

REVIEW OF  
THE FEDERAL ACQUISITION SERVICE'S  
CLIENT SUPPORT CENTER  
PACIFIC RIM REGION  
REPORT NUMBER A090139/Q/9/P10008  
JUNE 21, 2010



Date: June 21, 2010

Reply to  
Attn of: Audit Manager, San Francisco Field Audit Office (JA-9)

Subject: Review of the Federal Acquisition Service's Client Support Center  
Pacific Rim Region  
Report Number A090139/Q/9/P10008

To: John W. Boyan, Regional Commissioner (9Q)

## **Background**

This report presents the results of the Office of Inspector General's audit of the Federal Acquisition Service (FAS) Client Support Center in the Pacific Rim Region (Pacific Rim CSC). As directed in The National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, the Inspectors General of the U.S. Department of Defense (DoD) and General Services Administration (GSA) are to report whether GSA is or is not complying with laws and regulations applicable to DoD procurements.

## **Objective, Scope, and Methodology**

Our objective was to assess whether the policies, procedures, and internal controls of the Pacific Rim CSC are administered in a manner compliant with the Federal Acquisition Regulation (FAR) and Defense procurement requirements.

To accomplish our objective, we analyzed two stratified random samples of procurement actions for services greater than \$100,000 executed between June 1, 2008 and March 31, 2009; and April 1, 2009 and September 30, 2009, respectively. For those same time periods, we also analyzed two judgmental samples of modifications placed against existing procurement actions. For the Pacific Rim CSC, our samples included 16 new awards valued at \$30.8 million and 4 modifications to existing orders valued at \$56.6 million.

We conducted this performance audit from July 2009 through March 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Results of Audit

Overall, we found the Pacific Rim CSC compliant with the FAR and Defense procurement requirements<sup>1</sup>. We noted that the Region has implemented national controls to improve its overall contracting practices; however, we identified a potential Antideficiency Act violation. Additionally, we identified deficiencies that present an opportunity for improvement in the task order award and administration processes as well as in file documentation.

### Potential Antideficiency Act Violation

We identified one instance of a potential Antideficiency Act (ADA) violation on a DoD task order modification. The Pacific Rim CSC violated the bona fide needs rule by using expired funds to pay for goods and services received. The task order's period of performance consisted of a base period, three option years, and a six-month extension modification. Other direct costs (ODCs) were billed above the maximum ceiling value in the amount of \$102,032 for Option Year 3 and in the amount of \$259,914 for the extension modification. Residual funds from previous Fiscal Years (FYs) were used to cover these ODC overages.

Appropriated funds may be used only if there is a bona fide need for the requirement in the year the appropriations are available for obligation (Title 31 U.S.C. Section 1502(a)). Therefore, by using expired funds from previous FYs, the Pacific Rim CSC violated the bona fide needs rule. However, bona fide needs violations are correctable by replacing the incorrect FY funds with the correct FY funds, provided that the funds are available. This avoids an ADA violation and the associated reporting requirements of such a violation.

After we notified Pacific Rim CSC management of the bona fide needs issue in November 2009, they took action to remedy the situation by requesting replacement FY 2008 and FY 2009 funds from the client. The DoD client responded in December 2009 that additional funding would not be provided. Therefore, this remains a potential ADA violation in the amount of \$361,946 and the Pacific Rim CSC needs to take action to resolve this issue.

The Pacific Rim CSC acknowledges that effective procedures were not in place to track task order costs at the line item level to avoid billing over the maximum ODC ceiling. It is essential that the Pacific Rim CSC review its internal processes to ensure that similar instances do not occur.

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<sup>1</sup>For audit report purposes, we will be reporting on the issues that have been determined to be within the responsibility of FAS. The DoD Office of Inspector General will be reporting on those issues that are attributable to the DoD under separate cover.

## Task Order Award Deficiencies

During our review, we identified various deficiencies related to task order awards, including:

