

**VA CONTRACTING: CHALLENGES IN
COMPETITION AND CONFLICTS OF INTEREST**

JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON TECHNOLOGY MODERNIZATION

AND THE

SUBCOMMITTEE ON OVERSIGHT AND
INVESTIGATIONS

OF THE

COMMITTEE ON VETERANS' AFFAIRS
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THURSDAY, JULY 20, 2023

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TECHNOLOGY MODERNIZATION,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The subcommittees met, pursuant to notice, at 9:25 a.m., in room 360, Cannon House Office Building, Hon. Matt Rosendale [chairman of the subcommittee on Technology Modernization] presiding.

Present for the Subcommittee on Technology Modernization: Representatives Rosendale, Self, Cherfilus-McCormick, and Landsman.

Present for the Subcommittee on Oversight and Investigations: Representatives Kiggans, Bergman, Rosendale, Radewagen, Mrvan, Cherfilus-McCormick, and Pappas.

OPENING STATEMENT OF MATTHEW M. ROSENDALE, SR., CHAIRMAN, SUBCOMMITTEE ON TECHNOLOGY MODERNIZATION

Mr. ROSENDALE. The subcommittee will come to order. Good morning, everyone, now that the Veterans Administration (VA) has opted to provide witnesses, we are here today to resume our May 24th conversation about the competition and conflicts of interest of the VA contracts. We will be broadening our focus from IT contracts to consulting and professional services contracts. VA spends over \$3 billion a year on management consulting contracts with companies ranging from the largest multinational consulting firms to boutique shops that rely on the VA for most of their business. Similar to the IT sector, the top 10 consulting firms receive about 40 percent of the VA's consulting dollars. These companies support nearly every function of the Department including contracting with other companies, and the VA is increasingly relying on them.

I have no doubt that many of them operate ethically. The ranks of government contracting have never been known to be filled with saints. Of all areas of contracting, consulting and professional services contracts are the most fraught with conflicts of interest. That is not my opinion. That is what the regulators and regulations say. When contractors are virtually indistinguishable from government employees and they are privy to the most information that passes through the agency, there is a lot of opportunity to exploit access to nonpublic information.

Here are some examples. In March, the Wall Street Journal reported that McKinsey consulted for VA on internal management

while advising its opioid manufacturer clients how to sell more pain pills to the Department. That is problematic on so many levels. Let us not forget that happened during the height of the opioid epidemic that has shaken hundreds of thousands of lives and upended countless others. We have been getting complaints for years about how the VA's medical distributors substitute their own usually more expensive products for those of VA's contracted suppliers.

It also seems to be a standard practice for VA organizations to hold their offsite leadership meetings and planning retreats in contractors' facilities. Not only are key strategic decisions made with contractors present, they are made under the contractors' roofs. We have seen time and time again how the same companies that staff the offices of VA decision makers tend to get contracts to perform projects for those other offices, not to mention when former VA executives take jobs with companies whose contracts quickly multiply.

The revolving door on Capitol Hill rightfully gets a great deal of scrutiny, but it is swinging out of control in Federal agencies such as VA. We are not just talking about the actual conflicts of interest, but statute also describes the perception of. We have to eliminate both.

For all these reasons, Chairwoman Kiggans and I found it unbelievable when Secretary McDonough stated in a May 31st letter that no organizational conflicts of interest exist among VA contractors. That is just absurd. I am going to let Ms. Kiggans describe her letter but let me emphasize how implausible the VA's answer is. VA's position seemed to be that in more than \$3 billion of consulting contracts annually, there is nothing to worry about. Nothing to see here.

On the contrary, I intend to lay out the situations that are happening as we speak in the VA, as reported by concerned employees and other companies. I welcome our witnesses' explanations. This issue is crucial to the integrity of the VA as an organization and its ability to serve our veterans. A culture of cutting ethical corners creates a breeding ground for fraud. That is not hypothetical.

Every month, we see indictments and convictions involving companies defrauding the VA, often paying kickbacks or bribes. These schemes are keeping U.S. attorneys all over America busy. I want to encourage every company that plays by the rules to keep doing the right thing, and I urge everyone who sees conduct that may be criminal to report it to the VA Office of Inspector General Hotline. Thank you. With that, I will recognize Ranking Member Cherrilus-McCormick for her opening statement.

**OPENING STATEMENT OF SHEILA CHERFILUS-MCCORMICK,
RANKING MEMBER, SUBCOMMITTEE ON TECHNOLOGY MOD-
ERNIZATION**

Ms. CHERFILUS-McCORMICK. Thank you, Mr. Chairman. Thank you, Technology Modernization Subcommittee. The Technology Modernization Subcommittee conducted extensive oversight of VA modernization and IT contracting last year. A common thread identified was a fundamental lack of planning, budgeting, and adherence to contracting best practices by VA in its contracting center. VA Acquisition Management has been on the Government Account-

ability Office (GAO) high risk list since 2019. GAO has also catalogued issues with competition for IT contracts. While VA's annual IT obligations have increased from 42 billion in 2017 to 6.5 billion in 2021, the number of companies receiving those awards have decreased.

A particular concern of mine is the management and oversight of the Transformation Twenty-One Total Technology Next Generation (T4NG) enterprise Contract run by the Technology Acquisition Center. The vehicle, which is currently being recompeted, has historically been dominated by a few large companies. The vehicle supports a number of IT programs across the VA. I do not think I have to mention again the record of success that VA has had with IT. It brings it into question how well VA is vetting and managing not only who is on the vehicle, but as how those companies are evaluated.

I realize that the VA is at a disadvantage when it comes to holding these large companies accountable and attempting to mitigate conflicts of interest. Regardless, we need to find ways to hold poor performers that continue to win work at the VA accountable. It is unacceptable that we continue to award companies over and over again that have not led successful programs at the VA. Hopefully, our hearing today will provide insight into their needs and resources that Congress can provide. Thank you again for holding this important hearing, and I look forward to our discussion this morning. I yield back.

Mr. ROSENDALE. Thank you Ranking Member Cherfilus-McCormick. I now recognize Chairwoman Kiggans for her opening remarks.

OPENING STATEMENT OF JENNIFER A. KIGGANS, CHAIRWOMAN, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Ms. KIGGANS. Thank you, Chairman Rosendale. I am glad you and I were able to bring our subcommittees together to collaborate on this important issue. Whether it is in corporate boardrooms, public agencies, law firms, or institutions throughout this country, conflicts of interest are ignored at great peril. Conflicts of interest have given rise to countless scandals and ended many careers. I know everyone in this room takes this issue very seriously. From what I have seen in my 6 months on this committee, the Department of Veteran Affairs seems to have become complacent with its contractors' potential conflicts of interest.

In 2021, the VA doled out over \$38 billion to contractors. Every day, contractors are advising, analyzing, researching, drafting, and contributing to decisions at all levels of the Department. Sometimes it appears the contractors are even making some of the Department's decisions themselves.

Today, a litany of consulting firms, healthcare suppliers, and other companies have spun the VA into a web of competing financial interests. VA's leaders appear surprisingly unconcerned about the situation and unmotivated to untangle the Department. This has very real consequences. Every dollar that is wasted on a contracting boondoggle fails to reach the doctors, nurses, and other professionals who directly serve our veterans. It is no wonder why,

even as the VA's budget continues to grow, the quality of services that veterans receive barely improves. Veterans and taxpayers deserve to know that decisions in the VA are being made in the public interest by VA employees, not outsourced to unaccountable contractors who may harbor conflicts of interest.

In March, I sent a letter to Secretary McDonough asking him how many times a VA contracting officer identified, mitigated, or otherwise resolved a contractor's potential or actual conflict of interest in the last two fiscal years. I wanted to know what the VA is doing to make sure that companies are operating on an even playing field. The Secretary's response on May 31 was not believable. It was, as I quote, "the VA has no occasions where a contracting officer identified a potential or actual organizational, personal, or other conflict of interest in a solicitation or contract award for advisory and assistance services." Given everything we know about the size of VA spending and what functions have been outsourced, this was implausible. This would be like a town taking all its police off the beat and the citizens believing there is no more crime because arrests stopped happening.

