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Sent: Wednesday, August 16, 2017 3:05 PM
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Subject: Bay Journal Media Inc Production of Bay Journal

John, I am following up on our discussion yesterday regarding the Chesapeake Bay Program (CBP) grant to the Alliance for the Chesapeake Bay for production of the Bay Journal. I have attached a copy of the Bay Program authorizing language under Sec. 117 of the Clean Water Act. One of the functions of the CBPO in Section 117(b)(2)(B)(v) is: "implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay." The partnership has been doing this since the late 1980s. The grant is competitive and was previously awarded to the Alliance for the Chesapeake Bay. More recently, the Bay Journal Media, Inc. competed for and was awarded this grant. The purpose of this grant is to support the Bay partners and publication of the Bay Journal is a type of support. The grant is a multi-year award for 6 years. It was awarded on 01-20-16. The pending action is year 2 funding. The OIG report evaluated compliance by the Alliance for the Chesapeake Bay when it managed the grant for production of the Bay Journal. That grant expired and a new RFP was issued and competitively awarded to the Bay Journal Media Services, Inc.

As I mentioned during our discussion yesterday, EPA provides support and coordination to the Chesapeake Bay Program partnership, which is composed of the Governors of the 6 states (WV, NY, DE, MD, PA and VA), the Mayor of DC, the chair of the Chesapeake Bay Commission and EPA representing the federal government. EPA is just one member of the 9 member Executive Council. EPA is authorized to award this grant under CWA 117(d). This is not an EPA publication. EPA could not use grant funds to pay for the creation and publication of an EPA journal. A procurement contract acquiring services for the government would have to be used in that case. A different process is involved in awarding federal procurement contracts. While EPA provides the grant funds, we are not allowed by law to direct what goes into the Bay Journal, as if it were an EPA publication produced under a procurement contract. The grant recipient is only required to abide by the grant terms and conditions, the work plan and applicable grant laws and regulations, none of which dictate the contents of their publication.

I am also attaching a copy of the OIG report and response. I believe the report was previously forwarded to you by Lisa White from our Region 3 grants and audit office in Philadelphia. As mentioned during the call yesterday, the report was focused exclusively on procurement and grant requirements and not on the performance of Chesapeake Media Services under the grant. It is also important to recognize that the grant has already been awarded and that the current action is only providing annual funds to support the award. The grant contains terms and conditions whereby we indicate that funds will be added incrementally up to the awarded amount subject to fund availability, Grantee progress and EPA funding priorities. None of the conditions contain any language indicating that EPA would not incrementally add funding due to our objection to the nature of the funded work. Moreover, denying funding based on such an objection is contrary to the intent of EPA's Competition Policy (EPA Order 5700.A.1). The policy requires that applicants compete for certain grants and that they be evaluated against specifically spelled-out criteria. Applicants are scored and ranked based on the evaluators review of the application against those criteria and a selectee is chosen. This grant recipient was selected for award after going through the competition process. The work that they have performed is the work that was evaluated during the competition process. The recipient has not veered from the scope of work. The Competition Policy doesn't provide for review of a properly awarded grant years after grant award to re-evaluate proposals and to determine whether they are unworthy for award after-the fact. Finally, I am providing you with a copy of the Request for Proposals and the associated grant Work Plan. The provisions and requirements governing grants are very specific and differ significantly from contracts for services.

Please let me know if you have any questions. Thanks, Nick

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