OFFICE OF
INSPECTOR GENERAL
U.S.DEPARTMENT OF THE INTERIOR

ACQUISITION SERVICES DIRECTORATE—SIERRA VISTA

OFFICE OF
INSPECTOR GENERAL
U.S.DEPARTMENT OF THE INTERIOR

JUL 14 2011

Memorandum

To: Secretary Salazar

From: Mary L. Kendall
Acting Inspector General

Subject: Inspection – Acquisition Service Directorate – Sierra Vista Organization
Report No. ER-IS-NBC-0003-2011

This memorandum transmits the results of our inspection of the Acquisition Services Directorate (AQD)-Sierra Vista organization. We reviewed the types and amounts of contracts negotiated and awarded through AQD-Sierra Vista to determine the benefits and risks that this office poses to the U.S. Department of the Interior (DOI).

We found that AQD-Sierra Vista provides very limited services to DOI. Only about 2.4 percent of the total contract actions awarded in fiscal years 2009 and 2010 applied to DOI purchases. While AQD-Sierra Vista makes most of its contract actions on behalf of DoD, its actions put DOI at risk. Specifically, AQD-Sierra Vista continues to accept requests for purchases and their requisite funds close to the end of the fiscal year, increasing the risk for improper spending. In addition, AQD-Sierra Vista does not adequately perform price reasonableness determinations when awarding contracts or effectively monitor subcontract limitations when warranted.

We recommend that DOI carefully consider whether retaining AQD-Sierra Vista as an interagency contracting office is in the best interest of DOI. If DOI decides to retain AQD-Sierra Vista, we make additional recommendations to improve the value of this contracting office and to improve the operations of AQD-Sierra Vista.

We respectfully request a written response within 30 days. The response should provide information detailing actions taken or planned to address the report recommendations, officials involved, and target dates for implementation. Please address your response to:

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If you have any questions regarding this report, please do not hesitate to call me at 202-208-5745.

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Results in Brief

The Acquisition Services Directorate (AQD)-Sierra Vista has had a long and troubled history at the Department of the Interior (DOI). It has been the subject of numerous reports and articles ranging from those produced by Government entities (DOI Office of Inspector General, Department of Defense Office of Inspector General, and the Government Accountability Office) to media organizations (Washington Post). These reports and articles analyze both the benefits and risks that AQD-Sierra Vista poses to DOI.

Continued media attention regarding the relationship between DOI and AQD-Sierra Vista caused us to focus this inspection on the types and number of contracts processed through this contracting office. We found that DOI assumes most of the risk associated with operating an interagency contracting office but receives little benefit in return.

As a result, we recommend that DOI determine whether the benefits associated with continuing interagency contracting activities at AQD-Sierra Vista are worth the associated risks. Should DOI determine to accept these risks, we recommend that DOI consider the additional recommendations we offer to improve the value of the contracting office and its operations.

Introduction

Objective

The objective of this inspection was to review the types and amounts of contracts negotiated and awarded through the Acquisition Services Directorate-Sierra Vista (AQD-Sierra Vista) and to determine the benefits and risks that this office poses to the Department of the Interior (DOI).

Background

DOI provides acquisition services for itself, as well as for other Federal agencies, through the National Business Center (NBC). Two of DOI's largest service providers are AQD-Sierra Vista and AQD-Herndon. These two services operate under separate authorities. Sierra Vista operates under DOI's Working Capital Fund and AQD-Herndon operates under the Interior Franchise Fund.

Working Capital Fund

The Working Capital Fund, created through 43 U.S.C. §1467, authorizes DOI to establish certain services, including acquisition services, that the Secretary determined could be performed more advantageously on a reimbursable basis. An agency operating as a working capital fund and providing services must recover its full cost. It is not allowed to make a profit or retain any excess funds derived from its services.

Interior Franchise Fund

The Government Management and Reform Act of 1994 and amendments in Public Law 110-161 established the Interior Franchise Fund to provide DOI and other Federal agencies with common administrative support. The Interior Franchise Fund allows DOI to procure services (both for itself and other Federal agencies) that could be provided more efficiently through this fund than by other competitive means. Fee-for-service contracting offices operating under this fund can retain up to four percent of their total annual income for acquisition of capital equipment and for improvement and implementation of Departmental support systems.