As Chairman Rosendale described, the Wall Street Journal highlighted a very serious potential conflict of interest on the part of McKinsey. For several years, they were carrying out a wide range of consulting projects for the VA while simultaneously advising pharmaceutical companies how to target the VA to increase their opioid sales. Somehow no one said a word about this until it was revealed years later. Secretary McDonough's response made it clear that the VA had no concern whatsoever about McKinsey's web of clients impacting its work for the department. I am eager to hear the witnesses here today explain this attitude toward contracting with a company that paid a \$600 million settlement for their role in the opioid epidemic.

McKinsey is not the only one. I have heard numerous complaints from employees and contractors about VA's apparent disinterest in managing organizational conflicts of interest. I find the magnitude of the spending on consultants questionable. Worse than that, when conflicts of interest are allowed to fester, that money is lining pockets rather than supporting veterans. This is fundamentally unacceptable. I look forward to hearing from our witnesses today about how we can clean this up. Thank you, Chairman Rosendale. I yield back.

Mr. ROSENDALE. Thank you, Chairwoman Kiggans. I now recognize Ranking Member Mrvan for opening statement that he may have.

OPENING STATEMENT OF FRANK J. MRVAN, RANKING MEMBER, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

Mr. MRVAN. Thank you, Chairman. As the chairman last Congress of Technology Modernization Subcommittee, and as ranking member of the Oversight and Investigations Subcommittee this Congress, I have seen how large an impact contracting has on the VA. My staff has heard of competition and conflict of interest issues with acquisitions across the Department. A major concern of mine is with the lack of oversight and controls of the medical surgical prime vendor contracts. MSPV is a collection of contract vehi-

cles that enable VA to streamline supply chain management for an array of medical supplies. We have heard that large companies awarded contracts for distributing these supplies have historically been granted conflict of interest waivers. These waivers would allow a company to not only distribute supplies, but also sell their own supplies at the expense and in place of service-disabled Veteran Owned Small Businesses (VOSBs) that have contracts to provide supplies for the VA. VA has assured our committee that these waivers are no longer a part of the MSPV contracts but that has not remedied all the issues that veteran owned small businesses are experiencing.

We all know on this committee that the VA lacks a sophisticated and well-equipped acquisition structure and workforce. Committee members all know that VA does not have the requisite employees to thoroughly oversee these huge vehicles. That does not absolve the acquisition leadership from doing better. The fox is in the hen house when it comes to providing supplies across VA and veteran small businesses are suffering.

Today is an opportunity to voice to members of this committee your needs to ensure that competition is a priority of the Department and what exactly is needed to remedy the issues of conflicts of interest. I look forward to hearing from our witnesses this morning and I yield back.

Mr. ROSENDALE. Thank you, Ranking Member Mrvan. I will now introduce the witnesses on our first and only panel. First, we have Mr. Michael Parrish, VA Chief Acquisition Officer. He is accompanied by Mr. Philip Christy, the Deputy Executive Director of the Office of Acquisition, Logistics and Construction, and Dr. Angela Billups, VA Senior Procurement Executive. We also have Mr. Joseph Maletta, the Veterans Health Administration Executive Director of Acquisitions. Finally, we have Ms. Luwanda Jones, Deputy Chief Information Officer for Strategic Sourcing. I ask the witnesses to please stand and raise your right hands.

[Witnesses sworn.]

Thank you. Let the record reflect that all witnesses have answered in the affirmative. Mr. Parrish, you are now recognized for 5 minutes to deliver your opening statement on behalf of the panel.

STATEMENT OF MICHAEL PARRISH

Mr. PARRISH. Good morning, Chairman Rosendale, Chairwoman Kiggans, Ranking Member Cherfilus-McCormick, Ranking Member Mrvan, and members of the subcommittees. I am pleased to appear before you today to discuss the competition trends in VA's procurement, VA's enforcement of organizational conflict of interest regulations, and the Department's use of professional and management consulting services contracts. Joining me today, as you stated, Mr. Chairman, are my colleagues, Mr. Phil Christy, Deputy Executive Director of the Office of Acquisition, Logistics and Construction, Dr. Angela Billups, our Executive Director of the Office of Acquisition and Logistics and also the VA Senior Procurement Executive, Ms. Luwanda Jones, our Deputy Chief Information Officer for Strategic Sourcing from the Office of Information Technology, and Mr. Joseph Maletta, Executive Director for Acquisitions from the Veterans Health Administration.

As the committee is aware, VA's procurements of goods and services has grown from 20 billion in Fiscal Year 2012 to over 56 billion in 2022, which is 177 percent increase over the 10-year period. This increase represents a significant rise in procurement workload and the need to efficiently and smartly execute all the contracting requirements that support VA's mission needs. Even with this increase, VA has always placed great importance on adhering to all laws and regulations and maintaining the trust of veterans and taxpayers in the proper execution of the procurement of all goods and services that support our mission.

To deal with the major increase in procurement activities over the last 10 years, VA has established a formal category management program to support the smart and efficient execution of how we buy goods and services. This program is consistent with the Office of Management and Budget, OMB, Memoranda M-19-13 Category Management: Making Smarter Use of Common Contract Solutions and Practices.

It is important to note that category management has not resulted in the loss of competition nor hindered VA's enforcement of organizational conflict of interest regulations. In fact, we have demonstrated exceptional results in the last 5 years, and our competition rates as of July 10 are currently achieving a 97 percent competition rate for all procurements to date. Also in Fiscal Year 2022, VA achieved a 90 percent spend under management, exceeding the OMB goal of 87 percent.

VA aggressively promotes the use of fair competition and opportunities among all prospective vendors for VA awards. We use a variety of contracting vehicles to meet the Department's needs to ensure competition and deliver results that save taxpayer dollars while providing world class healthcare and benefits to our veterans. However, the use of these contracts are not prioritized at the expense of our agency's Veterans First Contracting program, nor our small business goals. VA's procurement processes include risk management controls to ensure compliance with applicable laws, regulations, and VA policy. We are further strengthening our acquisition maturity and oversight by rolling out our new acquisition lifecycle framework, commonly known as ALF, which complements our improved governance structure.

Because of VA's large annual spend on contracts, it is not uncommon for a vendor to be selected for several different requirements, but the Department follows Federal Acquisition Regulations, or FAR, and the appropriate law. It should be noted that contractors are selected based upon their competency and ability to successfully respond to the solicitation requirements. Many companies have multiple areas of expertise and compete on requirements for different services throughout the enterprise. VA takes the concern of organizational conflict of interest very seriously, as do I personally, and we ensure its contract awards comply with the FAR, the VA Acquisition Regulation, as well as the VA Acquisition Manual.

In the last 12 months, VA has received three major Oracle Cloud Infrastructure (OCI) complaints by industry, which were independently investigated by the Government Accountability Office, GAO, who also determined that those OCIs did not exist and that VA did indeed follow the proper procedures in the determination process.

VA does not have—or does have one current high visibility OCI allegation which is still under investigation and will follow the established procedures to make a final determination once that investigation is complete.

Regarding the use of professional management and consulting services, VA is carefully monitoring this category of spend for work conducted by contractors while also looking for duplication of efforts as part of our category management program. VA is committed to addressing organizational conflicts of interest and finding ways of limiting the amount of taxpayer dollars being spent in government on professional services contracting to ensure they are only doing what the Department truly needs.

While we at VA are following the FAR and continue to remain in compliance with the law, there is more that we can do and as Chief Administrative Officer (CAO), I have placed this among one of my top priorities and am adding additional policies and reviews where appropriate to ensure we are doing everything we can to ensure full and fair competition for all potential vendors to have an equal opportunity for government contracts. For example, we are incorporating a truly independent validation and verification contract to strengthen our oversight. We just rolled out a draft RFP, request for proposal, on Tuesday to get industry's input to make sure that we are planning on initiating the IVV for our major acquisition programs by the end of the year, which is in line with the draft legislation that you are proposing. This will enable true, independent, and agnostic oversight to validate and provide confidence that we have asked the contractor to do what—asked them to do was properly delivered on time and on budget.

Chairman Rosendale, Chairwoman Kiggans, Ranking Member Cherfilus-McCormick, Ranking Member Mrvan, and members of the subcommittees, thank you for the opportunity to speak here today. My colleagues and I are pleased to answer any questions you may have.

[THE PREPARED STATEMENT OF MICHAEL PARRISH APPEARS IN THE APPENDIX]

Mr. ROSENDALE. Thank you, Mr. Parrish. We will now proceed to questioning, and I would like to recognize Chairwoman Kiggans for 5 minutes of questioning.

