



OFFICE OF INSPECTOR GENERAL



DEPARTMENT OF THE INTERIOR

RECOVERY OVERSIGHT ADVISORY

A Critical Point Evaluation Product

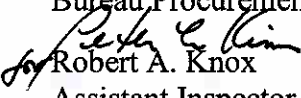


**RECOVERY OVERSIGHT OFFICE**

Washington, DC 20240

FEB 04 2010

To: Scott Morton
Bureau Procurement Chief, U.S. Geological Survey

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

Subject: Recovery Oversight Advisory – Concerns about IDIQ Contract 08ERCN0017, et al. (ROO-ROA-GSV-7001-2010)

To safeguard taxpayer dollars, Congress provided us with funding to oversee and ensure accountability of the \$3 billion appropriated to the Department of the Interior (DOI) in the American Recovery and Reinvestment Act of 2009 (Recovery Act). We are focused on: preventing fraud, waste, and mismanagement; reducing misuse of dollars through early detection; and ensuring transparency in our oversight efforts. As part of our collaboration with the Department, this advisory informs you of our concerns about the Indefinite Delivery/Indefinite Quantity (IDIQ) contracts for water monitoring equipment purchased by the U.S. Geological Survey (USGS) Hydrologic Instrumentation Facility in Mississippi.

On June 13, 2008, nine IDIQ contracts were executed to provide 84 specialized pieces of water monitoring equipment (see the following contracts: 08ERCN0017, 08ERCN0018, 08ERCN0034, 08ERCN0035, 08ERCN0036, 08ERCN0037, 08ERCN0038, 08ERCN0039, and 08ERCN0040). Subsequently, these IDIQs were used to purchase equipment with Recovery Act funds.

Our review found that no two vendors received contracts for the same equipment. This raised concerns that the solicitation was, in fact, a series of sole source actions without proper justification and that full and open competition was not achieved.

Please provide a written response to this advisory within 30 days of receipt detailing the corrective actions the USGS will implement to meet our recommendations, as well as targeted completion dates.

Background and Findings

The Hydrologic Instrumentation Facility (HIF) is a capital funds organization that purchases water monitoring equipment for resale or rental to customers for a small profit (to cover administrative costs). The HIF's customers each require specific brand name equipment that is compatible with their respective training and software interface programs. The HIF provides a clear advantage to its customers by offering items at low cost and also including inspection, calibration and maintenance services in the sale and rental prices. Traditionally, the HIF would purchase equipment through single purchase orders. This process required extensive time and imposed an administrative burden, prompting the HIF to explore alternative ordering processes.

In June 2007, the USGS procurement office in Reston, VA, urged the HIF to submit an IDIQ for the most commonly used hydrologic equipment it usually stocked. The IDIQ solicitation listed 84 pieces of equipment manufactured exclusively by nine separate vendors. The contracting office, together with the Business Utilization & Development Specialist, determined that the solicitation should be set aside for small business (see the Department Acquisition Screening and Review form, DI 1886). Then, without approval, the contracting office changed the solicitation to a full and open competition because, in their opinion, the lack of qualified small businesses did not justify a restricted solicitation.

In June 2008, the nine vendors were awarded IDIQ contracts to fulfill specific line item requirements; no two vendors bid on or were awarded an order for the same line item. On May 20 and June 4, 2009, in accordance with the USGS Recovery Act project plan, \$14.6 million in Recovery Act funds were incorporated into six of the IDIQ contracts to buy additional equipment.

USGS's approach raises concerns about the Recovery Act goal of fostering maximum competition. When deciding to use IDIQ contracts, Federal Acquisition Regulation 16.504(c)(1)(ii)(A) says: "The contracting officer must avoid situations in which awardees specialize exclusively in one or a few areas within the statement of work, thus creating the likelihood that orders in those areas will be awarded on a sole source basis; however, each awardee need not be capable of performing every requirement as well as any other awardee under the contracts." The above facts and circumstances show that while the intention was to award the nine IDIQ contracts based upon full and open competition, the specifications were written in such a manner that full and open competition was not possible. Thus, the contracting officer did not abide by the Federal Acquisition Regulation. Additionally, USGS failed to comply with Section 1554 of the Recovery Act that requires "[t]o the maximum extent possible contracts funded under [the] Act shall be awarded as fixed price contracts through the use of competitive procedures."

The approach also raises concern about the potential for collusive bidding, as none of the bids on the 84 line items overlapped, and several of the companies had close business relationships with each other. (We investigated this issue and found no evidence of collusive bidding for these particular items.)

If equipment specifications were indeed unique to specific vendors, and the circumstances fit one of the seven FAR exceptions, USGS should have issued nine separate sole source agreements or used individual contracts with proper justifications according to Federal Acquisition Regulation Part 6.3, Other than Full and Open Competition.

Since justifications for sole source awards were neither prepared nor was Federal Acquisition Regulation Part 6.3 followed, USGS unknowingly gave the impression the contracts were awarded under full and open competition. This in turn led to underreporting of noncompetitive awards, the reporting of which is required under Federal Acquisition Regulation 5.705 for the Recovery Act delivery orders.

Recommendations

We recommend that USGS:

1. Prepare sole source justifications for each of the current and prospective delivery orders executed under the nine IDIQ awards that are approved by proper authority.
2. Document in the solicitation file the reason the procurement was not set aside for small business although the DI 1886 required that it should have been.
3. Implement the requirements of Federal Acquisition Regulation 5.705 and Recovery Act Division A, Title XV, Subtitle D, section 1554 for the Recovery Act-related delivery orders.
4. Conduct future procurements of similar nature in compliance with Federal procurement policy.

cc: Senior Advisor to the Secretary for Economic Recovery and Stimulus
Assistant Secretary – Policy, Management and Budget
Director, Office of Acquisition and Property Management
Director, Office of Financial Management
U.S. Geological Survey Audit Liaison
Departmental GAO/OIG Audit Liaison
Audit Liaison, Office of the Secretary
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