

Congress of the United States

Washington, DC 20515

October 12, 2020

The Honorable Patricia Layfield
Inspector General
U.S. Election Assistance Commission
1335 East West Hwy, Suite 4300
Silver Spring, MD 20910

Dear Inspector General Layfield:

We are writing to request an investigation of a highly questionable \$35 million contract for voter contact that the California Secretary of State's Office awarded on an "expedited basis" to SKD Knickerbocker (SKD), presidential candidate Joe Biden's main election campaign advisory firm.¹ To assist with your investigation, we are enclosing the contract, statement of work, and materials drafted by SKD.

On September 16, 2020, we wrote to California Secretary of State Alex Padilla requesting documents and information about the contract, including how it was awarded to SKD, a partisan consulting firm, and whether any sensitive voter information would be provided.² Unfortunately, the Secretary has failed to respond to our request. More recently, information reviewed by Republican leaders of the Committees appears to show that the contract is being inappropriately funded by federal taxpayer money. This new information raises even more questions about how the contract was awarded in the first place and whether SKD will have access to sensitive voter information.

Documents reviewed by Republican leaders of the Committees appear to show that the California Secretary of State's Office is attempting to use Help America Vote Act (HAVA) grant money from the CARES Act to fund the contract. If true, this is a violation of law. Specifically, the first page of the document, which appears to be the contract, references HAVA funding and the second page shows that \$12 million in federal dollars will fund the project. According to the U.S. Election Assistance Commission (EAC), HAVA grants cannot be used to get out the vote (GOTV) or to encourage voting.³ Further, the CARES Act is very specific about the use of these

¹ Lara Korte, *California to Spend \$35 Million on Mail Voting Campaign Run by Firm With 'Team Biden' Ties*, THE SACRAMENTO BEE, Aug. 27, 2020, available at <https://www.sacbee.com/news/politics-government/capitol-alert/article245279195.html>.

² Letter from James Comer, Ranking Member, H. Comm. on Oversight & Gov't Reform & Rodney Davis, Ranking Member, H. Comm. on House Admin., et al., to Alex Padilla, CA Sec. of State, Sept. 16, 2020, available at <https://republicans-oversight.house.gov/release/top-oversight-and-house-administration-republicans-probe-californias-35-million-voting-campaign-run-by-firm-with-team-biden-ties/>.

³ U.S. Election Ass't Commission, *Grants Frequently Asked Questions*, available at <https://www.eac.gov/payments-and-grants/grants-faqs>.

funds, which must be used to “prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.”⁴ Moreover, using HAVA funds for GOTV directly contradicts the letter Secretary Padilla sent to the EAC on April 14, 2020, which described how the California Secretary of State would use CARES Act HAVA funds.

According to the scope of work for the contract, “the Contractor also must design its campaign to reach all 58 counties in California. The Contractor will be highly encouraged to subcontract with a get-out-the-vote (GOTV) targeting expert.” Moreover, the proposal submitted by SKD states that “[w]e will take a close look at historical turnout and devote more resources to education and GOTV in lower performing counties.” This clearly appears to be a contract for GOTV raising serious questions about the California Secretary of State’s use of federal taxpayer money. The rules surrounding voter education using CARES Act HAVA funds are clear: targeting voters does not qualify as an allowable expense but rather as an inappropriate use of federal funds.

Additionally, it is unclear how SKD will be able to conduct GOTV without having access to voter information. For example, in its proposal, SKD proposes using eight percent of the \$35 million budget on mail. Specifically, the proposal states, “a direct mail program can deliver a tailored message to a micro-targeted universe of individuals.” The law is clear that items that are not fundamentally educational “may be considered advertising or public relations costs” and are prohibited under 2 C.F.R. § 200.421. Targeting specific voters is not voter education and is not an allowable expense of HAVA funds. This is especially troubling for a firm that does not hesitate to trumpet its relationship with Joe Biden’s political campaign. Media reports even describe the firm as “Joe Biden’s main election campaign advisory firm.”⁵ Moreover, documents appear to show that SKD intends to use several former Democratic operatives to work on the project, including a former aide to then-California Attorney General Kamala Harris. This is a conflict of interest.

Republicans on the Committees are committed to ensuring the integrity of the 2020 election. We ask that you immediately investigate the use of HAVA funds for GOTV. Any attempts to improperly use federal taxpayer money are not only unacceptable, but unlawful. Moreover, awarding a contract to a firm outside of the traditional contract process undermines the integrity of California’s federal election because it raises serious concerns about how this particular firm was chosen and what kind of voter information may become available to the firm.

⁴ U.S. Election Ass’t Commission, Guidance on Use of HAVA Funds for Expenses Related to COVID-19, <https://www.eac.gov/election-officials/guidance-use-hava-funds-expenses-related-covid-19>.

⁵ See Joel Schectman & Raphael Satter, et al., *Exclusive: Microsoft Believes Russians that Hacked Clinton Targeted Biden Campaign Firm – Sources*, Reuters, Sept. 10, 2020, available at <https://www.reuters.com/article/us-usa-election-cyber-biden-exclusive/exclusive-russian-state-hackers-suspected-in-targeting-biden-campaign-firm-sources-idUSKBN261014>.

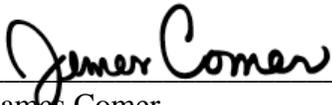
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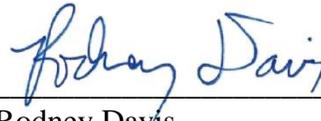
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The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you in advance for your cooperation with this inquiry.

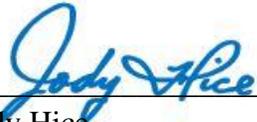
Sincerely,



James Comer
Ranking Member
House Committee on Oversight
and Reform



Rodney Davis
Ranking Member
House Committee on
Administration



Jody Hice
Ranking Member
Subcommittee on Government
Operations

Enclosure

cc: The Honorable Carolyn B. Maloney, Chairwoman, House Committee on Oversight and Reform

The Honorable Zoe Lofgren, Chairwoman, House Committee on Administration

The Honorable Gerry Connolly, Chairman, Subcommittee on Government Operations