- One instance of inadequate justification for other than full and open competition of a bridge task order. This bridge task order was awarded as a follow-on to a previous task order, which could not continue because the Pacific Rim regional counsel (regional counsel) did not approve the fourth option year package. When regional counsel approved the third option year package, they noted that the legal review was requested at the last minute for the third consecutive year. In addition, they recommended that the acquisition strategy and project requirements be reconsidered for the task order and that the contracting officer perform a wholesale review of the project funding. Despite these recommendations, the Pacific Rim CSC exercised the third option period without taking any further action. With less than a week remaining in the third option period, the Pacific Rim CSC provided regional counsel with the fourth option year package, which was ultimately declined. The Pacific Rim CSC inadequately administered this task order and lack of planning did not allow ample time for competition of a new task order. The Pacific Rim CSC chose to award a sole-source bridge task order and in doing so, was required to provide a justification that exempted them from obtaining full and open competition for the new task. FAR Subpart 6.3 identifies the statutory authorities for contracting without providing for full and open competition. The Pacific Rim CSC's justification for not achieving full and open competition was only one responsible source and no other supplies and services would satisfy agency requirements. While this justification is allowed under FAR 6.3, it cannot be used on the basis of a lack of advance planning by Pacific Rim CSC. In order to ensure that task orders are properly managed and sufficient time and consideration is given to make effective procurement decisions, the Pacific Rim CSC should enhance its controls over task order administration.
- Two instances of inadequate competition. In both instances, the contracting officer did not provide a reasonable amount of time to allow interested contractors to prepare and submit bids in response to a solicitation. As a result, the government may not have received best value due to limited competition. In one instance, the solicitation for a \$3.8 million task order was open for only five business days. The client requested that the Pacific Rim CSC expedite the procurement to avoid a break in service. The incumbent contractor was the sole bidder and was ultimately awarded the task order. Despite the client's request, the Pacific Rim CSC should have provided contractors with a reasonable amount of time to respond to the requirement. In the other instance, the contracting officer allowed a task to expire and, in an effort to prevent a break in service, limited the response time for submitting bid proposals for a follow-on task order. There is evidence in the official file that shows two contractors were discouraged

from further participating in the proposal process because of the limited timeframe to award the task order. Additionally, to be considered for the task order, contractors were required to possess a specific authorization, which the incumbent already had; therefore, providing this contractor with an advantage over other interested parties. Ultimately, the incumbent was awarded the task order. In both instances, the competitive environment was negatively affected due to the restricted time frames imposed by the contracting officers. The Pacific Rim CSC should strive to facilitate a competitive environment for all task order awards, and provide a fair opportunity to all eligible contractors.

- Thirteen instances of missing or inadequate interagency agreements. Two task orders did not have interagency agreements. In addition, there were eleven instances of inadequate interagency agreements. In these cases, an agreement was deemed inadequate if required elements were missing, if it was signed after task order award, or if it included incorrect task order information. The required elements of an interagency agreement are specified in GSA acquisition letters and Office of Federal Procurement Policy guidance. Interagency agreements outline the general and specific terms and conditions to govern the relationship between the servicing and requesting agencies, and procurement policy dictates what elements needs to be included. To ensure quality assisted acquisitions, the Pacific Rim CSC should ensure that all task orders have an interagency agreement and that those agreements include all required elements.
- Ten instances of inadequate acquisition plans. Acquisition plans were determined to be inadequate if the plans were untimely, not dated, in draft format, missing required elements, or missing required approval signatures. FAR Subpart 7.102(b) states that agencies must perform acquisition planning and conduct market research for all acquisitions and FAR Subpart 7.105 outlines the required contents of written acquisition plans. To ensure that proper acquisition planning is taking place, the Pacific Rim CSC should ensure that all acquisition plans go through the appropriate approval channels and incorporate all required elements.
- Six instances of inadequate Independent Government Estimates (IGEs). Pertinent information, such as the name/signature of the preparer and the date prepared, were missing from the IGEs. Additionally, in some cases there was not adequate support in the official file to determine the basis used for developing the IGE. We understand that specific requirements for the preparation of an IGE do not exist; however, in order to determine that the estimate was independently prepared, dates and signatures should be included on the document. Further, when the IGE is used to evaluate price reasonableness of a task order, the contracting officer should be cognizant of the basis for the amounts contained in the IGE. The importance of this is heightened in situations where there is only one offeror or when the contracting officer is relying solely on the IGE for the price reasonableness determination.

- Three instances in which IGEs were not independently prepared. One IGE was prepared by the contractor and two IGEs were prepared using the winning contractor's proposal. In all three instances, Pacific Rim CSC personnel received the IGE from the client and were not aware that the client did not prepare the IGE independently. This reaffirms the importance of preparer information being included on the IGE. Additionally, any other information that helps establish the methodology used to develop the estimate would be beneficial for contracting personnel. When accepting IGEs from the client, the Pacific Rim CSC needs to ensure that it has sufficient information to fully understand the IGE and its components.
- Six instances of inadequate price reasonableness determinations. In three instances, an evaluation of labor mix or level of effort was not performed. For the remaining three, ODCs were not evaluated as part of the task order price. Per FAR 8.405-2(d), the ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task, and for determining that the total price is reasonable. In addition, per FAR 8.402, items such as ODCs, which are not on the Multiple Award Schedule<sup>2</sup>, can only be added if the contracting officer has determined that the price is found to be fair and reasonable for those items. To ensure that FAS is providing its customers with best value procurements, the Pacific Rim CSC should thoroughly evaluate the price reasonableness for each element of a task order.
- Four instances in which Quality Assurance Surveillance Plans (QASPs) were delivered late and one instance in which a QASP was not prepared. In accordance with FAR 46.401, a QASP should be prepared in conjunction with the statement of work and incorporated into the task order file to assure that the government receives the services for which it has paid. To ensure proper surveillance of task order performance, the Pacific Rim CSC needs to be more diligent in ensuring that QASPs are completed timely for all task orders.
- One instance in which the Contracting Officer's Representative (COR) was not properly certified. Although the COR was designated on April 1, 2008, she was not certified until February 13, 2009, 10 months after appointment. Per an Office of Management and Budget (OMB) memorandum dated November 26, 2007, all CORs appointed after that date are required to attain certification no later than six months from their date of appointment. Additionally, this particular COR improperly authorized payment of an invoice for services not received (see Task Order Administration section, page 7); therefore, she did not fulfill one of her COR responsibilities as outlined in the COR designation. To ensure that proper