Ms. KIGGANS. Thank you, Mr. Chair. Mr. Parrish, do you stand by the Secretary's May 31 response to my letter stating that no potential or actual organizational conflicts of interest existed in any advisory and assistance contracts in 2021 or 2022, or would you like to amend that response?

Mr. PARRISH. I stand by that statement to the best of my knowledge, ma'am.

Ms. KIGGANS. My understanding is the VA contracting officers who ultimately report to you are relying on the contractor certifications that they do not have any conflicts of interest. Is that correct?

Mr. PARRISH. That is one of the steps in the process of a contract solicitation, correct.

Ms. KIGGANS. Mr. Parrish, have you instructed the contracting officers to do anything further like identify the other work a con-

tractor is performing, or the business relationships a company has, or consider whether the representation seems to be true?

Mr. PARRISH. Let me pass that off to Dr. Billups, who can answer some of the processes that we have inside the VA. Dr. Billups.

Ms. BILLUPS. Thank you and good morning, everyone. What we actually do at the VA, we actually follow the requirements in the Federal Acquisition Regulation. In the Federal Acquisition Regulation, it actually lists a requirement for those contractors to certify any potential conflicts of interest. In addition to them identifying that, those contracting officers take that information that is in the proposal and they look at that to determine whether or not the information that was provided by that potential offeror, if there is additional information that needs to be considered, or if there is something there that would trigger them to make a different decision, the contracting officer. They follow the procedures that are there.

Last year, well, let me step back, 2021, we actually looked at the personal conflicts of interest and we updated that area for standardized guidance throughout the VA, working with the Office of General Counsel, actually updated some training and ethics for the politicals that were coming into VA. One of the other things that we did in 2022, is updated the area in the VA supplement to the FAR as it relates to OCIs, as well as our internal procedures, guidance, and instructions, called the VA Acquisition Manual.

All of these things—excuse me—are what the contracting officers and the Heads of Contracting Activities (HCAs) are using before they award these contracts. All of these things should be at least that first step toward looking at whether or not there is an issue that needs to be considered around this area of conflicts of interest.

Ms. KIGGANS. As a follow up to that, Dr. Billups, so we are pretty much taking the contractors' word for it that they are operating above board and under the letter and spirit of the conflict-of-interest regulations. You know, is that good enough? Do you believe that is adequate?

Ms. BILLUPS. That is what is required by the regulation from the standpoint of the certification and of course in the Federal Acquisition Regulation, there are also remedies. If we find later on that a contractor has certified that there are no organizational conflicts of interest, if we find something out later on, we have remedies that are already in the FAR. We can use the suspension and debarment, as well as other remedies. In addition, to that if it is something that we find out we also can create mitigation plans for those OCIs when they do come to our attention.

From the letter that you sent to the Secretary in March, working with those heads of those contracting activities who all of the contracting officers report to, the information that came back was that there were none that aligned with the request that you had in your letter.

Ms. KIGGANS. Also as a follow up, how many times do you have to do the mitigation response where a conflict is identified and you actually have to take some action like mitigation response?

Ms. BILLUPS. I have been at VA now for almost 4 years and none of those have come to my attention. I am not sure if there has been

any for MSPV or other areas if someone else has some input to that.

Mr. CHRISTY. Good morning. I just want to add two things. Obviously, everything that Dr. Billups has said is correct. With the letter and meeting with your staff, after we met one of the things that we went back to is that as part of category management we are required to submit formalized plans to OMB. Part of that plan is identifying duplication, i.e., contracts with the same contractors. We are going to start using that information to share with the contracting offices saying, hey, this company A has 200 contracts with the VA. We need to look at that and see if there is possible overlap.

Everything that Dr. Billups talked about certification, is absolutely true. We are going to start taking more steps and then using the information from our category management plans to help the contracting field. The contracting officers that may not have that total visibility—give them those lists and say, hey, these contractors have multiple contracts throughout the VA, is there overlap?

I will share with you a lot of times especially, you know, we have about 3,000 contracting officers in the VA. About 2,300, 2,400 of them are out in the field and they do not always see everything what everyone's buying on your left and right. We are going to try to strengthen that, to capture that. That is why we are not seeing in the system, and by the way the system, at the moment, does not have a way for us to say, hey, was there an OCI here to kind of trigger through the system. A lot of this is through a manual data call that requires us, no kidding, to flip through pages to see was there an OCI, is there a mitigation there? We are not able to run an electronic report or have visibility at that level. These are things, obviously, since the letter that we have talked about and are going to start looking at that capability to attack this problem.

Ms. KIGGANS. Do you know what the timeline will be then for when you will start, because you are not currently doing all that.

Mr. CHRISTY. The category management plans, obviously, the information from there, those are pretty much wrapped up for 2024. The information in them will be distributed probably within the next week or two to highlight folks like, hey, we have these many contracts with company XYZ and make sure that we start to get that out there. Part of the category management team is also going to be looking at going, hey, these 200, and I am just using fictional numbers here, these contracts with this particular company, let us see how similar they are and are they in similar mission sets? You know, so you could have one in Veterans Health Administration (VHA), you could have one of Veterans Benefits Administration (VBA), but if we have some that look like there is overlaps there, we are going to start to trigger that and say, okay, hey, let us reach out to the contracting officer. Are you aware that we have one here and here that look similar? We need to take a peek at it to make sure that the contracting officer has that knowledge to make a determination about the OCI.

Ms. KIGGANS. I would love to hear a report of what that looks like once you implement it and how many conflicts you find, and any you are working out, or if you are ending the contract, or just kind of what the outcome of that action will be. Thank you for taking that outcome or that approach.

Mr. Parrish, if I could ask one other oh, I am sorry. I am very over. Okay. I will save it for later.

Mr. ROSENDALE. Thank you, Chairwoman Kiggans.

Ms. KIGGANS. Thank you very much.

Mr. ROSENDALE. I appreciate that.

Ms. KIGGANS. I yield.

Mr. ROSENDALE. I now recognize Ranking Member Cherrilus-McCormick.

Ms. CHERFILUS-McCORMICK. Thank you, Mr. Chairman. As is common now in Federal contracting, smaller companies are acquired by larger government contractors, which leads to decreased competition and conflict of interest. There has certainly been the case from our observation of the T4NG contracting vehicle, which is used by the VA and administered by the Technology Acquisition Center. GAO's testimony from our last hearing in recent reports highlighted that as dollar amounts have increased for IT contracting at VA, that the number of recipients of the awards have decreased. Ms. Jones, from your observation, has the Technology Acquisition Center done a sufficient job to manage the number of companies that were on the T4NG vehicle?

Ms. JONES. Thank you for that question, ma'am. We have definitely oversight of the T4NG vehicle. I just want to highlight from an IT perspective, every acquisition that is awarded goes through the Federal IT Acquisition Reform Act known as FITARA. We are looking at those particular—the Chief Information Officer (CIO) is responsible for all acquisition strategies and acquisition plans. Additionally, before anything is awarded on T4, or a General Services Administration (GSA) vehicle, or Solutions for Enterprise-Wide Procurement (SEWP) vehicle, we conduct extensive market research. We feel that we are managing and are overseeing that contract appropriately.

Ms. CHERFILUS-McCORMICK. Realizing that the new version of T4NG is currently being protested, we do not know which contractors will be eligible. What has VA proactively done to ensure that you are not limiting the pool of competition?

Ms. JONES. First of all, we continue to conduct market research. I want to highlight the T4, and especially from a service disabled, veteran owned small businesses and VOSBs, that T4 contract is, to our knowledge, the only contract in the Federal Government that part of the acquisition evaluation is veterans' employment. From the time T4 was initiated in 2016, those vendors hired 16,000 veterans. Today, there are 58,000 veterans hired by those vendors on the T4 contract.

Ms. CHERFILUS-McCORMICK. You have not done anything proactively, is that what you are saying?

Ms. JONES. I think we have done a lot proactively to make sure that every acquisition that we do is competed competitively.

Ms. CHERFILUS-McCORMICK. In these circumstances, could you list what you have done? What proactive steps have you done to make sure that you are not limiting the pool, just need those steps.

Ms. JONES. I will turn that over to Mr. Christy.