Historical Issues at AQD-Sierra Vista

In past years, interagency contracting at AQD-Sierra Vista has been the subject of multiple audit reports issued by the DOI Office of Inspector General (DOI OIG), the Department of Defense Office of Inspector General (DoD IG), and the Government Accountability Office (GAO). All have uncovered a history of problems at AQD-Sierra Vista. Media outlets have called further attention to audit findings once the Government released the reports to the general public. Specifically, GAO and OIG reports, as well as national news articles, criticized the components of AQD-Sierra Vista's interagency contracting practices that involve monitoring, funding, and competition of contracts. For example:

- The April 2005 GAO report titled "Interagency Contracting: Problems with DoD's and Interior's Orders to Support Military Operations" (GAO-05-201) identified that weak internal controls and inadequate training permitted contracting personnel at AQD-Sierra Vista to issue orders outside the scope of an underlying contract, thus violating competition rules. In this same report, GAO also highlighted issues with Sierra Vista's ordering procedures and contract monitoring standards.

- The December 2006 Washington Post article titled "Interior, Pentagon Faulted in Audits" reported that DoD paid both AQD-Herndon (formerly known as GovWorks) and AQD-Sierra Vista to "arrange for Pentagon purchases totaling $1.7 billion that resulted in excessive fees and tens of millions of dollars in waste. Additionally, more than half of the contracts examined were awarded without competition or without checks to determine that the prices were reasonable." The Washington Post's findings correspond with the findings of DoD IG Report No. D-2007-044.

- The January 2007 DoD IG report titled "FY 2005 DoD Purchases Made Through the Department of the Interior" (D-2007-044) reported that AQD-Sierra Vista contracting officials did not adequately document and support price reasonableness decisions, did not adequately review contractor proposals, and did not adequately perform legal reviews. This led to suspension of all of the contracting officers' warrants.

- The February 2008 DOI IG report titled "Audit of FY2006 and FY2007 Department of Defense Purchases Made Through the Department of the Interior" (Y-IN-MOA-0001-2007) reported that AQD-Sierra Vista procured products without evidence of sufficient bona fide need. This occurred because contracting officials accepted funds from clients late in the fiscal year and expended these funds even after they expired.

- The November 2010 Washington Post article titled "Alaska native status gave tiny, inexperienced firm a $250 million Army contract" reported that United Solutions and Services LLC (US2), a small Government contractor co-owned by an Alaska native corporation, was awarded a Department of the Army contract in 2008 that was worth as much as $375 million. US2, however, was too small to do all the work itself. With the Army's knowledge, the firm subcontracted the majority of the awarded contract to more established companies. As a result, the contract with US2 violated laws applicable to contracts awarded based on a firm's status as an Alaska native corporation requiring the firm to agree to do at least 50 percent of the work itself. AQD-Sierra Vista was the contracting office that managed this contract for the Army.

Interagency Contracting Concerns

The practice of interagency contracting has been scrutinized for several years. GAO annually has placed this form of contracting on its high risk list since 2005. To further perpetuate the concern with interagency contracting, a newly released GAO report cites a risk of unintended duplication and inefficiency from the way agencies have created interagency and agency-wide contracts. The GAO report suggests that "requiring business case analyses for new multi-agency and agency-wide contracts and ensuring agencies have access to up-to-date and accurate data on the available contracts, will promote the efficient use of interagency and agency-wide contracting." The report also states that by reducing the costs of duplicative contract awards, the Government will be able to "better leverage its purchasing power when buying commercial goods and services."

Findings

AQD-Sierra Vista provides only a limited benefit to DOI while continuing to put DOI at risk through its purchases for DoD and DOI. Specifically, AQD-Sierra Vista continues to accept requests for purchases and the requisite funds close to the end of the fiscal year. Also, it does not effectively monitor subcontract limitations and performs inadequate price reasonableness determinations.

AQD-Sierra Vista Provides Limited Services to DOI

AQD-Sierra Vista procures goods and services on behalf of DOI and other Federal agencies on a reimbursable basis without authority to earn a profit since it operates under the Working Capital Fund. Using the Federal Procurement and Data System, the official Government-wide contract tracking system, we determined that AQD-Sierra Vista issued 597 contract actions totaling $438,292,318 in fiscal year (FY) 2009. In FY 2010, it issued 640 contract actions totaling $498,697,595. DOI transactions, however, accounted for only approximately 2.4 percent of the total contract actions awarded in FY 2009 and FY 2010 (Figure 1). Of the limited number of contract actions provided on behalf of DOI, AQD-Sierra Vista's largest clients were the Office of the Chief Information Officer and Sierra Vista itself.

