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U.S. House of Representatives
Committee on Natural Resources
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October 21, 2011

Secretary Leon E. Panetta
U.S. Department of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

Dear Secretary Panetta:

Pursuant to Rule X of the House of Representatives, the Committee on Natural Resources is granted the responsibility to "review and study on a continuing basis laws, programs, and Government Activities relating to Native Americans." As Ranking Member of the Committee, I write to request documents and correspondence related to Department of Defense contracts with Eyak Technology (EyakTek) and its parent company, Eyak Corporation. Eyak Corporation is an Alaska Native Corporation over which our Committee has jurisdiction. Press reports indicate that EyakTek's former director of contracts, Harold Babb, was recently arrested for allegedly conspiring with contracting officers at the U.S. Army Corps of Engineers and an EyakTek subcontractor to inflate prices and pocket kickbacks. The scheme allegedly defrauded the government out of \$20 million.

I am informed that the Army Corps manages an "Indefinite Delivery/Indefinite Quantity" contract held by EyakTek that allows a number of federal agencies and departments to place orders as needs arise—and without soliciting competitive bids—for a variety of IT products and services.¹ The current contract, known as the Technology for Infrastructure, Geospatial, and Environmental Requirements (TIGER) contract, is scheduled to last from Oct. 1, 2009 to Sept. 30, 2014, and is authorized to exceed \$1 billion.

Babb and Kerry Kahn, the Army Corps program manager responsible for placing orders under the TIGER contract, allegedly directed an EyakTek subcontractor (identified as "Company A" in the indictment released Oct. 4, 2011 by the U.S. Attorney's Office for the District of Columbia) to fraudulently inflate prices for orders placed against the TIGER contract. Kahn then made sure EyakTek was paid these inflated amounts, and EyakTek paid the subcontractor for the fraudulent work, according to the indictment.

¹ A list of agencies and departments authorized to purchase under the TIGER contract is available at <https://tiger.erdc.usace.army.mil/buyers.aspx>.

In return, the subcontractor's chief technology officer (identified as "Co-Conspirator 1" in the indictment) allegedly gave kickbacks to Babb, Kahn, Kahn's son, and Michael Alexander, the Army Corps program director who oversaw funding for the TIGER contract and controlled a \$54 million budget. Kahn and Alexander also allegedly conspired to award contracts directly to the EyakTek subcontractor and worked with Babb and unnamed others on a scheme—still in the works at the time of the indictment—to line up for the subcontractor a five-year \$780 million contract (called the Contingency Operations Readiness Engineering & Support, or CORES, contract) that would potentially replace the TIGER contract. The subcontractor's chief technology officer allegedly paid or promised Kahn more than \$18 million and Alexander more than \$1 million in cash and luxury items. Babb allegedly received \$225,000 and was promised several hundred thousand dollars more as well as future employment with the subcontractor.

These revelations raise concerns about other Department of Defense contracts with EyakTek, Eyak Corporation, and other Eyak Corporation subsidiaries, including Eyak Services, which in September received a \$6.5 million sole source contract from the Army Corps for technical support. According to data on USAspending.gov, over the last five years, DOD has awarded these firms around \$1.5 billion in contracts, more than 85 percent of which were sole source contracts.

As part of the Natural Resources Committee Minority investigation into this matter, I request the following related to the alleged Army Corps conspiracy to defraud the government:

- All emails, letters and other correspondence between Harold Babb and employees of DOD (including constituent agencies);
- All emails, letters and other correspondence between Alex Cho of Nova Datacom and employees of DOD (Cho is not identified by name in the indictment, but according to an article posted Oct. 6 on the Washington Post web site, he is "Co-Conspirator 1" and Nova Datacom is "Company A");
- All emails, letters and other correspondence written or received by DOD employees that reference Harold Babb or Alex Cho;
- All emails, letters and other correspondence between employees of EyakTek, Eyak Corporation, or other Eyak Corporation subsidiaries, including Eyak Services, and DOD contracting officers, including the indicted Army Corps officials, Kerry Khan and Michael Alexander;
- All emails, letters and other correspondence between Nova Datacom employees and DOD contracting officers;
- All emails, letters and other correspondence between Kerry Khan and Michael Alexander;
- All emails, letters and other correspondence between Lee Khan (Kerry Khan's son and alleged participant in the conspiracy) and DOD employees; and

- The names of those chosen to serve on the selection board for the awarding of the CORES contract.

I also request the following information on the general management and oversight of the TIGER contract as well as information on DOD's contracts with Eyak companies and other Alaska Native Corporations:

- All documents (including reports, emails, memos, phone or meeting minutes or other materials) that relate to EyakTek's performance under the TIGER contract;
- All documents that relate to payments to EyakTek under the TIGER contract;
- A breakdown of the percentage of work performed under the TIGER contract by EyakTek and the percentage of work performed by each EyakTek subcontractor, along with all documents used to support this breakdown;
- All contracting officer warrants under the TIGER contract;
- A list of all those responsible for overseeing the TIGER contract (including those responsible for overseeing the Army Corps contracting officers involved in the alleged scheme), providing their names, titles, and description of responsibilities;
- Total payments to the Army Corps from each government agency or department with authority to place orders under the TIGER contract;
- A list of all contracts, grants, or other financial awards or assistance ever given by DOD (including constituent agencies) to EyakTek, Eyak Corporation, or other Eyak Corporation subsidiaries, providing, for each contract or award listed, the year it was awarded, the contracting or awarding agency, the name of the recipient, the value of the contract or award, the products or services provided by the recipient, whether the contract was sole source, and the contracting officer or officers responsible for awarding and managing the contract;
- A list of all subcontractors used by EyakTek, Eyak Corporation, or Eyak Corporation subsidiaries under current DOD contracts, including the TIGER contract;
- A list of all contracts under the authority of Kerry Khan and Michael Alexander involving an Alaska Native Corporation² or ANC subsidiary; and
- A list of all current contracts, grants, or other financial awards or assistance provided by DOD to any Alaska Native Corporation, ANC subsidiary, or group of companies that include an Alaska Native Corporation or ANC subsidiary. Each contract or award listed should include the year it was awarded, the contracting or awarding agency, the name of the recipient, the value of the contract or award, the products or services provided by the recipient, whether the contract was sole source, and the contracting officer or officers responsible for awarding and managing the contract.

² Listed at <http://fairbanks-alaska.com/alaska-native-corporations.htm>

Thank you for your assistance in responding to this request. I ask that you please provide this information within 15 days of receiving this request, or no later than close of business, Nov. 14, 2011. If you are not able to provide a full and complete response within this timeframe, I request that you have the appropriate DOD staff contact the Natural Resources Committee's Democratic staff to discuss what materials can be provided by November 14th, and to agree on a timetable for provision of the remaining documents or information which are responsive to this request. Should you have any questions, please contact Reece Rushing of the House Natural Resources Committee Democratic staff at 202-226-4627.

Sincerely,



Edward J. Markey
Ranking Member
Committee on Natural Resources