Mr. CHRISTY. Yes, let me jump in here real quick. Before the solicitation went out, there were three industry days where we had an opportunity for all of industry, so this went out through

SAM.gov, a worldwide announcement, hey, this is in our requirement that is coming out. We want people to be interested. Here is what it means. We had multiple industry days, both virtually and in place to talk about what that was and to explain what the requirement was and just try to generate interest into this.

If you will, it was not just the same folks from the current T4NG but trying to attract new folks to that. The new T4NG, obviously, at the moment, we are targeting 15 will be veteran-owned companies that will be on that contract that is the target for that. The rest will play out depending on who has the best there. The key there is to generate the interest and the newness of the folks applying for that.

Also, some different things that we have promoted on there is the joint ventures and other teaming arrangements. Not only just kind of just a standalone company, but folks might be able to come together and propose on this and act as a joint venture to have opportunity for this.

Ms. CHERFILUS-McCORMICK. How are you measuring the success of what you are imposing now?

Mr. CHRISTY. At the end of the day, it will be a successful award of the contract vehicle, and we are targeting 30 awards for the new T4NG.

Ms. CHERFILUS-McCORMICK. Will the success of recruitment and making sure everybody is aware of the opportunities, the proactive steps that you just described, how are you measuring? What are the variables to say this is a success, or we should amplify it, or move forward?

Mr. CHRISTY. Yes. This is where we get in a little clarity management where we do want new people on the contract. The reality is we put out the rules for how you will be decided if you win the contract. For whoever wins, wins. It is based on meritocracy, right? If you had the best solution, you bring the best value, you could win. That could mean a lot of the existing contractors. That is why we were trying to, again, with those industry days and creating the communications before the solicitation went out, is to try to reach folks that maybe not be aware of it and/or, hey, there might be other ways that you could team together to look at this to get on the contract.

Ms. CHERFILUS-McCORMICK. Thank you. Mr. Chairman, I yield back.

Mr. ROSENDALE. Thank you, Ranking Member Cherfilus-McCormick. I now recognize General Bergman for 5 minutes questioning.

Mr. BERGMAN. Thank you, Mr. Chairman. Sometimes we learn from historical examples, sometimes we do not. Does the name Fat Leonard ring any bells with any of you? Yes, probably the biggest bribery scandal in at least modern Navy history. I will say that was an example of how not to.

Mr. Parrish, many of the crimes committed by contractors against the VA and other healthcare agencies involve bribery, kickbacks. I want to read to you just a couple of examples from the Inspector General. A Boston area spinal device company was charged for paying surgeons between 32,978 in bribes. A Florida lab owner was charged for perpetrating a \$53 million fraud and kickback scheme related to genetic cancer screening. A doctor licensed in

Texas and Oklahoma allegedly accepted kickbacks in return for writing prescriptions for certain compounded drugs. Mr. Parrish, do you have any procedures in place to detect suspicious ordering patterns, unusual changes to contracts, or other activities that may indicate criminality?

Mr. PARRISH. Let me pass that off to, I think, either Dr. Billups or Mr. Christy, or we will take that for action and get an answer back.

Ms. BILLUPS. Thank you, sir, for the question. Some of the things that—is there something in place today? The answer is no. One of the things that we are planning on doing is looking—

Mr. BERGMAN. Can I ask you a question?

Ms. BILLUPS. Mm-hmm.

Mr. BERGMAN. If this is not new, why? If you are planning on doing something, how long do we have to wait before there are, if you will, triggers in place that would detect activity? What are we waiting for?

Ms. BILLUPS. We are really not waiting on anything. It is something that we have been talking about internally. What—

Mr. BERGMAN. Do we have a timeline? Do we have a plan of action and milestones where we can say, 6 months from now, a year from now? What are we thinking here?

Mr. PARRISH. Congressman Bergman, I think to get to the gist of your question is we are implementing independent verification validation procedures, which will help and go toward assisting checking on contracts and focusing on the large contracts initially. We hope to have that in place by the end of the fiscal year. We have started that by, as I mentioned, having a draft RFP.

Mr. BERGMAN. Well, the bottom line, this committee, we appreciate all you do, but we are required as Members of Congress to hold to timelines. I just I am curious, I mean, if I am the Fat Leonard of the guy working inside the VA system to do what I am doing nefariously and illegally, then I know that I can just keep on doing it because there are not anything in place yet. I am a little concerned with that, but I would like to go down a different way here.

Ms. Jones, as VA CIO, Mr. DelBene committed to recuse himself from being directly involved in any VA procurement decisions of importance to his former employer Microsoft. Yet, since his appointment, the VA awarded Microsoft 1.6 billion licensing agreement contract on April 1 of 2022. Was Mr. DelBene involved in the decision?

Ms. JONES. Thank you for that question, sir. The answer is absolutely, positively no.

Mr. BERGMAN. Okay. Do you feel any pressure—

Ms. JONES. I feel absolutely no pressure.

Mr. BERGMAN [continuing]. to give Microsoft extra business?

Ms. JONES. I would say we are not giving Microsoft extra business.

Mr. BERGMAN. That is not what I asked you. I said, do you feel any pressure?

Ms. JONES. I feel no pressure.

Mr. BERGMAN. Okay. Ms. Jones, what is your policy to ensure that a broad range of companies can compete for business in their areas of unique expertise, for example, video conferencing and cy-

bersecurity, moving forward, given Microsoft's ability to bundle, because having been in the private sector, working for small companies, working for large companies, I know a little bit from personal experience how things can work. Should we be concerned as the committee that there is a threat to good competition because of the reason for making the decision is, well, it is easier to bundle. We can do with one vendor as opposed to several.

Ms. JONES. The government does not determine, sir, when industry bundle their products. The Microsoft contract that we currently have in place was awarded prior to the CIO's appointment. Second, for every acquisition that we have, again, we look at the market research to determine—

Mr. BERGMAN. Okay.

Ms. JONES [continuing]. but we also look—

Mr. BERGMAN. I appreciate it. My time is up. I yield back.

Ms. JONES. Thank you.

Mr. ROSENDALE. Thank you, General Bergman. We are going to recess now for votes. I am sure you all have been tracking, as I have, and we expect to resume at approximately 10:50, but it will be 15 minutes after the last vote.

[Recess]

Mr. ROSENDALE. Okay. We are beginning again. Thank you for your patience. The country appreciates it. I would now like to recognize Mr. Mrvan for 5 minutes of questioning.

Mr. MRVAN. Thank you, Chairman. I have introduced legislation to create an acquisition review board at the VA this Congress and testimony last week. VA was supportive of this legislation. I am happy to continue working with the VA on providing structure and solutions to ensure that the award and the management of large contracts ensures that we are making the best use of taxpayer funds and provide better healthcare and benefits to veterans. Dr. Billups, I appreciate your testimony and participation in our hearing last week and would like to give you an opportunity to discuss how this legislation will help VA with issues relating to conflicts of interest and competition.

Ms. BILLUPS. Thank you, sir, for the question. This particular legislation would really help from the standpoint that this gets back to the heart of just starting to look at a program from the aspect of that executive that is in charge of that particular mission area. As that executive in charge of that particular mission area, they have to put together the business case to support whether or not VA will actually be approving the program to move forward.

As it relates to competition and OCI, this is also an area that they can start looking at also because they are the ones who know the different contracts that, across their portfolio, may be using similar contracts, or the executives, their peers in VBA, VHA, as well as National Cemetery Administration (NCA). Some of the things that we can work on is helping them to understand how important some of these areas are as it relates to competition. What is that current landscape as it relates to the contractors that are doing business with VA, how those contractors, and there may be that potential of an organizational conflict of interest. We are working all of these things together from the beginning in the outset with that executive that is in charge, and then moving that into

the acquisition lifecycle where the acquisition workforce can provide that support, as well as the CIO, the Chief Human Capital Officer (CHCO), the Human Capital Chief, as well as the CAO, and Finance and all of that kind of working together. That is the way that this acquisition review board can really help us to make some improvements in all of these areas.

Mr. MRVAN. Okay. My follow-up is, Dr. Billups, once we are able to move this legislation forward and codify this board, what in the future should we be focusing on as it pertains to providing you with tools and resources you need to effectively manage acquisitions and guard against conflicts of interest?