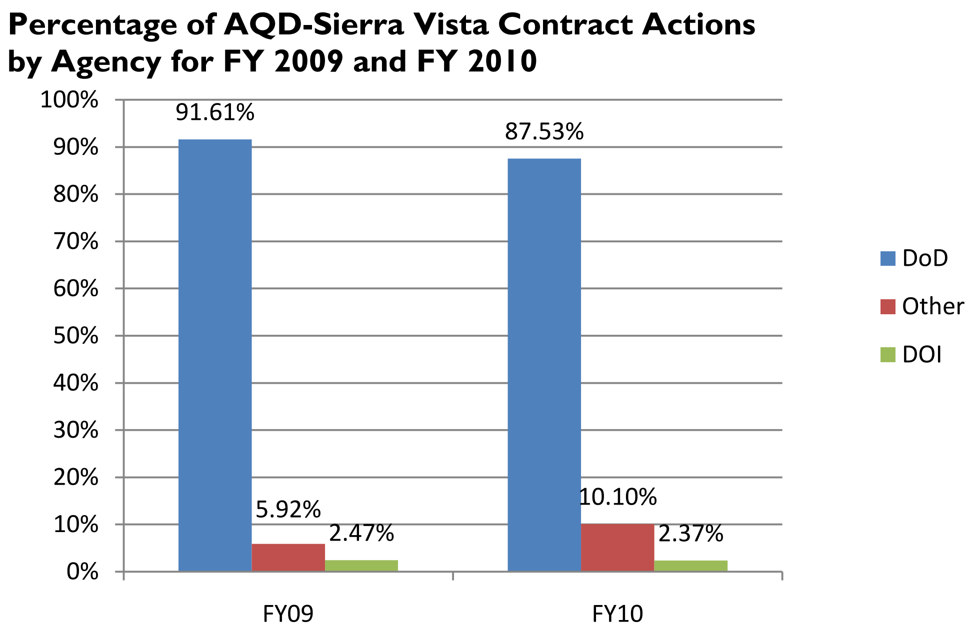

Figure 1.

Continued Risk to DOI by Procuring Goods and Services on Behalf of DoD

As part of a Congressionally mandated audit, DOI OIG and DoD IG jointly reviewed 28 DoD contracts issued in FY 2010 through AQD-Sierra Vista. We found that although improvements had been made, significant weaknesses still exist that continue to place DOI at risk of improper purchases and violations of fiscal law.

Acceptance of Late Purchase Requests and Accompanying Funds

AQD-Sierra Vista continues to accept requests for purchases and the requisite accompanying funds from its customers late in the fiscal year. This practice puts AQD-Sierra Vista at risk of issuing contracts improperly, of potentially violating the bona fide needs rule, and of expending expired funds. The bona fide needs rule, as coded in 31 U.S.C. § 1502(a), states that a fixed term fund "is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period."

We identified five potential bona fide needs rule violations that occurred because AQD-Sierra Vista awarded contracts at the end of the fiscal year, making it difficult for performance to begin during the fund's period of availability as required by DoD's Financial Management Regulations. These regulations state that "the performance of severable services must begin during the funds' period of availability and may not exceed one year." Invoices for these five contracts show that work did not begin and the contractors did not charge any costs for performance on these contracts until the next fiscal year.

While DoD contracting offices have incorporated cut-off dates in their policy to avoid these situations, AQD-Sierra Vista has not. DoD components recognize that AQD-Sierra Vista accepts late purchase requests and the requisite accompanying funds. They include language in their best interest determinations certifying that non-DoD contract services are needed due to lapsing DoD internal processing (cut-off) dates. DoD components forward contracts requested after these DoD contracting cut-off dates to AQD-Sierra Vista for processing, circumventing DoD cut-off policy. The following excerpt from the "Certification on Proper Use of Non-DoD Contracts-Assisted Acquisition" provided by the Department of the Army to AQD-Sierra Vista provides insight into DoD's use of interagency acquisitions.

> 4. I certify that the proposed use of a Non-DOD contract is in the best interest of the Army considering the following factors:
>
> a. Availability of a Suitable DOD Contract Vehicle: There are no suitable DoD contracts available to support this requirement. The HRSolutions IDIQ contracts award dates have slipped several times and have not been awarded making it impossible to award any of the requirements as Task Orders under the HRSolutions suite. Due to the allocation of funding from the Army Budget Office coming 15 September 2010, the cut-off dates for awards of new contracts published by the National Capital Region Contracting Center (NCRCC), U.S. Army Geospatial Center (AGC), and the Naval Inventory Control Point (NAVICP), Mechanicsburg, PA were exceeded. The G-1 still contacted the contracting offices at the AGC and NAVICP to determine if contract vehicles existed that could carry the requirements. The AGC and NAVICP both informed us that they were unable to carry the workload at year end and that they had no contract vehicles that suited our needs.

