



U.S. Department of the Interior Office of Inspector General



Sole Source Contracting: Culture of Expediency Curtails Competition in Department of the Interior Contracting



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United States Department of the Interior

Office of Inspector General

Washington, D.C. 20240

February 8, 2008

Memorandum

To: Secretary

From: Earl E. Devaney
Inspector General

Subject: Evaluation Report, Sole Source Contracting: Culture of Expediency
Curtails Competition in Department of the Interior Contracting
(Report No. W-EV-MOA-0001-2007)

Attached is our report on sole source contracting, the third of three reports on the Department's acquisition processes. As you are aware, concerns over the use and misuse of federal contracting dollars have brought contracting to the national forefront. For example, recent Congressionally chartered and House reports, our reviews, U.S. Government Accountability Office (GAO) reports, and enacted legislation have addressed deficiencies in contracting government-wide. These reports have specifically addressed the lack of competition, accountability, and transparency in government procurement. Given the seriousness of these deficiencies and the current prevailing interest in and urgent need for acquisition reform, I feel compelled to bring our findings to your immediate attention. We are making three recommendations which, if implemented and built upon, should help you restore competition to its proper place in the acquisition process and ensure that the Department and the public receive the best value for goods and services purchased.

Our review revealed a culture within the Department that values expediency in contracting over protecting both the best interest of the public and the accountability, integrity, and transparency in Departmental acquisition practices. Federal procurement policy envisions the use of sole source contracting only in limited circumstances. However, we found a preference toward sole source contracting that circumvented competition and raised questions as to whether procurement dollars were being used appropriately. For example, we noted that material modifications to competed contracts were, in effect, de-facto sole source contracts; written justifications for sole source contracts were inadequate or nonexistent; fair value pricing for sole source awards was not established; and small businesses were not given opportunities to compete.

This urgent need for competition, accountability, and transparency was also stressed in our first two reports: (1) *Framework Needed to Promote Accountability in Interior's Grants Management*, issued August 2005, and (2) *Proper Use of Cooperative Agreements Could Improve Interior's Initiatives for Collaborative Partnerships*, issued January 2007.

Collectively, our three reports represent a holistic review of acquisition practices within the Department and provide recommendations to significantly improve these practices and move the Department toward a sound, business-like approach in acquiring goods and services.

The legislation, as amended, creating the Office of Inspector General (OIG) requires that we report to Congress semiannually on all reports issued. Please provide a written response to this report by February 25, 2008. Please send your response to:

Ms. Kimberly Elmore
Assistant Inspector General for Inspections and Evaluations
U.S. Department of the Interior
Office of Inspector General
1849 C Street, N.W., MS 5341
Washington, D.C. 20240

Your response should state concurrence or non-concurrence with the findings and recommendations, including specific reasons for any non-concurrence. Your response should also provide information on actions taken or planned, including target dates and titles of officials responsible for implementation.

We appreciate the cooperation shown by the Department during our evaluation. If you have any questions about our work or report, please do not hesitate to call me at (202) 208-5745.

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Abbreviations:

ADA.....	Antideficiency Act
AMR.....	Acquisition Management Review
ANC	Alaskan Native Corporation
BIA.....	Bureau of Indian Affairs
BLM	Bureau of Land Management
BOR	Bureau of Reclamation
CD&L.....	Chavarria, Dunne & Lamey LLC
CICA	Competition in Contracting Act
DoD.....	Department of Defense
FAR.....	Federal Acquisition Regulation
FPDS	Federal Procurement Data System
FWS	U.S. Fish and Wildlife Service
GAO.....	U.S. Government Accountability Office
IDIQ	Indefinite-Delivery, Indefinite-Quantity
NPS	National Park Service
OFPP	Office of Federal Procurement Policy
OIG.....	Office of Inspector General
PAM	Office of Acquisition and Policy Management
SBA.....	Small Business Administration
USGS	U.S. Geological Survey

INTRODUCTION

Background

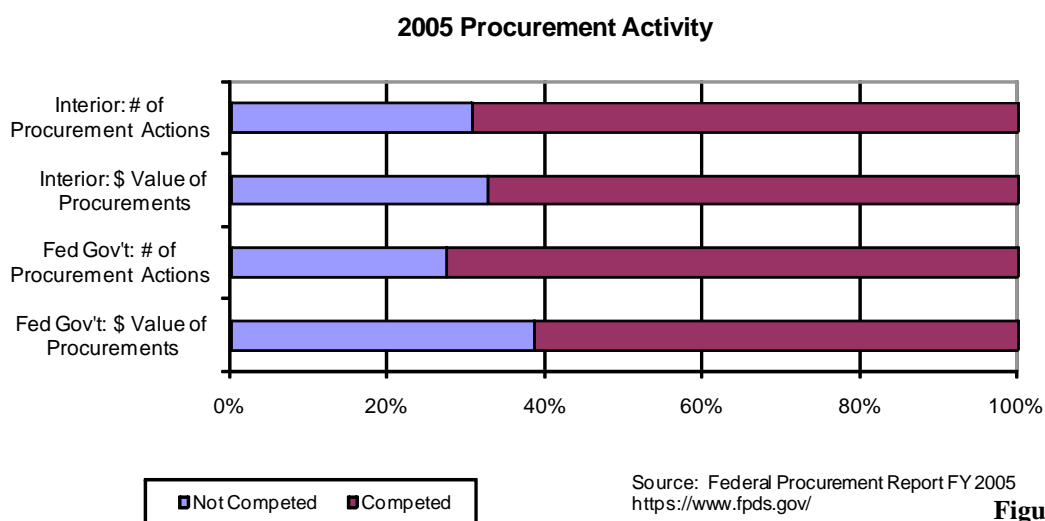
The dependency on sole source contracts, which has circumvented full and open competition and led to fraud, waste, and abuse, continues to be a concern across the federal government. Ongoing concerns over the acquisition process have been cited in recent Congressionally chartered and House reports, as well as other reports, which underscore the lack of competition in government procurement and increased sole source contracting.