Ms. BILLUPS. We already, at the present time, have a plan for improving acquisition management from an end-to-end perspective at the VA. The GAO came out... and I think you mentioned GAO, Acquisition Management was on the GAO high risk list as of 2019. We, actually, have done—something that from what was shared with us from the Comptroller General, is that VA got its acquisition plan, I mean, its action plan to address those areas of concern in the GAO high risk list in a matter of 3 years. It has never been done before, according to the Comptroller General.

What we are doing now, we are moving from a plan to some strategies and some action. I can tell you we do have some gaps as it relates to resources to really, fully implement all the things that we have planned to do. That is one of the reasons why we put a ticket in for the Accident Review Board (ARB) for \$25 million in 2024. We will need additional resources as we flush out the activities that are in the plan. In Fiscal Year 2023, we have started working through all those activities that are in that plan, and we have already identified areas where we need additional resources.

Mr. MRVAN. Thank you. Mr. Parrish, I wanted to give you an opportunity to be able to talk about acquisition maturity and the level that you are taking that to.

Mr. PARRISH. Sure. Thank you for that question, Congressman Mrvan. I guess what I want to highlight here is when I first took over this role back in March 2021, there was a belief that acquisition in VA was, you know, focused on individual administrations and kind of a focus on contracts only. As Dr. Billups said, we have grown exponentially over the last couple of years to focus on lifecycle management. Acquisition, as we say, big A acquisition, and it starts from cradle to grave, and we have implemented a lot of different policies and processes.

One of the biggest impacts under the guidance and leadership of Secretary McDonough is around the jointness and transparency. It is really working collaboratively across the enterprise, working with all the entities, VHA, VBA, NCA, and focusing on understanding the business need from the very beginning, getting the requirements established correctly, and understanding what success looks like and have those metrics established before we ever start any major program. It really gets to the heart of really focusing on a systematic approach to be able to do some of these deployments of long term, major complex systems and trying to fix some of these efforts.

More work to do. I am very proud of being part of this team. As I say, can I borrow from someone, we say acquisition is a team

sport in VA now, and I think everybody is moving forward in the right direction. We are really working closely with the CIO, the Chief Financial Officer (CFO), and other teammates across the enterprise.

Mr. MRVAN. Thank you, Mr. Parrish. Mr. Chairman, with that, and I had a private moment with you where I want to compliment him. Besides his tough exterior, I hope you all noticed his Ken dress-like for Ken and Barbie today. We should all make sure that he made that effort in support of the movie that is coming out.

Mr. ROSENDALE. Thank you.

Mr. MRVAN. Chairman Ken——

Mr. ROSENDALE. I understand Ken was getting——

Mr. MRVAN [continuing]. I mean, Chairman Rosendale——

Mr. ROSENDALE [continuing]. I understand Ken was getting a bad rap, so I just thought I would I stand up.

Mr. MRVAN. I noticed it right away, sir.

Mr. ROSENDALE. Thank you.

Mr. MRVAN. Montanans will love that.

Mr. ROSENDALE. Absolutely. Thank you, Representative. I now recognize Representative Radewagen for 5 minutes of questioning.

Ms. RADEWAGEN. Thank you, Mr. Chairman. My question is for Mr. Parrish. Do you believe it may create an organizational conflict of interest when a company staffs a senior executive or political appointee's office and at the same time holds contracts to perform projects for that office?

Mr. PARRISH. I believe if you can reword the question, ma'am?

Ms. RADEWAGEN. There is no other way to. Do you believe it can cause an organizational conflict of interest when a company staffs a senior executive or political appointee's office and at the same time holds contracts to perform projects for that office?

Mr. PARRISH. You are asking, if I understand the question, you are asking if a vendor or a contractor has one of their executives inside, like a VA organization or a government organization is that the question?

Ms. RADEWAGEN. I think that is what I am asking, yes.

Mr. PARRISH. Yes, ma'am. I think it depends, and it is based upon the FAR requirements. We do have a requirement that if they are doing program management support, they are not allowed to do, or they are not allowed to participate in the solicitation for a program in that area. That is part of the FAR and part of our VA acquisition regulations as well. It is possible would be the right answer? It depends.

Ms. RADEWAGEN. As a follow up, Ms. Jones, is it accurate that some of the companies that support or have supported the Office of Information Technology (OIT) front office also provide software or develop systems for VA?

Ms. JONES. Thank you for that question, ma'am. I am not aware of that, and I can take that for the record.

Ms. RADEWAGEN. How do you monitor or restrict the information, Ms. Jones, those contractors are privy to in the course of facilitating meetings, managing calendars, preparing briefing materials, or other support functions?

Ms. JONES. Can you repeat the question, please?

Ms. RADEWAGEN. How do you monitor or restrict the information those contractors are privy to in the course of facilitating meetings, managing calendars, preparing briefing materials, or other support functions?

Ms. JONES. First and foremost, and I want to speak particularly about the acquisition meetings, we do not have contractors in those meetings. I am personally responsible for the Federal IT Acquisition Reform Act, of which the CIO is responsible for reviewing all IT acquisitions and acquisition plans. We do not have any contractors in those meetings, so they are totally restricted from that.

Ms. RADEWAGEN. Okay, so back to Mr. Parrish, what functions do contractors perform in your organization, either onsite, in VA offices, or remotely? As a follow up, how do you monitor and restrict those contractors' activities or access to information?

Mr. PARRISH. I do know that we have, and I can let my teammates here discuss what certain small business vendors do for them, we do have some program management support offers that work and help with some of the analysis of some of the work we do. However, I will reiterate that for those that are doing that area, they are not bidding on contracts that they otherwise would be helping us to facilitate. I do not know if Phil or Angela, you want to add on some of your contractors are working on?

Mr. CHRISTY. Yes, one thing that I think all of us maybe did not get to get out is in those types of situations, you mentioned access to calendars or maybe shared drives, things of that nature, information that the VA uses to operate, those type of support contractors do have to support nondisclosure agreements.

Ms. RADEWAGEN. Okay, so, Mr. Parrish, let us take today's hearing, what involvement did contractors have in preparing for today's hearing?

Mr. PARRISH. With me, none.

Ms. RADEWAGEN. Thank you. I yield back.

Mr. ROSENDALE. Thank you very much Representative Radewagen. As we have discussed, the thing that we are trying to address here is conflict, but not only the conflicts, the actual conflicts, but the perception of conflicts. Mr. Parrish, you laid out very clearly that increased transparency is the best way for us to achieve that. Daylight is the best disinfectant, as they say.

Ms. Jones, I understand you are responsible for engaging with IT vendors about contracting opportunities and maintaining relations with existing contractors. Can you explain exactly what that entails?

Ms. JONES. Yes, sir, Mr. Chairman, thank you so much for that question. My IT Vendor Management Office is responsible for contractors who are either doing business with us or want to do business. What we do is we bring them in and we talk about their capabilities from a market research perspective. One of the things that we say upfront and early in any discussion is, one, we do not talk about ongoing solicitation. Two, I can not and will not, I can not guarantee you any contract because it has to go through the procurement process. We actually use that information for market research.

Mr. ROSENDALE. Okay. Do other OIT employees also engage with IT vendors?

Ms. JONES. The answer is yes. However, we highly recommend that they use my IT Vendor Management Office to schedule those meetings. Therefore, we keep some consistency going on and we make sure that we do not talk about those things that I just said.

Mr. ROSENDALE. How do you actually outline and enforce what they are permitted to do and what they are not to do?

Ms. JONES. First of all, we give them training. Second, I personally attend most of the vendor session meetings. If I do not, one of my other executives do, or my vendor management director attends those meetings. To the best of our ability, we put controls in place.

Mr. ROSENDALE. Okay. Ms. Jones, how do the other OIT senior leaders engage with IT vendors, either with you or independent of you?

Ms. JONES. They definitely—thank you, sir—they definitely engage with me because as vendors are coming in, one of the first things that we ask for is what are your capabilities? I want to make sure and we want to make sure that if you are providing a capability, then we have the right OIT stakeholders in the session to hear those capabilities.

Mr. ROSENDALE. Are there any times that an OIT employee would engage with a vendor by themselves?

Ms. JONES. Well, first of all, to the best of my knowledge, I am not there to police every OIT employee, so I can not definitively say yes or no.

Mr. ROSENDALE. Let me ask, is all of the scheduling, 100 percent of that, do you have access to that?

