



December 19, 2017

SUBMITTED ELECTRONICALLY

Honorable Arthur A. Elkins Jr.
Inspector General
EPA Office of Inspector General
1200 Pennsylvania Ave, NW (2410T)
Washington, D.C. 20460

Re: Suggestions for Audits and Evaluations

Dear Mr. Elkins,

The mission of EPA's Office of the Inspector General is to "prevent and detect fraud, waste, and abuse through independent oversight of the programs and operations of the Environmental Protection Agency."¹ We respectfully request that the Office of the Inspector General immediately open an investigation into EPA's decision to award a \$120,000 no-bid contract to Definers Public Affairs Corporation for "news analysis and brief service focusing on EPA work and other topics of interest to EPA," as well as EPA's interactions with key Definers affiliates and staff members.² Although EPA reportedly intends to terminate its contract with Definers³ in light of widespread concern,⁴ a full investigation is essential to determine whether EPA's multi-faceted interactions with Definers and its affiliates has led to improper uses of agency resources.

In particular, EPA's no-bid \$120,000 contract award to Definers Public Affairs Corporation raises serious questions of potential "waste, fraud, and abuse": the organization's partisan character and on-going promotion of Administrator Pruitt suggest that inappropriate

¹ EPA Office of Inspector General, About EPA's Office of Inspector General, https://www.epa.gov/office-inspector-general/about-epas-office-inspector-general#who_what_why.

² <https://www.usaspending.gov/Transparency/Pages/AwardSummary.aspx?AwardID=59978626>.

³ See, e.g., https://www.washingtonpost.com/news/energy-environment/wp/2017/12/19/epa-to-end-controversial-contract-with-conservative-media-monitoring-firm/?utm_term=.6e3f99ccd0da; <https://twitter.com/PounderFile/status/943172637202755584>.

⁴ See, e.g., Letter to EPA Inspector General from American Oversight and Environmental Working Group, Dec. 18, 2017, <https://www.americanoversight.org/american-oversight-environmental-working-group-call-epa-ig-investigation-no-bid-contract-gop-consulting-firm#letter>; Letter to Government Accountability Office on Behalf of Fenton Communications and New Heights Communications by Public Citizen, Dec. 18, 2017, https://www.citizen.org/sites/default/files/bid_protest_for_epa_contract_ep18h000025.pdf; Letter to Administrator Scott Pruitt from Senator Sheldon Whitehouse and Senator Kamala Harris, Dec. 19, 2017, <https://www.documentcloud.org/documents/4332997-2017-12-19-Scott-Pruitt-Definers.html>.

considerations may have influenced the decision to select Definers and the unexplained noncompetitive bidding process. Any connection between EPA and Definers Senior Vice President Allan Blutstein also warrants scrutiny to assess whether agency resources were abused to facilitate his identification of EPA staff members to target with Freedom of Information Act (FOIA) requests, assign favorable treatment to Blutstein's FOIA submissions, or other inappropriate activities.

Environmental Defense Fund has separately filed a FOIA request with EPA to uncover inappropriate activities and respectfully requests that responsive documents be made available immediately to facilitate the public's understanding of these deeply troubling developments as well as the Inspector General's review of these matters.⁵

Definers' partisan character

Definers' clearly partisan nature raises serious questions about the suitability of their being selected to fulfil a core informational role for a non-partisan government agency. Definers is led by a number of individuals with extensive Republican campaign and political experience, including founder Matt Rhoades, manager of Mitt Romney's 2012 presidential campaign⁶ and President Joe Pounder, former Republican National Committee research director.⁷

Definers' senior leadership is closely associated with America Rising, a political action committee whose website states that its "sole purpose is to hold Democrats accountable and expose any hidden hypocrisy. We use video tracking, research, and communication strategies to ensure they must account for every word and action."⁸ Matt Rhoades and Joe Pounder were co-founders of America Rising.⁹

One news report suggests that EPA would have been the first governmental client to pay for the particular service contracted for from Definers, underscoring the unusual nature of EPA's decision to contract with this partisan-affiliated organization.¹⁰

Promotion of Administrator Scott Pruitt by associated organizations

EPA's prior interactions with groups and individuals associated with Definers and America Rising senior leadership raise concerns that impermissible motives may have influenced EPA's contract award. For example, affiliates reportedly ran a now-defunct website, www.ConfirmPruitt.com, which advocated for Administrator Pruitt's confirmation.¹¹

In addition, this promotional relationship has continued after Administrator Pruitt's confirmation. Definers President Joe Pounder and colleagues from America Rising and Definers

⁵ <http://blogs.edf.org/climate411/files/2017/12/EDF-Definers-FOIA.pdf>.

⁶ <https://www.definersdc.com/matt-rhoades>.

⁷ <https://www.linkedin.com/in/joe-pounder-5b5b66b/>.