For example, the Acquisition Advisory Panel's January 2007 report¹ disclosed that federal agencies spent about \$380 billion in 2005 for a range of goods and services to meet their mission needs; over one-quarter of this amount was awarded without competition. Because of the magnitude of the procurement dollars involved and the federal government being the single largest buyer in the world, the Panel made recommendations on how to improve competition in government contracting and the quality and transparency of the government acquisition process. Further, House Report 110-187, dated June 2007, highlighted the

increase of contracts awarded through processes that were "not fully and openly competitive" within the Department. The 2005 Federal Procurement Report identified that the Department did not compete \$1.5 billion of its procurements, or 33 percent of its total procurements (see Figure 1). This is an increase from the numbers shown in the 1996 Federal Procurement Report, which shows \$300 million not competed, or 26 percent of the Department's total procurements.

Besides the Panel's January 2007 report, other current efforts to reform the acquisition process include:

- ◆ Proposed legislation² requiring federal agencies to reduce the use of sole source contracts, limit the length of sole source contracts awarded in emergency situations, and promote transparency in the acquisition process;
- ◆ Recently enacted legislation³ whose purpose is to increase transparency and accountability



¹ *Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the United States Congress.* The Panel was authorized by Section 1423 of the Services Acquisition Reform Act of 2003, which was enacted as part of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136).

² Accountability in Contracting Act (H.R. 1362) passed the House on March 15, 2007.

³ Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), passed September 26, 2006.

of federal contract and grant expenditures by providing the general public free access to information on federal funded awards through a single, searchable Internet website. The website became operational in December 2007; and

- ◆ A May 2007 directive from the Administrator of the Office of Federal Procurement Policy (OFPP)⁴ requesting all government chief acquisition officers and senior procurement executives to reinforce the use of competition and related practices for achieving a competitive environment, including reinvigorating the role of the competition advocate.⁵ The OFPP directive requested each agency procurement chief to work closely with his/her competition advocate to evaluate the overall strength of the agency's competition practices with a focus on reviewing the level of competition at the agency, developing plans and goals for maximizing competition, and preparing an annual report with appropriate analysis and recommendations. The directive also requested changes in the Federal Acquisition Regulation (FAR) to strengthen competition policies, including transparency and management practices and the centralization of market research information for government-wide use.⁶

As reported in the Department's *Annual Report on Performance & Accountability*, we identified "Procurement, Contracts, and Grants" as an ongoing major management challenge facing the Department since fiscal year 2002. We reported on the Department's improper use of cooperative agreements and grants in January 2007 and August 2005, respectively, and reported our concerns on the Department's procurement activities on behalf of the Department of Defense (DoD) in January 2007. In these as well as other

OIG reports (see Appendix 1), we made recommendations related to improving acquisition practices within the Department or its bureaus.

GAO also recognized the need for acquisition reform in September 2005, when it issued its *Framework for Assessing the Acquisition Function at Federal Agencies*. GAO issued this report after designating interagency contracting as a high-risk area in the federal government for fraud, waste, abuse, and mismanagement.⁷ For example, GAO on two separate occasions in 2005 reported problems in interagency contracting between the Department's National Business Center and GovWorks and the DoD. GAO developed its framework to enable high-level, qualitative assessments of the strengths and weaknesses of the acquisition function at federal agencies.

Given the heightened concerns and efforts to reform the procurement process, we designed this report to highlight the corrective actions needed to align the Department's acquisition practices with current reform initiatives and comply with federal procurement regulations and policy. Such an alignment would encourage competition, thereby promoting the integrity, accountability, and transparency of the Department's acquisition function.

Objective and Scope

The objective of our evaluation was to determine whether the Department is using sole source contracting procedures appropriately in awarding and modifying its contracts. The scope of our evaluation included all contracts, excluding those made on behalf of other agencies, which were active during fiscal years 2005 and 2006. Our scope and methodology and sites visited are detailed in Appendices 2 and 3.

⁴ OFPP is an office under the Executive Office of the President, Office of Management and Budget.

⁵ The Office of Federal Procurement Policy Act requires each agency to designate a competition advocate to promote competition and challenge barriers to competition in agency acquisitions. Each of the Department's bureaus has a designated competition advocate.