Ms. JONES. I have access to the scheduling that my office schedules because it is from my calendar.

Mr. ROSENDALE. Okay. Ms. Jones, how does Assistant Secretary DelBene specifically engage with IT vendors?

Ms. JONES. First of all, I am the one that schedules the sessions that he is going to have with any vendor when it comes to meetings.

Mr. ROSENDALE. Okay. Specifically, are those appointments, you are scheduling those, then what other staff participates? Do we always have additional staff in there?

Ms. JONES. Absolutely. It depends upon the capability that the vendor is coming in to talk about. Our goal is to make sure that we have the right OIT stakeholder there.

Mr. ROSENDALE. Microsoft is a very significant VA contractor. How many times in the last 2 years have you met with Microsoft? Roughly how many times have other OIT officials met with Microsoft?

Ms. JONES. Thank you. That question I would have to take for the record because I am not counting or I do not have account in my head how many times every OIT vendor has met with Microsoft.

Mr. ROSENDALE. Okay, we would like to have that. I mean, could you make an estimate? Five times, 10 times, 25 times?

Ms. JONES. No, sir, I will not make an estimate.

Mr. ROSENDALE. Okay.

Ms. JONES. I will take it back for the record and we will look at the calendar. You know, Microsoft is a contractor that was there prior to our CIO.

Mr. ROSENDALE. We should be able to, if you can just look at the calendar, we should be able to get that sometime next week then, provide that information?

Ms. JONES. I will do my best to get it to you, sir, absolutely.

Mr. ROSENDALE. Thank you. Ms. Jones, to the best of your knowledge, how many times in the last 18 months has Assistant Secretary DelBene met with Microsoft?

Ms. JONES. Absolutely zero, to my knowledge. To my knowledge, zero.

Mr. ROSENDALE. Okay. I would appreciate if you would also check in with him as you are checking the calendar so we can get an accurate description of that as he is not here for me to ask.

Ms. JONES. Yes, sir. If I may, when it comes to the Assistant Secretary and Microsoft, it is my responsibility to make sure that he does not meet with them and I am pretty adamant about that.

Mr. ROSENDALE. Okay. Ms. Jones, committee staff met with Assistant Secretary DelBene on April the 27th. During that meeting, we learned that there is no formal process to document when Mr. DelBene recuses himself from Microsoft related matters. No official process. The Office of General Counsel attorney present agreed that it would be a very good idea to start keeping a record of Mr. DelBene and other VA executives' recusals when they actually recuse.

On May 10, Chairman Bost sent a letter asking for a summary of VA's plan to document these recusals. VA never answered. The Chairman followed up on June the 5th with another letter. There still has been no answer. I would love to give you folks the benefit of the doubt. Right now, you have no way of proving why Mr. DelBene has ever recused himself. The fact that you have not responded to the two letters that simply asked for a plan to start documenting the recusals does not inspire confidence in me or this committee. We need a response to that. When will the VA respond?

Ms. JONES. Thank you, sir. I am a veteran myself and I do—

Mr. ROSENDALE. Thank you for your service.

Ms. JONES [continuing]. take my job extremely seriously. I will personally go back and I will work with our office and with the Office of Congressional and Legislative Affairs (OCLA) to see when we can get you that response.

Mr. ROSENDALE. As we get the information next week, I am assuming, for the calendar, if you could give us a response next week on when this other information will be forthcoming, it would be greatly appreciated.

Ms. JONES. Absolutely, sir.

Mr. ROSENDALE. Thank you so much. With that, we are going to start the second round of questioning and go to Chairwoman Kiggans for 5 minutes questioning. Thank you.

Ms. KIGGANS. Thank you very much, Mr. Chair. Mr. Parrish, the Secretary's May 31 letter was not concerned about any conflicts of interest at McKinsey and its clients. When did anyone at the VA first become aware that McKinsey also had opioid manufacturer

clients and was advising them on how to sell more pain pills to the VA and other healthcare organizations?

Mr. PARRISH. Congresswoman Kiggans we will take that for the record, and I will have to get you a better answer back. I am not aware.

Ms. KIGGANS. Okay. Along those same lines, do you know, did McKinsey ever certify in its contract proposals that it had any potential organizational conflicts of interest related to the opioid manufacturer clients or any other situations?

Mr. PARRISH. I will take that for action also——

Ms. KIGGANS. Okay.

Mr. PARRISH [continuing]. and get an answer back for you, ma'am.

Ms. KIGGANS. That was kind of the premise of my letter also. Then, Mr. Parrish, when someone did become aware of this, what was done to assess the situation, determine whether it posed a problem?

Mr. PARRISH. Without getting into details, I do know that we are continuing to look at that, and I mentioned that there are certain investigations ongoing. Once we have that resolved, we will be able to give you a better answer on that.

Ms. KIGGANS. Okay. Yes, please do. I would be curious. Now I would like to list some inherently governmental functions that contractors can support but are prohibited from performing. These come directly from the Federal Acquisition Regulations, and I assume the panel is familiar with them. There are reorganizations and planning, developing policy, developing regulations, developing requirement, and contracting documents. The VA has multiple contractors working in each of these areas today. How are these contractors monitored and is there anything in place to make sure they do not cross the line and start making decisions for the VA?

Mr. PARRISH. I will defer that to some of our colleagues who actually have those contractors working with them. Joe, if you want to give an example. I do know that one of the rules that we have, as I mentioned earlier, ma'am, is that if they are doing internal work on our support, program management, they are not allowed to be able to bid on any kind of efforts that they might be helping or assisting with. I will pass it to Joe.

Mr. MALETTA. For awareness, my responsibilities for the Veteran Health Administration procurement organization alone for our administration in support of our acquisition community, my office, we do not have any contractor support, with the exception of some contracting staff that actually do non-inherently governmental functions to support and help us execute the administrative part of contract administration, such as preparing documents for closeouts, et cetera. We do not have any other contractor staff that help us with acquisition plans, et cetera.

Ms. KIGGANS. Does anyone else?

Ms. BILLUPS. Also, just like you said, in the Federal Acquisition Regulation, as it relates to inherently governmental, each one of those contracting officers also has a responsibility to work with their program offices to make sure that that determination has been made for each of those requirements. That is a requirement that is in the FAR. They have to list that information. They have

to have documentation in the file that they have had those conversations and that is a requirement, like I said, that is in the Federal Acquisition Regulation.

Mr. PARRISH. I will also pass to Ms. Jones.

Ms. JONES. Yes, ma'am. We do not have any, to the best of my knowledge, contractors doing anything that is inherently governmental functions. We do have technical management services contractors and they are working on, for example, some architectural designs of our programs. They are also doing configuration management. They may be doing some testing. They are working for our government program managers or our portfolio managers.

Mr. PARRISH. If I could just finalize that ma'am, is for all of contracts, and it is still a work in progress, all of our contracts, we expect any support contract services, or otherwise, to have clear deliverables and expect them to deliver what they promise on time and on budget.

Ms. KIGGANS. Thank you and I look forward to following up with you guys, hopefully next year and hearing how some of the changes you are putting in place are going to improve the system. Thank you very much, I yield back.

Mr. ROSENDALE. Thank you very much, Chairwoman Kiggans. I will now recognize Ranking Member Mrvan for 5 minutes of questioning.

Mr. MRVAN. Thank you. Ms. Jones, how long have you been the CIO?

Ms. JONES. I am sorry sir, I could not hear you.

Mr. MRVAN. How long have you been in your position?

Ms. JONES. I have been in the Department for 12 years. I have been in this current position since 2018.

Mr. MRVAN. Okay. Since 2018, has Microsoft been awarded a contract?

Ms. JONES. We have—

Mr. MRVAN. Let me rephrase the question. For how long has the VA utilized Microsoft?

Ms. JONES. From a Federal Government perspective, as you know, all of us use Teams, all of us use MS Word. Microsoft is, that infrastructure has been in our department at least since I have been there. I would say if you look from a Federal Government perspective, if we are all using Word, we are using Microsoft. If we are all using Teams, we are using Microsoft.

Mr. MRVAN. Okay. Do you have the information with you on what the spend was for the VA through your oversight for 2018, 2019 and 2020?

Ms. JONES. I do not have it with me, but I can get it, sir. I can take that for the record.

Mr. MRVAN. Okay. Thank you very much.

Ms. JONES. Yes, sir.

