: May 31, 2011). We previously have reported on some of the shortcomings of the Federal Procurement Data System. Nevertheless, we routinely use data from the Federal Procurement Data System, but only after determining, through various means, that the data we use are sufficiently reliable for our specific reporting purposes.

²Obligations in this statement are adjusted for inflation using the fiscal year 2022 gross domestic product price index.

to fiscal year 2021, while the number of vendors increased by 9; obligations increased by approximately \$6 million from fiscal year 2021 to fiscal year 2022, while the number of vendors stayed the same (see table 2).

Table 2: Department of Veterans Affairs Contract Obligations and Number of Vendors for Special Studies/Analysis, Not Research and Development, Fiscal Years 2020–2022 (fiscal year 2022 dollars)

| | Fiscal Year 2020 | Fiscal Year 2021 | Fiscal Year 2022 |
|-------------|------------------|------------------|------------------|
| Obligations | \$60,224,666 | \$52,624,148 | \$58,325,719 |
| Vendors | 113 | 122 | 122 |

Source: GAO analysis of Federal Procurement Data System data as of May 2023. | GAO-23-106961

Note: We used the ultimate parent unique entity identifier in the Federal Procurement Data System to identify vendors. There may be circumstances where the same legal entity appears in the Federal Procurement Data System with multiple ultimate parent unique entity identifiers. As a result, our count of unique vendors may be overstated.

We also analyzed obligations made to individual vendors within these PSC groups. See table 3 for the 10 vendors with the highest total amount of VA contract obligations for PSC group R, Support (Professional/Administrative/Management), from fiscal years 2020 through 2022.

Table 3: Ten Vendors with the Highest Total Amount of Department of Veterans Affairs Contract Obligations for Support (Professional/Administrative/Management), Fiscal Years 2020–2022 (fiscal year 2022 dollars)

| Vendor | Obligations |
|---|---------------|
| Genco Distribution System Inc. | \$800,359,870 |
| Booz Allen Hamilton Holding Corporation | \$791,470,555 |
| Accenture Inc. | \$372,661,190 |
| Iron Bow Technologies LLC | \$305,644,290 |
| Signature Choice LLC | \$294,893,473 |
| Deloitte Consulting LLP | \$256,104,847 |
| The MITRE Corporation | \$252,775,150 |
| Cognosante Holdings LLC | \$191,708,880 |
| Aptive HTG LLC | \$169,120,592 |
| Nester Consulting LLC | \$168,613,100 |

Source: GAO analysis of Federal Procurement Data System data as of May 2023. | GAO-23-106961

Note: We used the ultimate parent unique entity identifier in the Federal Procurement Data System to identify vendors. There may be circumstances where the same legal entity appears in the Federal Procurement Data System with multiple ultimate parent unique entity identifiers. As a result, total obligations for some vendors may be understated.

The proportion of obligations received by the 10 vendors with the highest amount of PSC group R contract obligations in a given fiscal year was 40.2 percent in fiscal year 2020, 48.4 percent in fiscal year 2021, and 42.4 percent in fiscal year 2022.

See table 4 for the 10 vendors with the highest total amount of VA contract obligations for PSC group B, Special Studies/Analysis, Not Research and Development, from fiscal years 2020 through 2022.

Table 4: Ten Vendors with the Highest Total Amount of Department of Veterans Affairs Contract Obligations for Special Studies/Analysis, Not Research and Development, Fiscal Years 2020–2022 (fiscal year 2022 dollars)

| Vendor | Obligations |
|--|---------------|
| PricewaterhouseCoopers Public Sector LLP | \$105,180,081 |
| SAG Corporation | \$13,928,993 |
| Titan Alpha LLC | \$4,921,460 |
| National Academy of Sciences of the United States of America | \$3,615,061 |
| JJR Solutions LLC | \$3,239,289 |
| Gryphon Environmental LLC | \$2,302,364 |
| Savvee Consulting Inc. | \$2,258,236 |
| Mabbett & Associates Inc. | \$2,228,272 |
| Bounds Associates LLC | \$1,919,625 |
| CTG Inc. | \$1,898,530 |

Source: GAO analysis of Federal Procurement Data System data as of May 2023. | GAO-23-106961

Note: We used the ultimate parent unique entity identifier in the Federal Procurement Data System to identify vendors. There may be circumstances where the same legal entity appears in the Federal Procurement Data System with multiple ultimate parent unique entity identifiers. As a result, total obligations for some vendors may be understated.

The proportion of obligations received by the 10 vendors with the highest amount of PSC group B contract obligations in a given fiscal year was 91.2 percent in fiscal year 2020, 82.5 percent in fiscal year 2021, and 84.9 percent in fiscal year 2022.

Portions of the FAR and VAAR Related to Conflicts of Interest

We also summarized portions of the FAR and VAAR related to organizational and personal conflicts of interest.

