



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

RECOVERY

RECOVERY OVERSIGHT ADVISORY


Bureau of Land Management's National Operations Center



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U.S. DEPARTMENT OF THE INTERIOR

NOV 01 2010

To: Chris Henderson
Senior Advisor to the Secretary for Economic Recovery and Stimulus

From: Robert A. Knox 
Assistant Inspector General for Recovery Oversight

Subject: Recovery Oversight Advisory – Bureau of Land Management's National Operations Center (ROO-ROA-BLM-3005-2010)

This advisory regarding Bureau of Land Management's (BLM) National Operations Center (NOC) is part of our ongoing efforts to oversee and ensure the accountability of funding appropriated to the U.S. Department of the Interior (DOI) in the American Recovery and Reinvestment Act of 2009.

We received an allegation in March 2010, which stated the Acquisition Branch of the BLM NOC was violating provisions of Public Law 92-582, also known as the Brooks Act. The Brooks Act identifies specific procedures for awarding contracts for architect-engineer services. We conducted a review of the allegation at issue and subsequently found BLM NOC to be in compliance with the Brooks Act.

Background and Findings

The Brooks Act was enacted in 1972 to standardize Government procedures for the award of architecture and engineering services contracts and to ensure that contract awards are based on technical qualifications and specialized experience. The theory behind this law was that the lowest price bidder may not always be the most technically capable firm to design safe Government buildings and structures. The primary consideration in awarding these types of contracts should be the technical capabilities of the firm, not the cost to complete the project.

The Brooks Act clearly states that the responsible Government acquisition office should identify the top technically qualified firms in response to solicitations, and then undertake negotiations with contractors in order of their competence and qualifications until a fair and reasonable price is obtained from a qualified firm. The allegation we received stated that the Acquisition Branch, BLM NOC, violated the Brooks Act because it requested and considered price information from potential contractors regarding architecture and engineering projects. The alleged violations involved projects that were being issued as task orders under an indefinite-delivery/indefinite-quantity (IDIQ) contract. These contracts are often used to procure architecture and engineering services and are awarded because the Government cannot predict the precise quantities of services it will need during the contract period.

We found that NOC complied with the Brooks Act regarding these IDIQ contract awards. The IDIQ contracts were awarded based on the technical capabilities of the firms submitting the proposals, and NOC awarded contracts to two almost identically qualified firms. A similar procedure was used by NOC during the evaluation of the proposals at the task order level, but NOC requested price information in their request for technical proposals from the IDIQ awardees in certain task order solicitations. The contracting officer stated that the price information was requested, but not considered, during the technical evaluation committee's deliberations. The contracting officer requested prices to streamline the procedures so that price reasonableness could be determined after the technical evaluation committee made their rankings of IDIQ awardees based on technical qualifications.

Agencies are not precluded from making multiple awards for architecture and engineering services using IDIQ procedures, provided the selection of contractors and placement of orders are consistent with Federal Acquisition Regulation Subpart 36.6.¹ The process described by the contracting officer complies with the technical qualification selection process required by the Brooks Act.

We do not require a response. We will post this advisory on our Web site (www.doioig.gov/recovery/) and Recovery.gov. Information contained in this advisory may also be included in our semiannual reports to Congress. Please contact me if you have any questions.

cc: Deputy Secretary, Department of the Interior
Assistant Secretary—Policy, Management, and Budget
Director, Office of Acquisition and Property Management
Director, Bureau of Land Management
Acting Director, Office of Financial Management
Departmental GAO/OIG Audit Liaison
Audit Liaison, Office of the Secretary

¹ FAR 16.500(d).

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