⁶ Many of OFPP's requested changes and proposed actions were recommended in the Acquisition Advisory Panel's January 2007 report.

⁷ In GAO's, *High-Risk Series-An Update* report dated January 2007, interagency contracting continues to be a designated high-risk area.

RESULTS

Contracting actions at the Department reveal a culture that values expediency over protection of the best interests of the public. This culture is exacerbated by the lack of best practices. During numerous interviews with procurement officials both inside and outside the Department, these officials could not identify any noteworthy federal procurement process from acquisition planning to post-award and closeout. Given the Department's heavy reliance on sole source procurements with inadequate or non-existent justifications and its failure to establish fair value prices for these procurements, the Department has no assurance that the public gets the best value for the goods and services it buys.

"It is clear from the many private sector buyers who testified before the Panel that the bedrock principle of current commercial practice is competition."

— Report of the Acquisition Advisory Panel

We found that modifications of competed contracts sometimes resulted in de-facto sole source contracts and that justifications for other than full and open competition were non-existent or unconvincing. In addition, sole source contracting failed to ensure that fair value prices⁸ were established prior to the award of non-competed contracts, including Section 8(a)⁹ contracts. When benchmarking contract data of the Department, we found that although the

Department's level of reliance on sole source contracting was on par with other agencies, its use of Section 8(a) contracts was significantly higher than the government norm, thereby underscoring the Department's culture of expediency.

De-facto Sole Source Contracts

We reviewed 177 modifications to competed contracts and found 28 modifications inappropriately altered the scope of the original contract, added significant additional work and funding, and/or substantially extended the period of performance. These modifications resulted in improper sole source awards of additional work to contractors, in violation of the Competition in Contracting Act (CICA) of 1984,¹⁰ and had the effect of increasing the contracts' value by millions of dollars and significantly extending the period of performance.

Modifying a contract so that it materially departs from the scope of the original procurement violates the intent of CICA because doing so prevents potential bidders from participating or competing for what should be a new procurement. When a proposed modification alters the scope of an existing contract, adds significant additional work or funding, substantially extends the period of performance, or incorporates other major changes, then a determination must be made by the contracting officer whether a proposed change can be processed as a modification or whether the issuance of a separate contract is required. Specifically, the contracting officer must justify

⁸ Fair value price is used synonymously in this report as "fair and reasonable price" for sole source contracts and "fair market price" for Section 8(a) contracts. Before making an award, FAR requires the contracting officer to determine the proposed price is fair and reasonable which can be determined, among other things, through competitive quotes or market research. FAR also requires an 8(a) contract to not be awarded if the contract price exceeds the fair market price, which is a price based on reasonable costs under normal competitive conditions and not on lowest possible cost.

⁹ The Small Business Administration's (SBA) 8(a) Program, named for a section of the Small Business Act, is a business development program created to help small disadvantaged businesses compete in the American economy and access the federal procurement market. Participants are given preferential treatment in federal contracting.

¹⁰ CICA (Public Law 98-369) requires, with limited exceptions, that contracting officers promote and provide for full and open competition in soliciting offers and awarding U.S. government contracts over the simplified acquisition threshold.

in writing procedures that are not competitive, certify the accuracy and completeness of the justification, and obtain the necessary approvals.

During our review of one such justification for other than full and open competition, we found that the National Park Service (NPS) contracting officer responsible for the contract to stabilize and preserve the Washington Monument approved a material change to this contract that increased the contract value from \$5 million to \$40 million. A subsequent modification increased the contract value by an additional \$9.5 million from \$40 million to \$49.5 million and extended the performance period from 4 to 8 years. The \$35 million modification¹¹ added design-build services to enhance the physical security around the Monument because of the “unusual and compelling urgency” resulting from the September 11, 2001 terrorist attacks. Although a written justification was prepared and the necessary approvals obtained, we question the urgent need for this additional security work since temporary barriers were already in place around the Monument as a result

construction of the permanent physical security enhancements was still in progress through 2005-4 years after the terrorist attacks on “9/11.” Clearly, NPS had ample time to solicit offers for the security work from other potential sources, as required by CICA.¹²

In many of the questionable competed contract modifications reviewed, significant changes to the original contract scope were not properly justified in writing. For example, we found a Bureau of Land Management (BLM) contract for information technology support services that was modified at least six times to extend the performance period and add additional funds beyond what was provided in the original competed contract. The period of performance was extended from June 2, 2005, to September 30, 2007, and funding was increased by more than \$9.8 million. Most of the questionable modifications that we reviewed occurred because the contracting officers opted to take the fast and easy way, which was to modify an existing contract, rather than the conscientious and correct method, which was to issue a separate contract and promote competition.



