

Congress of the United States
Washington, DC 20515

February 11, 2021

Ms. Errin Green
Chairman and Chief Executive Officer
RER Solutions, Inc.
950 Herndon Parkway
Suite 410
Herndon, VA 20170

Dear Ms. Green:

The Select Subcommittee on the Coronavirus Crisis and the Committee on Small Business are continuing our investigation into the management of the Economic Injury Disaster Loan (EIDL) program during the coronavirus crisis. On July 30, 2020, our Committees launched an inquiry into a contract, currently worth \$750 million, that the Trump Administration awarded to RER Solutions (RER) to manage this program. Rocket Loans (Rocket) and its affiliate, Rapid Finance (Rapid), are RER's subcontractors and are expected to receive more than \$360 million in taxpayer funds.

The Small Business Administration (SBA) Inspector General recently found that the EIDL program has been mired in fraud—with as much as \$78 billion in taxpayer funds diverted to potentially fraudulent loans, rather than going to small businesses that urgently need help during the pandemic. Documents and information obtained by our Committees have heightened our concerns that RER failed to implement adequate fraud controls. Our investigation has also raised questions as to whether the contract is in the best interest of the American taxpayer given the large share of the contract's value that RER stands to receive relative to the amount of work it is performing on the contract. We write today to urge you to provide the documents and information necessary for our Committees to complete our investigation.

Inadequate Fraud Controls

On December 17, 2018, SBA's Office of Disaster Assistance awarded RER a contract with a ceiling of \$100 million to assist SBA with processing disaster loan applications.¹ Because SBA set aside the award for small businesses, only businesses meeting certain size thresholds were eligible to compete for the contract. After the onset of the coronavirus pandemic, SBA used its emergency contracting powers to issue a \$50 million task order under this contract for loan recommendation services related to the coronavirus. After that initial task order on March

¹ USA Spending, *Indefinite Delivery Vehicle Summary* (online at www.usaspending.gov/award/CONT_IDV_73351019D0001_7300) (accessed Feb. 2, 2021).

29, 2020, the Trump Administration expanded the award amount to \$750 million without any additional competition.²

Our Committees launched this investigation on July 30, 2020, “to ensure that taxpayer dollars are being spent in the best interest of the American people and not diverted to fraud, waste, or abuse.”³ Unfortunately, as the investigation has progressed, concerns regarding the program’s fraud controls have only increased.

On October 28, 2020, the SBA Inspector General issued a report finding that SBA approved billions of dollars in potentially fraudulent EIDL loans and advances. The report identified: (a) approximately \$62.7 billion in potentially fraudulent loans made to applicants using the same IP addresses, email addresses, bank accounts, or business addresses; (b) \$14.3 billion in loans made to bank accounts that differed from the ones listed on the original loan applications; and (c) approximately \$1.1 billion in loans made to businesses that registered after the program’s cutoff date. The Inspector General noted that, among other problems, “controls in the subcontractor’s system”—meaning controls implemented by Rocket and Rapid—“were not always consistently flagging problematic loan applications.”⁴

The Committees have repeatedly asked RER to produce responsive documents and to prioritize the production of documents detailing the fraud controls for this project, but your company has not produced all responsive material. On November 17, 2020, for instance, the Committees requested “a complete list of all fraud checks conducted on EIDL applications, and any documents demonstrating such fraud checks.”⁵ In response, RER produced a single document with brief guidance from SBA.⁶

However, recent information from RER’s subcontractors indicates that additional responsive documents may exist. Rapid and Rocket employees confirmed during a recent briefing that: (a) records exist regarding the performance of the fraud controls; (b) the project team produced “a couple dozen” reports to SBA that included the results of those controls; (c) the project team kept a list of the potential fraud “alert messages” generated by the loan

² USA Spending, *Contract Summary* (online at www.usaspending.gov/#/award/CONT_AWD_73351020F0071_7300_73351019D0001_7300) (accessed Feb. 2, 2021).

³ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, and Chairwoman Nydia M. Velázquez, Committee on Small Business, to Jay Farmer, Chief Executive Officer, Quicken Loans (July 30, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-07-30.Clyburn%20to%20Rocket%20Loans%20re%20Contracting.pdf>).

⁴ Small Business Administration, Office of Inspector General, *Inspection of Small Business Administration’s Initial Disaster Assistance Response to the Coronavirus Pandemic* (Oct. 28, 2020) (online at www.sba.gov/sites/default/files/2020-10/SBA%20OIG%20Report%2021-02.pdf).

⁵ Email from Staff, Select Subcommittee on the Coronavirus Crisis, to W. Neil Eggleston, Kirkland & Ellis LLP, Counsel to RER Solutions (Nov. 17, 2020).

⁶ Letter from W. Neil Eggleston, Kirkland & Ellis LLP, Counsel to RER Solutions, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, and Chairwoman Nydia M. Velázquez, Committee on Small Business (Nov. 25, 2020).

recommendation software and presented to SBA loan officers; and (d) project team members took notes of SBA's requirements for classifying loan recommendations (e.g., "auto-decline," "recommend decline," "manual review," or "recommend approve").⁷

RER has also failed to produce unredacted copies of proposals prepared by RER regarding the EIDL project, asserting that the documents contain "highly sensitive commercial information that could jeopardize RER's competitive interests if the documents were to be made public."⁸ RER has stated it will only permit Committee staff to review these unredacted proposals "but not retain them in the Committees' files."⁹ Given that RER is expected to receive more than \$380 million in taxpayer dollars in connection with this contract and in light of the serious questions the Committees have raised, we expect these proposals to be produced in full, without redactions. We remain open to working with RER regarding the protection of sensitive information.