Organizational Conflicts of Interest

FAR subpart 9.5 prescribes responsibilities, general rules, and procedures for identifying, evaluating, and resolving organizational conflicts of interest (OCI). FAR section 9.504 requires contracting officers to analyze planned acquisitions to avoid, neutralize, or mitigate significant potential OCIs. OCIs, as described in the FAR and bid protest decisions of our Office, can be broadly categorized into three groups:

- Biased ground rules OCI: Arises where a firm, as part of its performance of a contract, has, in some sense, set the ground rules for the competition for another government contract.³
- Unequal access to information OCI: Exists where a firm has access to nonpublic information as part of its performance of a government contract and where that information may provide the firm with a competitive advantage in a later competition.⁴
- Impaired objectivity OCI: Arises where a firm's work under one government contract could entail its evaluating itself, either through an assessment of performance under another contract or an evaluation of proposals.⁵

In addition, FAR section 9.507-1 provides that significant potential OCIs are normally resolved by imposing some restraint, appropriate to the nature of the conflict, on a contractor's eligibility for future contracts or subcontracts. This section further provides that affected solicitations are to include a provision that:

- Invites offerors' attention to FAR subpart 9.5;
- States the nature of the potential conflict as seen by the contracting officer;
- States the nature of the proposed restraint upon future contractor activities; and

³See FAR §§ 9.505-1, 9.505-2; *Deloitte Consulting LLP; ManTech Advanced Sys. Int'l, Inc.*, B-420137.7 *et al.*, July 25, 2022, 2022 CPD ¶ 200 at 6; *Halfaker and Assocs., LLC*, B-420279.2 *et al.*, Jan. 19, 2022, 2022 CPD ¶ 45 at 6 n.7.

⁴See FAR § 9.505-4; *Accenture Fed. Servs., LLC*, B-421134.2 *et al.*, Apr. 12, 2023 CPD ¶ ___ at 6 n.17; *Deloitte Consulting LLP; ManTech Advanced Sys. Int'l, Inc.*, *supra*.

⁵See FAR § 9.505-3; *Accenture Fed. Servs.*, *supra*; *Deloitte Consulting LLP; ManTech Advanced Sys. Int'l, Inc.*, *supra*.

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- Depending on the nature of the acquisition, states whether the terms of any proposed clause and the application of FAR subpart 9.5 are subject to negotiation.

VAAR section 809.507-1(b) supplements the FAR by requiring an OCI solicitation provision—which is specific to the VAAR—in any solicitation for the services listed in FAR section 9.502.⁶ The services listed in FAR section 9.502 include:

- Management support services;
- Consultant or other professional services;
- Contractor performance of or assistance in technical evaluations; or
- Systems engineering and technical direction work performed by a contractor that does not have overall contractual responsibility for development or production.

Personal Conflicts of Interest

FAR subpart 3.11 implements policy on personal conflicts of interest by employees of government contractors.⁷ FAR section 3.1101 defines a personal conflict of interest as a situation in which a covered employee has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially and in the best interest of the government when performing under the contract.⁸ Under FAR section 3.1102, it is the government's policy to require contractors to (1) identify and prevent personal conflicts of interest of their covered employees; and (2) prohibit covered employees who have access to nonpublic information

⁶The solicitation provision is found at VAAR section 852.209-70.

⁷As required by 41 U.S.C. § 2303.

⁸FAR section 3.1101 states that a de minimis interest that would not impair the employee's ability to act impartially and in the best interest of the government is not covered under this definition. FAR section 3.1101 defines a covered employee to mean an individual who performs an acquisition function closely associated with inherently governmental functions and is (1) an employee of the contractor; or (2) a subcontractor that is a self-employed individual treated as a covered employee of the contractor because there is no employer to whom such an individual could submit the required disclosures.

by reason of performance on a government contract from using such information for personal gain.⁹

VAAR section 803.1103 supplements the FAR by requiring that by use of the clause at FAR section 52.203-16, the contracting officer must require each contractor whose employees perform acquisition functions closely associated with inherently governmental functions to obtain from each covered employee a signed nondisclosure agreement to prohibit disclosure of nonpublic information accessed through performance of the contract.

Chairwoman Kiggans, Chairman Rosendale, Ranking Member Mrvan, Ranking Member Cherfilus-McCormick, and Members of the Subcommittees, this concludes my statement for the record.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this statement, please contact Shelby S. Oakley at (202) 512-4841 or OakleyS@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this statement include Robert Bullock (Assistant Director), Rose Brister, Breanne Cave, Matthew T. Crosby, Sara Daleski, Suellen Foth, and Adam Wolfe.

⁹FAR section 3.1106(a) prescribes use of a contract clause, at FAR section 52.203-16, in solicitations and contracts that exceed the simplified acquisition threshold and that require services by contractor employees that involve performance of acquisition functions closely associated with inherently governmental functions. The clause requires contractors to (1) have procedures to screen covered employees for potential personal conflicts of interest; (2) prevent personal conflicts of interest for covered employees (e.g., by not assigning or allowing a covered employee to perform any task under the contract for which the contractor has identified a personal conflict of interest for the employee); (3) inform covered employees of their obligation to disclose and prevent personal conflicts of interest, not use nonpublic information from performance of the contract for personal gain, and avoid even the appearance of personal conflicts of interest; (4) maintain effective oversight to verify compliance with personal conflict of interest safeguards; (5) take appropriate disciplinary action in the case of covered employees who fail to comply with the personal conflict of interest policies established pursuant to the clause; and (6) report to the contracting officer any personal conflict of interest violation by a covered employee as soon as identified.

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