⁸ <https://americarisingspac.org/>.

⁹ <https://www.definersdc.com/matt-rhoades>; <https://www.definersdc.com/joe-pounder>.

¹⁰ <http://www.motherjones.com/politics/2017/12/the-epa-hired-a-major-republican-opposition-research-firm-to-track-press-activity/>.

¹¹ <https://twitter.com/EricLiptonNYT/status/942789045926670336>.

founded a website called the “Need to Know Network” or NTK Network.¹² This website has posted stories praising Scott Pruitt’s tenure as Administrator: asserting that he is “busy racking up accomplishments that both protect Americans and save millions in taxpayer dollars”¹³ and labeling one decision “a move that will prove to be a massive job creator for President Trump and Pruitt.”¹⁴ EPA’s official twitter account has on several instances promoted NTK Network articles painting Administrator Pruitt’s tenure in a favorable light.¹⁵

“Fishing expedition” against EPA employees by Definers Senior Vice President

An additional concern is raised by Definers’ Senior Vice President Allan Blutstein. Blutstein has submitted numerous FOIA requests to EPA since President Trump’s inauguration, including many targeting individual EPA staff that Blutstein considered possible “resistance” figures where his requests might identify, in his words, “did they do anything that would be useful for Republicans.”¹⁶

Blutstein’s bio on the Definers website states that he “leads Definers’ efforts to obtain government records through public records requests. Before joining Definers, Mr. Blutstein served in a similar capacity at America Rising.”¹⁷ In news reports, Blutstein has alleged that the FOIA requests for EPA employee emails were filed on his own, outside of Blutstein’s work capacity as the senior FOIA expert at Definers;¹⁸ however, no meaningful information is widely available that substantiates this claim.

The hostile, partisan character of this conduct by a Definers Senior Vice President raises further doubts about the propriety of EPA’s decision to award a no-bid \$120,000 contract to the company. Given EPA’s multi-faceted interactions with Definers and its affiliates, scrutiny is also warranted to examine whether agency resources were abused in relation to Blutstein’s FOIA efforts, for example to facilitate Blutstein’s identification of EPA staff members to target with FOIA requests or assign favorable treatment to Blutstein’s FOIA submissions.

No-bid contract

The highly questionable aspects of EPA’s decision to award a contract with Definers are exacerbated by the non-competitive process used to award the contract. Under the law, competitive bidding is the standard process for federal contracts, and agencies are charged to promote competition to the maximum extent.¹⁹ EPA’s potential reasoning for using a non-competitive process for media monitoring—a routine service—does not clearly accord with any of the limited exceptions. In particular, a formal protest letter filed yesterday with the

¹² <http://www.politico.com/tipsheets/morning-score/2016/10/gop-researchers-get-into-the-news-business-216706>.

¹³ <https://ntknetwork.com/how-scott-pruitt-is-reshaping-the-epa-in-the-first-100-days/>.

¹⁴ <https://ntknetwork.com/pebble-mine-settlement-huge-win-for-jobs-trump-and-pruitt/>.

¹⁵ See, e.g. <https://twitter.com/EPA/status/876930008043864064>;

<https://twitter.com/EPA/status/871719924372254721>;

<https://twitter.com/EPA/status/857715427765571588>.

¹⁶ <https://www.nytimes.com/2017/12/15/us/politics/epa-scott-pruitt-foia.html>.

¹⁷ <https://www.definersdc.com/allan-blutstein>.

¹⁸ <https://www.nytimes.com/2017/12/15/us/politics/epa-scott-pruitt-foia.html>.

¹⁹ 41 U.S.C. § 3301(a)(1), 3305(d).

Government Accountability Office by Public Citizen on behalf of two public relations firms underscores the unsurprising fact that other firms were available with the capacity to perform this routine service.²⁰

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For the above-mentioned reasons, we respectfully request that the Office of the Inspector General promptly initiate an investigation.

Respectfully submitted,

Martha Roberts

cc:

Hon. Ron Johnson, Chair, Senate Committee on Homeland Security and Governmental Affairs

Hon. Claire McCaskill, Ranking Member, Senate Committee on Homeland Security and Governmental Affairs

Hon. Tim Murphy, Chair, House Energy and Commerce subcommittee on Oversight and Investigations

Hon. Diana DeGette, Ranking Member, House Energy and Commerce subcommittee on Oversight and Investigations

Hon. Trey Gowdy, Chair, House Committee on Oversight and Government Reform

Hon. Elijah Cummings, Ranking Member, House Committee on Oversight and Government Reform.

Hon. John Barrasso, Chair, Senate Committee on Environment and Public Works

Hon. Thomas Carper, Ranking Member, Senate Committee on Environment and Public Works

²⁰ https://www.citizen.org/sites/default/files/bid_protest_for_epa_contract_ep18h000025.pdf.