Washington Monument

of the August 1998 bombings of the American Embassy in Africa. Further, we question the continued “urgency” of this security work since

Fair Value Pricing

Another common problem noted is the lack of fair value pricing for many of the sole source contracts reviewed. Contracting officials failed to ensure that the government received the best value for its dollars in 180 of the 412 (44 percent) sole source contracts, including 8(a) contracts, reviewed because the fair value price to a contract was not determined. We found a general weakness in fair value pricing because of the contracting offices’ practice of accepting contractors’ proposed prices without analyzing the cost and pricing data in detail to ensure that the prices were fair. In some

¹¹ The \$35 million modification was issued November 2001, and the \$9.5 million modification was issued in May 2003. Although the contract’s cost ceiling was increased to \$49.5 million, we were told that Congress did not provide funding for the underground visitor center portion of this project. Total contract expenditures, as of April 2007, were about \$27.9 million with contract work substantially complete.

¹² One of the limitations to the use of the “unusual and compelling urgency” clause is that agencies are supposed to request offers from as many potential sources as is practicable under the circumstances (FAR Subpart 6.302-2(c)(2)).

instances, the contractors' proposed cost and the government's cost estimate were identical without any explanation, or the government's cost estimate crept upwards to meet the contractor's proposed cost without a detailed analysis of why or how this came about.

For example, the Bureau of Indian Affairs (BIA) awarded a \$564,714 Section 8(a) contract in September 9, 2005, for demolition services of 36 housing units located at a BIA boarding school in Leupp, Arizona. A government cost estimate dated July 2005 for \$494,091 (deemed the "fair market price") and a vendor cost proposal dated September 7, 2005, for \$564,714 were documented in the contract files. However, we did not find a price negotiation memorandum in the contract files, as required by FAR, to help explain why the government paid \$70,623 more than the fair market price.

In another example, we did not find evidence of market research, an independent government estimate, or a fair and reasonable price determination in the contract file for a U.S. Fish and Wildlife Service (FWS) contract awarded on September 25, 2003, and valued at \$100,000 for information technology systems support services. We also noted that this contract was modified twice to add \$50,000 each time with no explanation as to why the contract was modified or what work was being performed, and that the contract file lacked a written justification for other than full and open competition.

Sole Source Justifications

Federal law recognizes that there are occasions when full and open competition is not feasible. Under CICA and FAR, agencies can award noncompetitive contracts in cases when only one source can provide the needed goods or services or when emergency circumstances require immediate contract awards. But these and the other permissible exceptions¹³ are intended to be

limited, and the appropriate contracting officer must justify in writing when these exceptions to full and open competition are used.

Out of the 296 sole source contracts reviewed, 143, or about 48 percent of these contracts, had



Shasta Dam and Plant

non-existent or questionable and unconvincing written justifications for other than full and open competition. In some instances, the sole source contract was awarded because of dubious "unusual and compelling urgency" reasons. For example, U.S. Geological Survey (USGS) awarded a \$99,960 sole source contract to a scientist who provided consulting services related to water issues on December 20, 2004, and used urgency as the reason to justify the award. We noted, however, that the scientist has had a long standing contract (over 10 years) with USGS, which came up for renewal every year. We believe the use of the compelling urgency clause resulted more from USGS's poor planning for the contract rather than the urgent need for the consulting services.

Another contract for \$499,500 and awarded sole source on the basis of unusual and compelling urgency was one issued by the Bureau of Reclamation (BOR) on September 29, 2006—one day before the end of the government fiscal year—for materials and supplies needed for the

¹³ Circumstances that would permit other than full and open competition include: only one responsible source, unusual and compelling urgency, authorized or required by statute, national security, and public interest. See FAR Subpart 6.302 for a complete list of permissible exceptions.

second phase of a pumping plant upgrade at Shasta Dam. We question the urgency of this acquisition, especially since the pumping plant upgrade was planned as a phased project. In addition, our review of the contract files revealed that staff discussed the completion of this project “at various times throughout the fiscal year.”

Other sole source contracts had inadequate justifications. For example, we noted that a solicitor considered the written justification for awarding a \$585,637 contract for a study of the Klamath River Basin on the basis of one

responsible source to be “extremely weak.” The solicitor commented on September 14, 2005, that the justification failed to support the sole source contract awarded on September 20, 2005, and noted that BOR needed to adequately establish why the selected contractor was uniquely

qualified to the exclusion of all other contractors. We noted that some justifications for other than full and open competition, besides being weak or inadequate, were not signed by the contracting officer or, when applicable, the competition advocate.¹⁴ For instance, the written justification for a FWS contract for \$1,233,428 awarded on the basis of one responsible source for the recovery implementation of the riparian brush rabbit and woodrat was not signed by the contracting officer or the competition advocate.

In other instances, we noted that written justifications were never prepared. For example, an NPS contract to provide trained bus drivers to

operate park-owned buses to transport park visitors from the entrance station visitor’s center to historic Harpers Ferry Town was awarded sole source on June 30, 2000. However, a written justification was not in the contract file. The original contract amount of \$203,109 had been increased to \$1,043,764 after the contract was modified 10 times to extend the period of performance and increase contract funding.

Section 8(a) Contracts

Our review of the reasons for sole source procurements revealed that the percentage of

total procurements spent by the Department on Section 8(a) sole-source contracts was significantly higher than the government as a whole (see Figure 2).