Figure 2. The Army justified using AQD-Sierra Vista because its own contracting offices would not cover year-end contract requests.

Poor Monitoring of 8(a) Contracts

We also found that the contracting officer (CO) did not effectively monitor the statutorily required subcontracting limitations on an 8(a) service contract. The subcontracting limitation requires the contractor to satisfy at least 50 percent of the personnel-based contract costs with its own employees. The Small Business Administration (SBA) participation agreement requires the CO to monitor and enforce that provision. Included in our review was a sole source contract to an Alaskan native corporation, United Services and Solutions LLC (US2). Despite receiving reports showing that US2 has been non-compliant with 8(a) subcontracting limitations for more than 2 1/2 years, the CO did not take effective actions to either correct the problem or terminate the contract for non-compliance. Further, the CO accepted that a category of "Other Direct Costs" did not include labor, when the types of services appeared to be labor intensive. Therefore, US2 was likely out of compliance by an even greater amount than was reported.

The CO we interviewed regarding this contract told us that the contractor on an indefinite-quantity, indefinite-delivery (IDIQ) contract, as is the case with US2, has the life of the contract to comply with the subcontracting limit. To the contrary, however, the Code of Federal Regulations clearly states that "in order to ensure that the required percentage of costs on an indefinite quantity 8(a) award is performed by the Participant, the Participant must demonstrate semiannually that it has performed the required percentage to that date." It goes on to say that "the Participant must perform 50 percent of the applicable costs for the combined total of all task orders issued to date at six month intervals." Therefore, the CO was incorrect to assume that the contractor has the lifetime of the contract to meet the 50 percent rule.

Inadequate Price Reasonableness Determinations

We found inadequate price reasonableness determinations in 15 of the 27 contracts reviewed. [1] Most were inadequate because the CO relied on unsupported and insufficient independent Government cost estimates, along with weak cost proposal evaluations performed by DoD to determine whether the price was fair and reasonable. In each case, AQD-Sierra Vista COs received only one offer, making a thorough price reasonableness determination even more important.

Potential Risks Found During Review of DOI Contracts

To ensure AQD-Sierra Vista properly procured goods and services on behalf of DOI, we reviewed 10 contracts from FY 2009 and FY 2010 for price reasonableness, competition, funding and monitoring. Although we did not find any substantial issues with price reasonableness, competition or funding, we did

[1] We did not review one contract in our sample for price reasonableness because the contract action involved the addition of funding and therefore was not required.

find issues with monitoring. Specifically, we became aware of monitoring issues with AQD-Sierra Vista's sole-sourced 8(a) contracts to Alaska native corporations on behalf of DOI.

Interviews with several AQD-Sierra Vista COs revealed confusion over the division of responsibilities between the CO and SBA. After reviewing the delegation of authority between SBA and DOI, we found that the responsibilities rest with the CO, including monitoring the Limitation in Subcontracting Rule and termination, if necessary.

Our recently conducted DoD contracts review raised concern that DOI may be at risk of further contract scrutiny if these contracts are not properly monitored.

Conclusion and Recommendations

Conclusion

AQD-Sierra Vista performs only very limited work on DOI's behalf, but DOI assumes all the risks associated with operating an interagency contracting office. Considering the low number of DOI-related transactions that AQD-Sierra Vista conducts and the simplicity of the contracts it awards for DOI customers, management should consider whether AQD-Sierra Vista could be restructured or put to more advantageous use elsewhere in DOI.

Recommendations

We recommend that DOI:

1. Determine whether the risks associated with the interagency contracting activities at AQD-Sierra Vista are worth continuing to accept them.

If DOI chooses to accept the risks associated with AQD-Sierra Vista, then DOI should:

2. Determine whether moving the AQD-Sierra Vista organization into the Interior Franchise Fund would increase the monetary benefit to DOI without losing the customer base.

3. Implement reasonable cut-off dates to ensure AQD-Sierra Vista has enough time to properly award contracts.

4. Standardize procedures for contracting officers, contracting specialists, and contracting officer representatives monitoring 8(a) awards, specifically compliance with the Limitation of Subcontracting rule.

Appendix 1: Scope, Methodology, and Prior Coverage

Scope

We performed our inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency "Quality Standards for Inspections and Evaluations." The inspection focused on DOI NBC's AQD-Sierra Vista Branch. We believe that the work performed provides a reasonable basis for our conclusions and recommendations.

