

Congress of the United States

Washington, DC 20515

February 19, 2021

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 continuing oversight of the highly questionable \$35 million get out the vote (GOTV) contract the California Secretary of State's office awarded to SKD Knickerbocker (SKD), Joe Biden's main election campaign advisory firm. Committee Republicans have waited for the Election Assistance Commission (EAC) Office of Inspector General (OIG) to act for over four months and have provided your office with extensive information showing the misuse of federal taxpayer money. However, you have so far refused to investigate or even publicly acknowledge the issues surrounding the contract. We are again providing you with new information about the origins of the contract that should be investigated immediately. If you are no longer interested in carrying out your duties to safeguard taxpayer money, you should resign your position.

New documents obtained by Committee Republicans show that the California Secretary of State originally intended for federal taxpayers to foot the bill for the contract with no state funding. On August 25, 2020, the California Secretary of State's office signed a contract with SKD for \$35 million to be paid entirely with federal funds. Shortly after the contract was public, we wrote to then-California Secretary of State Alex Padilla on September 16, 2020, requesting documents and information about the contract.¹ While the California Secretary of State's office failed to respond, it quickly reversed course, signing a new contract with SKD on September 22, 2020—less than a week after receiving our letter—reducing the amount of federal funding to \$12 million. This raises questions about the timing of the new contract and whether the California Secretary of State's office was aware it was likely violating federal law by using federal funds for a GOTV contract.

Your decision to take no action regarding the SKD contract is concerning. We first wrote you on October 13, 2020 to provide documents showing that the California Secretary of State's office planned to use federal taxpayer money to pay SKD for GOTV, a violation of the law.² You could have verified the information or released a statement based on the evidence in the

¹ Letter from James Comer, Ranking Member, H. Comm. on Oversight & Gov't Reform & Rodney Davis, Ranking Member, H. Comm. on Admin., to Alex Padilla, CA Sec. of State, (Sept. 16, 2020).

² Letter from James Comer, Ranking Member, H. Comm. on Oversight & Gov't Reform & Rodney Davis, Ranking Member, H. Comm. on Admin., to Patricia Layfield, EAC OIG, (Oct. 13, 2020).

documents. Instead, you decided that it was best to take no action which ultimately allowed Alex Padilla to be appointed to the United States Senate without having to answer important questions about the contract. While your office is small, the SKD contract does not require an extensive investigation with numerous staff members, particularly since we provided your office with the documents needed to at least be troubled by the contract.

Your inaction raises further questions about the effectiveness and future of the EAC OIG, especially if you are provided documents showing the misuse of taxpayer money and are unable to act. This is concerning for future whistleblowers who may come forward with information about waste, fraud, and abuse. According to EAC OIG's most recent report to Congress, "[t]he OIG did not issue any investigative reports during this semiannual reporting period. We did not perform or report any investigations involving senior Government employees during the period."³ This is an understatement. The EAC OIG has apparently failed to publish an investigative report or partner with another OIG to draft an investigative report since August 2015, before your appointment as Inspector General.⁴

It also appears that you have never testified before Congress, possibly because there has been no work product to highlight. In fact, the briefing you provided to Republican Members in December 2020 raised more questions than answers. You informed us that not only had you taken no action on the SKD contract, but you would wait until later in 2021 to request an audit. Meanwhile, Committee Republicans may have saved federal taxpayers millions of dollars by conducting oversight of the contract in September 2020 when the California Secretary of State reversed course and decided to use less federal money shortly after hearing from us.

It appears that SKD will be paid for the contract if you do not act. According to the *Sacramento Bee*, the California Secretary of State's office has received \$34 million worth of invoices for the contract.⁵ While the State Controller has so far refused to approve payment, Governor Newsom stated the contract would soon be paid and the California Legislature recently introduced a budget amendment that would apparently allow payment of the contract, including \$12 million in federal taxpayer money.⁶ Since you still have the opportunity to save federal taxpayer money from being misspent, we ask that you inform Committee Republicans whether you intend to take action or even publicly acknowledge the troubling aspects of using federal taxpayer money to pay Joe Biden's main political advisory firm to contact voters during the 2020 election. Alternatively, if you no longer wish to carry out the mission of the EAC OIG to root out waste, fraud, and abuse in EAC programs, please consider resigning your position.

³ EAC OIG, *Semiannual Report to Congress for the Period: Apr. 1, 2020 through September 30, 2020*, available at https://www.eac.gov/sites/default/files/inspector_general/2020/EAC_OIG_SARC_September_2020.pdf

⁴ See EAC OIG, *Redacted Report of Investigation: Misconduct -EAC*, Aug. 2015, available at https://www.eac.gov/sites/default/files/eac_assets/1/28/Redacted%20Report%20of%20Investigation%20-%20ADA.pdf.

⁵ See Lara Korte, *California owes \$34 million on a voter outreach contract it can't pay for*, *The Sacramento Bee*, Dec. 4, 2020, available at <https://www.sacbee.com/news/politics-government/capitol-alert/article247538215.html>.

⁶ *Id*; See also *Assembly Bill No. 85*, California Legislature, 2021-2022 Regular Session, Amended in Senate Feb. 17, 2021, available at https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB85.

The Honorable Patricia Layfield

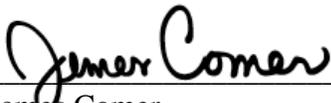
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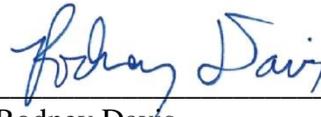
Please make arrangements to inform Committee Republicans no later than Friday, February 26, 2021 about your plans to prevent federal taxpayer money from being misused by the California Secretary of State on the SKD contract. Thank you in advance for your cooperation with this matter.

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