Acquisition officials told us they favored the awarding of sole source contracts to 8(a) firms because it was a faster and

easier method of contracting. In

addition, acquisition officials contracted with 8 (a) firms to help their bureaus meet small business goals. Because the bureaus can categorize contract awards to allow them to take credit in more than one small business category, awards to 8(a) firms can be applied to the bureaus’ overall small business goal as well as to their small, disadvantaged business, woman-owned business, Service-disabled, or veteran-owned business goals, when applicable.

We believe that GovWorks circumvented competition among 8(a) firms. The majority of 8(a) contracts reviewed at GovWorks (five of

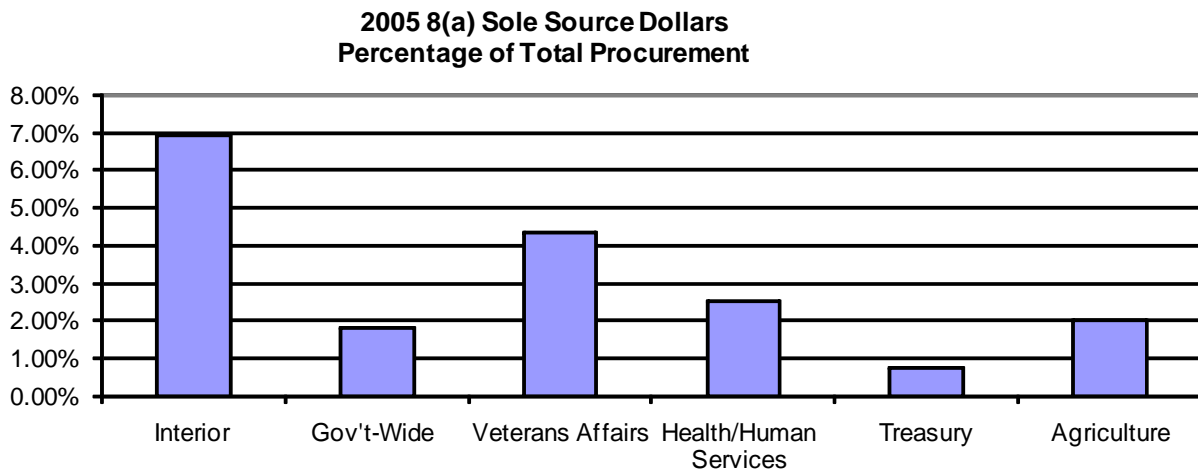


Ellipse/President’s Park South

¹⁴ Per FAR Subpart 6.304, the justification for other than full and open competition shall be approved in writing—for a proposed contract not exceeding \$550,000 by a contracting officer and for a proposed contract over \$550,000 but not exceeding \$11.5 million by the competition advocate for the procuring activity.

six contracts) were single award 8(a) indefinite-delivery, indefinite-quantity (IDIQ)¹⁵ contracts with task orders totaling to just under the FAR \$3 million threshold¹⁶ required to compete the contract amongst 8(a) vendors. One such contract was estimated to have a total contract value of \$2,999,900, just \$100 under the threshold. It appeared that once the contract got close to the \$3 million threshold, a new contract with new task orders would be issued. While FAR allows for the use of single award 8(a) IDIQ contracts, we have concerns over GovWorks' high use of these contracts approaching the \$3 million threshold, thereby circumventing the requirement to compete the contract and avoiding the spirit of competition, which is to share contracting opportunities within the 8(a) contractor community.

In addition, we noted an NPS 8(a) contract to rehabilitate the Ellipse Park near the White House was improperly split into multiple contracts to avoid competing the contract among other 8(a) firms. The entire project was estimated to be over \$10 million; however, e-mail correspondence in the contract file indicated that this NPS office intentionally split this contract into multiple sections to keep each contract segment under the \$3 million threshold. For example, when work from one contract exceeded the threshold, the work was included in another contract as a continuation of the same project. One such e-mail from an NPS employee praised the contract specialist for manipulating the contracts telling the specialist "thanks for be[ing] creative on this!"



Source: Federal Procurement Report
FY 2005 <https://www.fpds.gov/>

Figure 2

¹⁵ Under FAR Subpart 16.501-2(a), IDIQ contracts are a subset of indefinite delivery contracts. IDIQ contracts may be delivery order or task order contracts. FAR Subpart 16.501-1 defines a "delivery order contract" as a contract for supplies that does not procure or specify a firm quantity of supplies (other than a minimum or maximum quantity) and that provides for the issuance of orders for the delivery of supplies during the period of the contract. A "task order contract" is defined as a contract for services that does not procure or specify a firm quantity of services (other than a minimum or maximum quantity) and that provides for the issuance of orders for the performance of tasks during the period of the contract.

¹⁶ See FAR Subpart 19.805-1(a)(2). Effective September 28, 2006, the \$3 million threshold was increased to \$3.5 million.

RECOMMENDATIONS

The Department's implementation of sole source contracting has circumvented its original intent, which was to provide flexibility in the contracting process under limited circumstances. Instead, the Department's current practices have abused sole source contracting by: modifying the scope of originally competed contracts, resulting in de-facto sole source contracts; using justifications for other than full and open competition that were questionable or not properly documented in the contract files; and failing to establish fair value pricing for sole source contracts, including Section 8(a) contracts.