Mr. MRVAN. Mr. Parrish, we have heard from a large number of service-disabled veteran owned small businesses that they are concerned that these large companies are putting them out of business. There are complaints of high fees being charged by distributors and a lack of use of the blanket purchase agreements that veterans' small businesses are awarded. What are you doing to ensure that the next version of the MSPV contracts that these large com-

panies are not able to sell their supplies in place of the veterans' small businesses?

Mr. PARRISH. I will defer to Mr. Maletta first, and then I will have another additional response on a macro scale. Joe?

Mr. MALETTA. Thank you, sir, for that question. I think it is most important to note that the upcoming Med Surg Prime Vendor contract will have accountability for the prime vendors to utilize the blanket purchasing agreements that have been established by the folks in my office, of which greater than 50 percent of them are small business concerns. That accountability will help us to determine whether or not there is any gamesmanship or malfeasance going on if a prime vendor is not utilizing the vendors we have assigned to them to utilize. That has been in response to our similar concerns as to what you just expressed.

Mr. PARRISH. If I could just highlight, you know, we acknowledge that the amount of small businesses getting contracts government wide has been significantly reduced over the last 10 years. I think there are some concerns around consolidation of industry where small businesses are being acquired by the largest, and that is one area. I think the other area is we have created an unintentional bias against small businesses to be able to bid on some of our contracts, especially in the IT space. For example, as the cloud services are exponentially growing in technology, the FedRAMP rules, which are absolutely required to make sure that we have proper cybersecurity oversight, it takes years to get FedRAMP certified, and it takes hundreds of thousands, if not millions of dollars to get FedRAMP certified. In fact, the FedRAMP, Federal Risk and Authorization Management Program, has been around since 2011, and only 300 cloud offerings have been certified. That basically limits who can then bid on our new contracts that we are putting out that are cloud-based and cloud services. We have to find a way, government wide to improve some of these regulatory requirements to help small businesses.

Mr. MRVAN. Okay. With that, I yield back.

Mr. ROSENDALE. Thank you, Ranking Member Mrvan. Mr. Parrish, the attitude of the VA toward documenting ethical matters seems to be extremely hands off. There seems to be no process whatsoever to track organizational conflicts of interest or recusals. You and the other panelists have assured us that everything is fine, but you have very little to show us to demonstrate that is true.

You can not provide transparency if we do not have any documentation or record to look into. I mean, I have got a very old saying that has been helpful to me in my business, inspect what you expect. If you do not have any documentation or record, then you are not going to be able to provide that transparency. You have no way to measure. You have no way to check. Do you believe that you, personally, and the Department of Veterans Affairs as an organization, need to do better? What specifically can you do, are you willing to do to provide this transparency, this documentation?

Mr. PARRISH. Thank you for that question, Chairman Rosendale, and you have my commitment that we will do better and make sure that we have proper documentation based upon your earlier comments. I will follow back up with you and your staff.

Mr. ROSENDALE. Again, we need to see some processes, okay, that you are going to be following. Mr. Parrish, if a company holds contracts in competing areas such as Veterans Health Information Systems and Technology Architecture (VistA) and Cerner or the VA's internal scheduling project and commercial scheduling software, or maintaining the existing human resources systems and replacing it, do you believe that may give rise to a conflict of interest that requires further scrutiny?

Mr. PARRISH. To your earlier comment, Chairman, I believe there is potential for perception of conflict. One of the things I do want to reinforce of what we have been doing, I will use the supply chain modernization effort as an example that the panel has talked about, is we are really focused on overcommunicating and having large transparency and jointness with our vendors and our industry partners. We talk to them quite a bit. Industry days, we have had lots of draft RFPs. One of the requirements we do with these big programs is once we think we are ready, instead of just throwing it over the fence to industry, we make sure industry has input. By shining sunlight on that, every vendor has the opportunity to see it. There is not one vendor that gets an advantage.

We have communications with companies all the time and we offer up, if one company wants to come give us a discussion, we offer it up to everyone else to be able to have that same kind of discussion. We always post any of the questions and answers that are posted out there fully transparent on SAM.gov. You can use the supply chain modernization effort that is ongoing right now with the RFP on the street that you can see that we have leveled the playing field from an e-library that has all of our internal workings and all our technology that everybody can see.

Mr. ROSENDALE. Okay. Mr. Parrish, do you consider it permissible for the same company to support a project and actually perform that project? For example, the electronic health record modernization or the human resources modernization?

Mr. PARRISH. If you are mentioning, Chairman, the Program Management Office Services—

Mr. ROSENDALE. Mm-hmm.

Mr. PARRISH [continuing]. that is one of the rules that I mentioned earlier, that if someone is providing internal support to us, then they are not allowed to bid on that same support contract. For supply chain, if they were doing supply chain admin work, they were not allowed to bid on the supply chain solicitation.

Mr. ROSENDALE. Okay. Mr. Parrish, how about if two companies merge and the combined entity is supporting and performing the project?

Mr. PARRISH. That does trigger a review and that is where we have to go back and look at it inside the team with the contracting officer.

Mr. ROSENDALE. Okay. The VA is obviously not the Justice Department and can not impact a merger. What would you do in that situation?

Mr. PARRISH. I am not going to speculate, but I will take that for action, Chairman.

Mr. ROSENDALE. Okay. Again, this is something that we need to have the process laid out so that we can see so we have some kind of consistency of the application.

Mr. PARRISH. Yes, sir.

Mr. ROSENDALE. Okay. We have lost our ranking member. Representative Radewagen, do you have any additional questions?

Ms. RADEWAGEN. Thank you, Mr. Chairman. I have no additional questions at this time, but I am happy to yield my time to you.

Mr. ROSENDALE. Okay. I have got my questions all filled up. That was my last one. It looks like we are in good shape. Where is my closing? Here we go. Okay.

Thank you again for all the witnesses this morning. As our time has concluded, I will dispense the closing remarks. I want to assure everyone the committee will be continuing to monitor these issues which are so important to the integrity of the Department of Veterans Affairs. With that, I ask unanimous consent that all members have 5 legislative days to revise and extend their remarks and include extraneous material. Without objection, so ordered. This hearing is adjourned.

[Whereupon, at 11:27 a.m., the subcommittees were adjourned.]

A P P E N D I X

PREPARED STATEMENT OF WITNESS

Prepared Statement of Michael Parrish

Good morning, Chairman Rosendale, Chairwoman Kiggans, Ranking Member Cherfilus-McCormick, Ranking Member Mrvan, and Members of the Subcommittees. I am pleased to appear before you today to discuss competition trends in VA's procurement, VA's enforcement of organizational and personal conflict of interest regulations, and the Department's use of professional and management consulting service contracts. Joining me today are my colleagues, Mr. Phillip Christy, Deputy Executive Director, Office of Acquisition, Logistics, and Construction; Dr. Angela Billups, Executive Director, Office of Acquisition and Logistics and Senior Procurement Executive; Mrs. Luwanda Jones, Deputy Chief Information Officer for Strategic Sourcing from the Office of Information Technology (OIT); and Mr. Joseph Maletta, Executive Director for Acquisitions from the Veterans Health Administration (VHA).

As the committee is aware, VA's procurement of goods and services has grown from \$20.2 billion in fiscal year (FY) 2012 to \$56.2 billion in FY 2022, which is a 177.3 percent increase over a 10-year period. This increase represents a significant rise in procurement workload and the need to efficiently and smartly execute all the contracting requirements that support VA's mission needs. Even with this increase, VA has always placed great importance on adhering to all laws and regulations and maintaining the trust of Veterans and taxpayers in the proper execution of the procurement of all goods and services that support VA's mission. To deal with the major increase in procurement activities over the last 10 years, VA established a formal category management program to support the smart and efficient execution of how it buys goods and services. The Department has executed a robust and efficient category management program to drive how VA spends its financial resources on procurement. VA's program was devised in accordance with the Office of Management and Budget (OMB) Memoranda M-19-13, *Category Management: Making Smarter Use of Common Contract Solutions and Practices* and the results thus far have been exceptional.

