

United States Senate
WASHINGTON, DC 20510

March 22, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Michael S. Regan
Administrator
Environmental Protection Agency

Dear Administrator Regan:

The Environmental Protection Agency (EPA) Office of Acquisition Solutions (OAS) is responsible for “planning, awarding and administering contracts” for the EPA.¹ Since FY 2017, “OAS has awarded over 3,500 competitively bid, negotiated contracts worth over \$2 billion for goods and services.”² The Federal Acquisition Regulation (FAR) and EPA Acquisition Regulations require EPA to “establish procedures ensuring that it does not solicit offers from ineligible contractors, award contracts to ineligible contractors, or agree to contracts listing such contractors as subcontractors absent a compelling reason.”³ Additionally, EPA employees must notify the Department of Justice (DOJ) Office of the Attorney General (OAG) of “bids that evidence violations of antitrust laws” and “report suspected collusive and antitrust vendor behavior to the Office of Inspector General” (OIG).⁴

However, EPA has reportedly failed to sufficiently oversee the contract procurement data, making the awarding of contracts ripe for fraud, waste, and abuse of taxpayer money. Specifically, on March 12, 2024, the EPA OIG published a management implication report titled, *The EPA Has Insufficient Internal Controls for Detection and Prevention of Procurement Collusion*, which found that OAS lacks sufficient internal control methods to curb “collusion and anticompetitive behavior with respect to Agency procurement solicitations stored in the EPA Acquisition System” (EAS).⁵ This presents a risk to the taxpayer because collusion and anticompetitive behavior may raise the “prices of goods and services that the Agency needs to complete its mission.”⁶

¹ About the Office of Acquisition Solutions (OAS), U.S. ENV’T PROT. AGENCY, <https://www.epa.gov/aboutepa/about-office-acquisition-solutions-oas>, (last visited Mar. 21, 2024); U.S. ENV’T PROT. AGENCY OFF. OF INSPECTOR GEN., NO. 24-N-0027 *Management Implication Report: the EPA has Insufficient Internal Controls for Detection and Prevention of Procurement Collusion* (MAR. 12, 2024), HTTPS://WWW.EPAOIG.GOV/SITES/DEFAULT/FILES/REPORTS/2024-03/_EPAOIG_20240312-24-N-0027_REDACTED_CERT.PDF. [Hereinafter OIG Report].

² OIG Report, *supra* note 1, at 1.

³ *Id.* at 2 (citing 48 C.F.R. §§ 9.404(c), 405(a–b); 48 C.F.R. § 1509.406-3(a)).

⁴ OIG Report, *supra* note 1, at 2.

⁵ *Id.* at 1.

⁶ *Id.*

The OIG identified four concerns. First, “[t]he EPA does not structure all of its procurement data within the EAS to allow for the detection and prevention of fraudulent, collusive vendor behavior.”⁷ The report encourages the EPA to restructure procurement data submitted through the FedConnect portal, which “would allow OAS personnel to develop automated data analytics programs that could implement internal controls meant to detect and prevent collusive and anticompetitive behavior.”⁸

Second, “EPA has the ability to structure losing and winning bid data within the EAS to strengthen its procurement fraud detection and prevention capabilities.”⁹ The report suggests that OAS enable features in the FedConnect system to allow users to collect proposal data, search data fields, and easily compare pricing. The OIG further named a specific feature presently available in EAS that would allow users to “use the data in their pricing evaluation, collusion detection analysis, or when estimating costs for future procurement planning.”¹⁰ However, according to the report, EPA is not using this feature and told the OIG “it would review the feature to determine its viability for identifying collusion.”¹¹

Third, “EPA could strengthen guidance and training for detecting and preventing collusive behavior amongst contractors and subcontractors.”¹² While OAS staff do receive training on procurement fraud awareness, the report notes, “OAS has suggested to us that such training is insufficient for that purpose.”¹³ In response to the draft report, the EPA’s Office of Mission Support “agreed and requested the OIG’s assistance in providing more robust training on that topic.”¹⁴ Concerning subcontractors specifically, the OIG suggested that “[i]ncorporating a checklist of anticompetitive events, or practices to be aware, into a data analytics program would automate the oversight of subcontractors and potentially allow staff to detect and prevent collusive vendor behavior.”¹⁵

Fourth, “EPA’s poor management of data stored in the EAS hinders [OIG’s] ability to provide adequate oversight over the agency’s procurements for goods and services.”¹⁶ EPA has only had a “reactive approach” to oversight of this data and admitted to the OIG that “they have generally relied on whistleblowers...to provide [OIG] information of possible vendor collusion.”¹⁷ The OIG noted that it has “not received any referrals or tips from OAS staff regarding procurement

⁷ OIG Report, *supra* note 1, at 4.

⁸ *Id.*

⁹ *Id.* at 4.

¹⁰ *Id.*

¹¹ *Id.* at 4–5.

¹² *Id.* at 5.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 6.

¹⁶ *Id.*

¹⁷ *Id.*

fraud [since 2017].”¹⁸ This would be comforting if EPA had the proper mechanisms in place to conduct real oversight to catch fraud in the first place.

Without an effective internal control system to detect and prevent collusive and anticompetitive behavior, the EPA is simply incapable of conducting proper oversight.¹⁹ This is unacceptable, and the American taxpayer deserves better. Accordingly, no later than April 5, 2024, please explain what steps EPA has taken or plans to take to address the concerns raised in this management implication report.

Thank you for your cooperation and attention to this matter. If you have any questions, please contact Jace Pimentel of my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Senate Committee on the Budget

¹⁸ *Id.*

¹⁹ *Id.*