We are making three recommendations to correct these deficiencies in the Department's acquisition practices. Our recommendations are centered around increased Departmental oversight and control to align the Department's acquisition practices with current federal procurement regulations and policy. In addition, the recommendations would build upon the current efforts to reform the procurement process and encourage competition, thereby promoting the integrity, accountability, and transparency of the government acquisition function.

Empower Competition Advocates

1. To reinforce the use of competition in the acquisition process, we recommend that the role of the competition advocate be implemented as envisioned by Congress and codified in FAR.

We found that most, if not all, competition advocates were underused, lacked resources, and faced conflicting interests in their often times dual role as competition advocate and procurement chief. As a procurement official, obligating funds, issuing awards, and meeting programmatic deadlines are often the benchmarks for contracting success, whereas a

competition advocate is charged with promoting full and open competition. In addition, we were told by the Department's Office of Acquisition and Policy Management (PAM) competition advocate that PAM is thinking of reinstating the submission of the competition advocate's annual report since she noticed around December 2006 that the competition percentages had dropped below what she would like to see. PAM's competition advocate informed us that the FAR requirement to submit annual reports to Congress was eliminated about 5 years ago.

In addition, many of the competition advocates we interviewed told us that they receive few contracts exceeding the competition review threshold.¹⁷ However, based on contract information from the Federal Procurement Data System (FPDS), it appears that an average of 300 contracts valued at over \$550,000 were awarded during fiscal years 2005 and 2006. Because of this number, we believe the competition advocates' required reviews are being bypassed at some of the bureaus. As such, we propose the bureaus be reminded that all contracts exceeding \$550,000 need to be submitted for competition review to their respective competition advocate.

Further, because this high contract cost threshold for competition review allows most sole source contracts to be awarded without a competition advocate's independent evaluation, we propose that a random sample of contracts valued at \$550,000 or less be reviewed during the periodic acquisition management reviews (AMRs) performed by PAM to ensure that competition requirements are met for these contracts. We also propose that competition advocates review modifications to competed contracts that increase total contract values over a certain dollar amount or percentage threshold from the original contract award. Furthermore, we propose that the competition advocate role be separated from the procurement chief role and a study be performed on the viability of

¹⁷ The competition review threshold of \$500,000 was increased to \$550,000 effective September 28, 2006.

centralizing the competition advocate role at the Department level.

**Promote Better
Coordination
Between
Program and
Procurement
Personnel**

2. To reduce the number of sole source contracts that are issued throughout the fiscal year, we recommend that program personnel closely coordinate their contractual needs with procurement personnel to promote a seamless

acquisition planning process.

This process should include the establishment of a deadline for submitting standard acquisition requests to allow for adequate lead time needed for effective and full and open competition. If implemented, this process should alleviate the rush to expend appropriated funds in the final quarter of the fiscal year. We recognize that government procurement decisions are driven to a great extent by the budget and appropriations process, which often limits availability of program or operation funds to a single fiscal year. In addition, this annual funding process may be delayed when Congress decides not to approve an agency's annual appropriations on time. To minimize the disruptions in the acquisition planning process caused by such a delay, we propose that the Department's individual bureaus and offices consider using the program fund amounts set by the previous fiscal year's budget as a guide when determining how much acquisition funding is available for the fiscal year.

**Hold
Management
Accountable**

3. To reduce the use of sole source contracts, managers and other personnel having oversight roles must be held accountable.

We recommend that measurable goals be established to minimize the use of contracts awarded without full and open competition. To do this, accuracy of contract reporting into the FPDS must first be ensured. Once measurable goals are established, these goals should be posted along with the performance results on the Internet. In addition, we recommend that once

Section 8(a) goals are met, contracting emphasis be shifted to meet the other small business program goals, such as the goal for the Service-disabled vets. SBA's Small Business Procurement Scorecard released in August 2007 reported that the Department failed to meet its small business and Service-disabled veteran-owned small business goals in fiscal year 2006. Lastly, we recommend that PAM continue conducting its oversight responsibilities, including the required number of annual AMRs. These AMRs should include a review of:

- a) Sole source contracts to ensure that full and open competition was used to the maximum extent possible; applicable sole source contracts were submitted for independent review to the competition advocate; market research was conducted and a fair and reasonable price established; and written justifications for other than full and open competition were adequately prepared, convincing, and documented;
- b) Section 8(a) contracts to ensure that fair market prices were established and the \$3.5 million contract cost threshold for full and open competition among 8(a) firms is followed;
- c) Competed and modified contracts to ensure that the modifications did not substantially change the original scope of work; and
- d) AMRs performed by the individual bureaus.

Additionally, PAM should ensure that the recommendations resulting from the findings of the AMRs are implemented by the individual bureaus and Departmental offices.

“Competition is the cornerstone of our acquisition system. Competition saves money, ...improves contractor performance, curbs fraud, and promotes accountability for results.”