In FY 2022, VA achieved an OMB standard of 90.1 percent for spend under management, exceeding the OMB goal of 87 percent. VA aggressively promotes the use of fair competition and opportunities among all prospective vendors for VA awards; uses a variety of contracting vehicles to smartly meet the Department's needs, ensures competition, and delivers results that save taxpayer dollars while providing world class health care and benefits to Veterans; VA's procurement processes include risk management controls to ensure compliance with applicable laws, regulations, and VA policy. VA also uses an acquisition lifecycle framework to enable the development of effective requirements, appropriate acquisition approaches; identification and mitigation of potential organizational conflicts of interest, and targets the prevention of duplication, waste, and unethical or unfair behavior.

The Competitive Procurement Process

VA's Procurement program is consistent with OMB Memoranda M-19-13, *Category Management: Making Smarter Use of Common Contract Solutions and Practices* and has not resulted in the loss of competition nor hindered VA's enforcement of organizational and personal conflict of interest regulations. In fact, VA has demonstrated exceptional results the last 5 years with competition rates and, as of July 10, 2023, continues to maintain this tradition and is achieving a 97 percent competition rate for all procurements.

To complete our contracting needs while ensuring robust competition, we use a host of Federal contractual vehicles, including Government-Wide Acquisition Contracts (GWACs), General Services Administration (GSA) Federal Supply Schedules program, and VA strategic and individual contract vehicles. We regularly review requirements to improve the efficiency and effectiveness of acquisition activities to further VA mission outcomes, service delivery, and effective stewardship. Category management principles seek to identify unnecessary contract duplication using OMB recognized spend under management contract vehicles. However, the use of

spend under management contracts are not prioritized at the expense of the agency's Veterans First contracting program nor small business goals.

As part of our VA category management program, we actively work to create strategic intelligence activities to include reviewing government and industry best practices, prices paid data, trend analysis, and other information to facilitate informed buying decisions. Our category management analyses often conclude that combining similar or duplicative procurement spend into larger enterprise actions will increase our ability to leverage our agency buying power. When consolidation of multiple requirements is determined to be in the Government's best interest, VA complies with the requirements in the Federal Acquisition Regulation (FAR) developing and approving a determination verifying the need and justification for consolidation. The written determination ensures that market research was conducted, alternative contracting approaches that involve a lesser degree of consolidation were considered, any negative impact of the acquisition strategy on contracting with small business concerns were addressed, and steps were taken to include small business concerns in the acquisition strategy. The determination must also be coordinated with VA's Office of Small and Disadvantaged Business Utilization (OSDBU) and with VA's Office of General Counsel (OGC).

Once an acquisition strategy is decided upon by contracting officers (CO), a source selection evaluation plan is created to evaluate proposals received in response to a solicitation to select a proposal that represents the best value to the Government in accordance with the FAR, VA Acquisition Regulation (VAAR) and VA Acquisition manual (VAAM). Evaluation factors are tailored to each acquisition but generally consist of technical, price, past performance, small business participation, Veterans' involvement, and Veteran employment with a weighting of all the factors. The CO's contract award decision is based upon a comparative assessment of proposals against all source selection criteria in the solicitation. While the CO may use reports and analyses prepared by others, the source selection decision represents the CO's independent judgment. The source selection decision is documented, and the documentation includes the rationale for any business judgments and tradeoffs made or relied on by the CO, including benefits associated with additional costs.

Competition, Competency and Organizational Conflicts of Interest

Because of VA's large annual spend on contracts, it is not uncommon for a vendor to be selected for several different requirements, but the Department follows the competitive acquisition process outlined above. It should be noted that contractors are selected based on their competency and ability to successfully respond to the solicitation requirements. Many companies have multiple areas of expertise and compete on requirements for different services throughout the enterprise. Prior to an award, a determination is made to ensure the awarded contractor is competent in the areas that they are providing services. Where there is the potential for related services to be provided by the same company, the solicitation includes Organizational Conflict of Interest (OCI) clauses requiring vendors to disclose if they believe there is a conflict as well as put them on notice that if they were to win the contract, they could be conflicted out of potential future work.

If any potential OCIs are identified, these are brought to the attention of the CO who investigates the potential OCI in conjunction with the requiring program activity. The results of the investigation are shared with Office of General Counsel (OGC) for their review and advisement. If the CO determines an actual or potential OCI exists, the Government must act to avoid, neutralize, or mitigate the actual or potential OCI. In the last 12-months VA has received three major OCI complaints by industry and VA conducted thorough analysis and determined OCIs did not exist. These three instances were challenged by industry and were independently investigated by the Government Accountability Office (GAO) and the GAO also determined OCIs did not exist, and VA followed proper procedures in the determination process. VA does have one current high visibility OCI allegation which is still under investigation. VA will follow its established procedures and make a final determination once the investigation is completed.

VA takes the concern of OCI seriously and ensures its contract awards comply with the FAR, VAAR and VAAM. Furthermore, VA requires the inclusion of OCI as a topic as part of all Senior Executives and Acquisition Workforce annual mandatory ethics. Safeguarding sensitive information and compliance with ethical behavior is a high priority for VA. As such, we embrace the principles of least privilege in all our daily activities; this extends into our management of contracts and our oversight of contractor personnel.

Industry-wide vendor consolidations have been ongoing for years in the marketplace. Due to size and scale, many of VA's contracts consist of a prime contractor working with one or more subcontractors, either directly managed or through a joint

venture. As subcontractors may only provide specific targeted outcomes for the prime on a part-time basis, the subcontractors employees may participate in multiple VA contract actions at the same time. This necessitates our use of confidentiality and Non-Disclosure Agreements (NDAs). These artifacts specifically discuss requirements for contractor personnel to safeguard information and not disclose information to unauthorized individuals. In addition, VA's contract language requires contractors to limit access to the minimum number of personnel necessary for contract performance for all information considered sensitive or proprietary. To be clear, an NDA alone is not sufficient to avoid or mitigate an OCI for the prime and subcontractor. When a prime or subcontractor is identified as potentially participating in related contracts, the government OCI investigation would take into consideration whether the prime and subcontractor performance under one contract would impact or create impaired objectivity, unequal access to information, or biased ground rules on the additional or new contract.

Information Security

Safeguarding Veteran data is VA's top priority. All contractor and subcontractor employees requiring access to VA information or VA information systems must pass a security background check and complete the VA Privacy and Information Security Awareness training and acknowledge their understanding of any responsibilities for compliance by signing VA Information Security Rules of Behavior.

When it comes to VA's development of future acquisition needs, we closely safeguard the sensitive information from our industry partners by ensuring this information is not included in written or oral communication that would give any incumbent vendor a competitive advantage. When our market research and contract development activities necessitate industry interaction, we make use of broad industry announcements to ensure all potential bidders receive equal access to information provided and equal access to provide feedback on VA's approach to acquiring future products and services.

In reference to vendors performing work across VA's enterprise, situational awareness is ascertained and made available by using data captured in various systems including, but not limited to, Contractor Performance Assessment Reporting System (CPARS) and the Federal Procurement Data System—Next Generation. Reports are routinely run by COs and program offices leveraging these systems to obtain oversight of a contractor's portfolio within VA's enterprise. Additionally, the program office and contracting officer representatives and COs continuously monitor performance and enter performance information into these systems to allow for the documentation of this information.

Regarding the use of professional management and consulting services, VA is carefully monitoring this category of spend for work conducted by contractors while also looking for duplication of efforts as part of our category management program. It is noted that the Mission Act, the COVID-19 pandemic, and the PACT Act drove an increase in spending on professional management and consulting services contracts over the past few years. Currently, VA is projected to spend less and execute fewer contracts in FY 2023 for the purchase of professional management and consulting contracts. VA is committed to ensuring the use of professional management and consulting services is necessary and prudent.

Conclusion

Chairman Rosendale, Chairwoman Kiggans, Ranking Member Cherfilus-McCormick, Ranking Member Mrvan, and members of the subcommittees, thank you for the opportunity to speak on competition trends in VA's procurement, VA's enforcement of organizational and personal conflict of interest regulations, and the Department's use of professional and management consulting service contracts. My colleagues and I are pleased to answer any questions that you may have.

STATEMENT FOR THE RECORD

Prepared Statement of Shelby Oakley



United States Government Accountability Office

Statement for the Record to the
Subcommittees on Oversight and
Investigations and Technology
Modernization, Committee on Veterans'
Affairs, House of Representatives

For Release on Delivery
Expected at 9:30 a.m. ET
Thursday, July 20, 2023

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

GAO-23-106961

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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