Potential Waste of Taxpayer Funds

This investigation has also raised serious questions as to whether the EIDL contract, which was intended to be set aside for small businesses, is in the best interest of the American taxpayer. RER, the prime contractor, appears to be performing only a small portion of the work, while receiving 51% of the contract's value—over \$380 million. According to RER, its personnel comprised a "small percentage of overall staffing," perhaps only "15-20%" of a project team consisting of "a couple hundred people."¹⁰ The remainder of the work appears to be performed by Rocket and its affiliate, Rapid.

For small business set-aside contracts—such as the contract at issue here—SBA's regulations prohibit a prime contractor from paying more than 50% of the amount paid to it by the government to a subcontractor that is not a small business.¹¹ RER asserts that it is complying with this subcontracting requirement by paying Rocket less than 50% of the overall value of the contract. However, RER appears to be performing only a small percentage of the work and receiving the biggest share financially, raising questions about whether the contract is in the best interest of taxpayers.¹²

⁷ Briefing by Will Tumulty, Chief Executive Officer, Rapid Finance, and Jeremy Condon, Vice President of Software Engineering, Rocket Loans, to Staff, Select Subcommittee on the Coronavirus Crisis (Dec. 2, 2020).

⁸ Letter from W. Neil Eggleston, Kirkland & Ellis LLP, Counsel to RER Solutions, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, and Chairwoman Nydia M. Velázquez, Committee on Small Business (Nov. 25, 2020).

⁹ *Id.*

¹⁰ Briefing by Errin Green, Chief Executive Officer, RER Solutions, to Staff, Select Subcommittee on the Coronavirus Crisis (Aug. 13, 2020).

¹¹ *Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments*, 13 C.F.R. § 125.6(a)(1).

¹² See *Statement of Guiding Principles of the Federal Acquisition System*, 48 C.F.R. § 1.102(a) (noting that "[t]he vision for the Federal Acquisition System is to deliver on a timely basis the best value product or service to the customer, while maintaining the public's trust and fulfilling public policy objectives"). The Committees have a strong interest in ensuring the efficacy of contracting rules.

Over the past six months, our Committees have repeatedly requested information to shed light on the performance of this contract. Specifically, the Committees have requested information on the number of RER, Rocket, and Rapid employees who have worked on this contract to gain a better understanding of the work performed by each party. The companies have refused to provide this basic information, asserting they did not track headcount or keep hourly records over the term of the project.¹³

Information recently provided to our Committees casts doubt on the assertion that employee headcount on this project cannot be determined. During a recent staff briefing, Rocket and Rapid officials admitted that every employee who worked on the EIDL project signed a non-disclosure or confidentiality agreement as required by the Statement of Work. RER should therefore be able to easily provide the personnel information the Committees seek.

For all these reasons, we request that you produce by February 25, 2021, the following priority documents—many of which have been previously requested by Committee staff—in addition to all other outstanding documents responsive to the Committees' July 30, 2020, document requests:

1. All non-disclosure or confidentiality agreements signed by RER employees or contractors relating to the EIDL contract;
2. All documents indicating the attendance by RER employees or contractors at meetings or conference calls relating to the EIDL contract;
3. All documents and communications regarding SBA's requirements, specifications, or guidance regarding the business process rules for managing the application work flow, including but not limited to how the loan software should classify applications for various recommendation queues (e.g., approval, denial, or manual review);
4. All documents and communications regarding fraud checks conducted on EIDL applications, including any reports regarding the performance of those fraud checks;
5. All reports and updates provided by the project team to SBA, including but not limited to reports and updates tracking the number of applications received,

¹³ See, e.g., Letter from Colin Darke, General Counsel, Rocket Loans, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, and Chairwoman Nydia M. Velázquez, Committee on Small Business (Sept. 22, 2020); Letter from W. Neil Eggleston, Kirkland & Ellis LLP, Counsel to RER Solutions, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, and Chairwoman Nydia M. Velázquez, Committee on Small Business (Oct. 2, 2020); Letter from Colin Darke, General Counsel, Rocket Loans, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, and Chairwoman Nydia M. Velázquez, Committee on Small Business (Nov. 24, 2020); Letter from W. Neil Eggleston, Kirkland & Ellis LLP, Counsel to RER Solutions, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, and Chairwoman Nydia M. Velázquez, Committee on Small Business (Nov. 25, 2020).

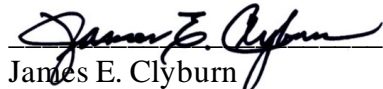
decided, and pending; and reports and updates documenting the performance of the loan recommendation software or fraud checks; and

6. A list of all potential alert messages generated by the project's loan recommendation software and presented to SBA loan officers.

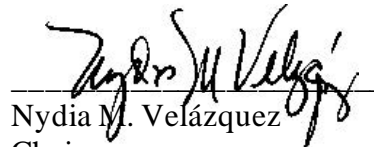
In addition, please provide the following information by February 25, 2021:

1. RER's total revenue, expenses, and profit from performing the EIDL contract to date;
2. A list of all fraud checks conducted by the RER-Rocket-Rapid team on EIDL applications and a description of how each check serves to detect and prevent fraud;
3. RER's assessment or estimate of the amount of improper payments that have been made to applicants who were processed through its loan recommendation software; and
4. A description of SBA's rules, specifications, and requirements for how the loan software should classify applications for various recommendation queues (e.g., approval, denial, or manual review).

Sincerely,



James E. Clyburn
Chairman
Select Subcommittee on the Coronavirus
Crisis



Nydia M. Velázquez
Chairwoman
Committee on Small Business

cc: The Honorable Steve Scalise, Ranking Member
Select Subcommittee on the Coronavirus Crisis

The Honorable Blaine Luetkemeyer, Ranking Member
Committee on Small Business