**— Paul A. Denett, Administrator, OFPP
May 31, 2007 Directive**

PRIOR REVIEWS

OIG and GAO issued recent reports that were applicable to our evaluation. These reports (issued in the last 3 years) are listed below.

OIG

January 2007. *FY2005 Department of the Interior Purchases Made on Behalf of the Department of Defense* (X-IN-MOA-0018-2005) reported that the Department, in providing acquisition services to DoD, did not always follow appropriation and procurement laws, regulations, and rules. Specifically, the report found (1) 19 of 49 contracting actions reviewed potentially violated the Antideficiency Act (ADA) when using what appeared to be expired funds; (2) one contract appeared to obligate the government in advance of appropriation of the funds—another potential violation of ADA; and (3) 34 contracting actions had other types of deficiencies or questionable practices.

January 2007. *Proper Use of Cooperative Agreements Could Improve Interior's Initiatives for Collaborative Partnerships* (W-IN-MOA-0086-2004) reported that of the 119 cooperative agreements reviewed, 116 were awarded without clear legal authority; 74 were issued in lieu of procurement contracts to acquire mission-related goods and services; 100 were issued without soliciting for competition and therefore did not ensure that the best goods and services were acquired at the most reasonable price possible; and 62 did not have substantial involvement by both parties, a defining characteristic of what constitutes a cooperative agreement.

January 2007. *Bureau of Indian Affairs, Radio Communications Program* (C-IN-BIA-0017-2005) reported that BIA violated FAR by inappropriately modifying an existing task order. BIA made five modifications to the task order, increasing its value from \$1.5 million to \$7.1 million and extending the period of performance by over 2 years. At least three of the modifications, totaling about \$5.5 million, improperly altered the scope of the task order, added significant additional work and funding, and/or substantially extended the period of performance. These modifications resulted in improper sole source awards of additional work.

May 2006. *Report of Investigation – Allegations Concerning Senior Officials of the Office of Special Trustee for American Indians* reported that the Office awarded and continued to extend and expand, without competition, a contract with Chavarria, Dunne & Lamey (CD&L) LLC for trust fund accounting and risk management services. The report found that senior office officials engaged in extensive outside social activity with executives of CD&L, thereby creating an appearance of preferential treatment. The report also found that Office contract personnel felt pressured by these senior officials to continue to award work to CD&L.

March 2006. *Fee-For-Service Organizations, U.S. Department of the Interior* (C-EV-MOA-0016-2005) questioned whether the overall benefits of the Department's fee-for-service operations may not outweigh the risks to the Department. Risks include the Department and other agencies not following procurement laws and regulations and fee-for-service providers sometimes operating without effective controls in their desire to attract customers in a competitive environment.

August 2005. *Framework Needed to Promote Accountability in Interior's Grants Management* (W-IN-MOA-0052-2004) provided seven internal control processes necessary to effectively manage grants and create a culture of accountability and stewardship for Department grants programs. The

seven processes include producing reliable data, soliciting competition, monitoring grants effectively, writing effective grant agreements, providing adequate training, streamlining policies and procedures, and establishing measurable goals.

September 2004. *Bureau of Reclamation, Denver Office, Contract Administration* (C-IN-BOR-0067-2002) reported that in each of the 15 contract actions reviewed, BOR did not comply with FAR and other regulations and guidelines related to awarding and administering contract actions. For example, BOR inappropriately awarded a sole-source contract without adequate justification for the absence of competition; awarded time-and-materials contracts when firm-fixed-price contracts would have been more advantageous to the government; and split purchases to stay below the micro purchase limit of \$2,500 and avoid additional purchasing requirements.

July 2004. *Review of 12 Procurements Placed Under General Services Administration Federal Supply Schedules 70 and 871 by the National Business Center* (W-EV-OSS-0075-2004) found procurements made under the General Services Administration schedule at the Acquisition Services Division, Southwest Branch in Fort Huachuca, Arizona, were out of scope.

GAO

January 2007. *High-Risk Series-An Update* (GAO-07-310) reported that interagency contracting continues to be a high-risk area in the federal government for fraud, waste, abuse, and mismanagement. Interagency contracting was first designated as a high risk area in 2005.

April 2006. *Increased Use of Alaskan Native Corporations' Special 8(a) Provision Calls for Tailored Oversight* (GAO-06-399) reported that agencies used 8(a) Alaskan Native Corporation (ANC) firms as a quick, easy, and legal method of awarding contracts for any value, while helping meet small business goals. In one contract, GovWorks did not consider any alternatives other than sole-source contracting with the ANC firm because DoD had requested that firm.

September 2005. *Framework for Assessing the Acquisition Function at Federal Agencies* (GAO-05-218G) provided senior acquisition executives, as well as GAO and other accountability organizations, an ability to assess at a high level the strengths and weaknesses of agencies' acquisition functions. The framework comprised four interrelated cornerstones that promote an efficient, effective, and accountable acquisition function: (1) organizational alignment and leadership, (2) policies and processes, (3) human capital, and (4) knowledge and information management.