Methodology

To accomplish our objectives, we interviewed officials, including the Associate Director of AQD, as well as management and contracting personnel at AQD-Sierra Vista. We reviewed a judgmental sample of DOI contracts awarded in FY 2009 and 2010 at AQD-Sierra Vista to determine whether or not contracting personnel adequately conducted price reasonableness analysis, competed contracts, obtained and managed funding for contracts, and monitored contracts. We also obtained data pertaining to contracting at AQD-Sierra Vista for FY 2009 and FY 2010 from the Federal Procurement Data System. Further, we incorporated our audit findings from our joint DOI/DoD audit. Fieldwork for our inspection was performed from January 19 to March 10, 2011.

We also reviewed prior DOI OIG, DoD IG, and GAO reports to evaluate past findings related to contracting issues at AQD-Sierra Vista.

Prior Coverage

The following reports were reviewed in order to evaluate past findings related to contracting issues at AQD-Sierra Vista:

DOI OIG

C-EV-MOA-0016-2005 (Fee-for-Service Organizations)
DOI and other organizations providing these services have failed to follow procurement laws and regulations, which resulted in significant consequences for both the providers and recipients of those services. Without the checks and balances provided by effective internal controls, the "risk taking" and "out-of-the-box" thinking advertised by NBC and encouraged by fee-for-service organizations could result in risks that may outweigh any benefits derived from these activities. In the absence of significant, quantifiable benefits, it is questionable whether the overall benefits of these activities outweigh the risks brought to management's attention in the past as a result of previous and ongoing audits.

Y-IN-MOA-0001-2007 (Audit of FY 2006 and FY 2007 Department of Defense Purchases Made Through the Department of the Interior)

The two main issues that auditors identified with AQD-Sierra Vista contracting practices were lack of bona fide need and lack of communication.

Bona Fide Need: AQD-Sierra Vista procured products without evidence of sufficient bona fide need.

DoD IG

D-2007-044 (FY 2005 DoD Purchases Made Through the Department of the Interior)
Auditors identified the following key issues with AQD-Sierra Vista's contracting practices:

Low-Dollar Purchases: Contracting officials awarded purchases from Federal supply schedules. DoD paid DOI $22.8 million in fees; this money could have been used to increase the DoD acquisition workforce or other DoD priority needs.

Section 8(a) Awards: Although AQD-Sierra Vista contracting officials did not violate any regulations, they could have competed certain 8(a) contracts among Section 8(a) companies, rather than awarding without competition.

Price reasonableness: AQD-Sierra Vista contracting officials did not adequately document and support price reasonableness decisions for 15 of 20 contracts reviewed.

Review of Contractor Proposals: Of the 15 AQD-Sierra Vista contracts for services, 11 contained incomplete reviews of contractor proposals.

Legal Reviews: DOI did not perform legal reviews for 18 of 49 contracts reviewed, valued in excess of $500,000. These included nine Federal supply schedule orders and nine indefinite-delivery, indefinite-quantity orders valued at more than $500,000. At least 7 of these 18 contracts belonged to AQD-Sierra Vista.

GAO

GAO-05-201 (Problems with DoD's and Interior's Orders to Support Military Operations)
This audit report focused on AQD-Sierra Vista's procurement of interrogation services from CACI International Inc. on behalf of DoD. GAO auditors identified the following problems with AQD-Sierra Vista's contracting practices:

Tasks Orders Were Out of Scope of Underlying Contract: Interior IG and GSA determined that 10 of the 11 task orders issued by Interior to CACI for interrogation and other services in Iraq were outside the scope of the underlying GSA information technology contract.

DoD Task Order Competition Requirements Were Not Followed: Interior contracting officials did not comply with requirements contained in Section 803 of the National Defense Authorization Act for Fiscal Year 2002.

Ordering Procedures Meant to Ensure Best Value Were Not Followed: Interior's contracting office did not comply with required Blanket Purchase Agreement (BPA) procedures. Contracting officials failed to seek discounts from CACI's established GSA contract prices, did not conduct required annual reviews of BPAs, and improperly expanded the scope of services by adding several items and services to the BPAs.

Contractor's Performance Was Not Adequately Monitored: Interior's contracting officials never verified that the Army personnel serving as contracting officer representatives had the appropriate training.

Contractor Played a Role in the Procurement Process Normally Performed by Government Personnel: Interior officials abdicated their contracting responsibilities to a large degree.

Lack of Management Oversight: Problems in the way Interior's contracting office carried out its responsibilities in issuing orders were not detected or addressed by management.

Lack of Adequate Training: Training was not monitored or enforced by managers. Consequently, certain requirements were not understood or followed by contracting personnel.

Report Fraud, Waste, and Mismanagement

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