July 2005. *Interagency Contracting: Franchise Funds Provide Convenience, but Value to DOD is Not Demonstrated* (GAO-05-456) reported that GovWorks did not always ensure fair and reasonable prices when procuring goods and services, specifically when requesting that contractors perform additional work. GovWorks thereby substantially increased contract values and in many cases did not receive competing proposals.

April 2005. *Interagency Contracting: Problems with DoD's and Interior's Orders to Support Military Operations* (GAO-05-201) reported that a lack of management controls, specifically insufficient management oversight and inadequate training, led to the Department not (1) issuing orders that were within the scope of the underlying contract, in violation of competition rules; (2) complying with additional DoD competition requirements when issuing task orders for services on existing contracts; and (3) complying with ordering procedures meant to ensure best value for the government.

January 2005. *High-Risk Series-An Update* (GAO-05-207) introduced interagency contracting as a newly added high-risk area in the federal government for fraud, waste, abuse, and mismanagement.

SCOPE AND METHODOLOGY

This self-initiated evaluation was included in the OIG fiscal year 2007 audit work plan. We conducted fieldwork from May 2007 to August 2007. To accomplish the evaluation, we used data from the FPDS to select sites visited. We visited 39 bureau offices, 6 Departmental offices, and 3 other offices outside of the Department (please see Appendix 3). We focused our review on all contracts issued or active in fiscal years 2005 and 2006. We did not look at contracts issued by the Department on behalf of other agencies.

The FPDS data has a long history of inaccurate data based on input made by contracting personnel. We found this to be the case when using the FPDS reports and found several coding errors. Despite these errors, we used the FPDS data to generate reports on the contract universe within the Department because of the lack of any other Department-wide procurement tracking system.

Our evaluation was conducted in accordance with the January 2005 *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency. As part of our evaluation, we reviewed the following:

- ◆ Applicable laws, proposed legislation, regulations, policies, procedures, and other criteria, including policy guidance;
- ◆ Sole source contracts, competed contracts, contract modifications, socio-economic contracts, justifications for other than full and open competition, and other documents as appropriate;
- ◆ FPDS data and reports, and compared the Department's data against individual bureaus and other federal agencies;
- ◆ The Department's and individual bureaus' small business goals and outcomes;
- ◆ AMRs, OIG and GAO reports, and other relevant reports; and
- ◆ The Department's *Fiscal Year 2005 and 2006 Performance and Accountability Reports*, including information required by the Federal Manager's Financial Integrity Act.

We also interviewed procurement officials from the Department, bureau headquarters, regional and field offices, and other procurement officials outside the Department.

SITES VISITED

Bureau of Indian Affairs
Central Office, Office of Acquisition and Property Management, Reston, VA
Northwest Regional Office, Portland, OR
Western Regional Office, Phoenix, AZ
Albuquerque Acquisition Center, Albuquerque, NM
Bureau of Land Management
Headquarters, Washington Office, Washington, DC
California State Office, Sacramento, CA
Business Center, Denver, CO
Oregon State Office, Portland, OR
Bureau of Reclamation
Management Services Office, Denver, CO
Mid-Pacific Regional Office, Sacramento, CA
Pacific Northwest Regional Office, Boise, ID
Phoenix Area Office, Phoenix, AZ
U.S. Fish and Wildlife Service
Headquarters, Washington Office, Arlington, VA
Southeast Regional Office, Atlanta, GA
Southeast Region Law Enforcement Services Office, Atlanta, GA
Ecological Services, Georgia Field Office, Athens, GA
Piedmont National Wildlife Refuge, Hillsboro, GA
Warm Springs Regional Fisheries Center, Warm Springs, GA
Mountain-Prairie Regional Office, Denver, CO
Pacific Regional Office, Portland, OR
Southwest Regional Office, Albuquerque, NM
Minerals Management Service
Headquarters, Herndon, VA
Western Administrative Service Center, Denver, CO
National Park Service
WASO Office, Washington, DC
National Capital Region, Washington, DC
Harpers Ferry Center, Harpers Ferry, WV
Southeast Regional Office, Atlanta, GA
Martin Luther King Jr. National Historic Park Site, Atlanta, GA
Washington Contracting and Procurement Office, Denver, CO
Denver Service Center, Denver, CO
Intermountain Regional Office, Denver, CO
Pacific West Region, Oakland, CA

SITES VISITED

Office of Surface Mining
Headquarters, Washington, DC
Headquarters, Office of Administration, Denver, CO
U.S. Geological Survey
California Water Science Center, Sacramento, CA
Branch of Acquisition and Grants, Sacramento, CA
Headquarters, National Center, Reston, VA
Central Regional Office, Denver, CO
Eastern Regional Office, Reston, VA
Office of Secretary
Office of Acquisition and Property Management, Washington, DC
GovWorks, Federal Acquisition Center, Herndon, VA
National Business Center, Denver, CO
National Business Center, Main Interior Building, Washington, DC
National Business Center, Aviation Management Regional Office, Boise, ID
Office of Small and Disadvantaged Business Utilization, Washington, DC
Other Offices
Office of Federal Procurement Policy, Washington, DC
Small Business Administration, Inspector General Office, Washington, DC
Department of Defense, Acquisition University, Washington, DC

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