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<sup>2</sup>The Multiple Award Schedule program is directed and managed by GSA and provides Federal agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying.

contract administration occurs, a COR should be properly certified in accordance with OMB policy.

- One instance of awarding a task order with options against the recommendation of regional FAS management. A Pacific Rim Region Acquisition Operations Division (AOD) official stated that the task order had been mismanaged and that options would not be authorized. However, the task order award included a provision which would allow the contracting officer the option to extend services, which is in contrast to the AOD's directive. In order to ensure that contracting personnel adhere to FAS managements' recommendations, the Pacific Rim CSC should improve task order oversight.

### Task Order Administration Deficiencies

During our review, we identified various deficiencies related to task order administration, including:

- One instance of improper administration of client funds. A task order was awarded with line items Task 1, Task 2, and Task 3. Task 1 consisted of Time & Material (T&M) services, travel, and shipping. Task 1 T&M services were funded in the amount of \$3,996,020. However, invoices were paid for Task 1 services in the amount of \$4,037,836, exceeding the funding amount by \$41,816. We have determined that no other modification or funding document provided funds for an increase of Task 1 T&M services above the original funded amount. Further, we identified residual Task 1 travel and shipping funds that were used to pay for the Task 1 T&M services; therefore, Task 1 T&M services billings exceeded the funded amount available. Additionally, there were 23 instances in which Military Interdepartmental Purchase Requests (MIPRs) stated that funds were for a particular line item; however, the funds were used to pay invoices for line items other than those specified. We also noted an instance in which FY 2009 funds for Option Year 1 services were used to pay for Base Year services also occurring in FY 2009. While the correct FY funds were used, this mismanagement of the funds could create a bona fide needs issue if the FY 2009 funds are not used within the period of availability, not to exceed one year. Given that the client clearly specified on the MIPRs which line items were to be funded, the Pacific Rim CSC needs to ensure that invoices are being paid accordingly. In an effort to properly manage funds, the Pacific Rim CSC should ensure that client funds are used as specified on the funding document.
- Two instances in which the Pacific Rim CSC did not return excess funds to DoD in a timely manner. In both instances, excess funds were not returned until five months after task order closeout. According to FAR 4.804-5, at the time of closeout, the contract administration office must review the contract funds status and notify the contracting office of any excess funds the contract administration office might de-obligate. To comply with this regulation, the Pacific Rim CSC

should ensure coordination between the contract administration office and the contracting officer to identify unused funds at the time of task order closeout and remit them to the client as soon as possible.

- One instance of improper payment of invoice for services not received. The COR authorized payment of an invoice in the amount of \$25,003 for services not received by the client agency. Per the COR designation letter, a COR's responsibilities include assuring prompt inspection and acceptance or rejection of reports, deliverables, and invoices. Prior to authorizing payment of invoices, the COR should verify that all goods and services have been received in accordance with the terms and conditions of the task order.

#### Minor Deficiencies – File Documentation

During our review, we also noted isolated instances of minor deficiencies related to file documentation, including:

- Eight instances of award and administration documentation either containing incorrect information or missing pertinent information.
- Four instances in which award and administration documents were not contained in the official task order file.
- Two instances in which task order COR designation letters were not signed by the contracting officer.

In accordance with FAR 4.801, the documentation in the files shall contain all contractual actions and shall be sufficient to constitute a complete history of the transaction. In an effort to document and fully support all contracting actions taken on a specific task, the Pacific Rim CSC needs to ensure that contract files contain all required documentation.

#### **Recommendation**

We recommend that the Regional Commissioner of the Pacific Rim Region:

Work in conjunction with the Chief Financial Officer, Office of General Counsel, and Federal Acquisition Service Controller to initiate a review to determine whether prior period actions are matters subject to reporting under the Antideficiency Act.



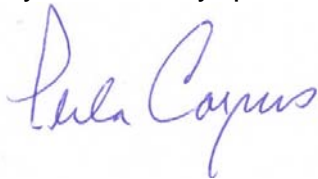
## **Management Comments**

On June 14, 2010, the Regional Commissioner, Federal Acquisition Service, Pacific Rim Region concurred with the findings and recommendation outlined in the report. Management's written comments are included in their entirety as Appendix A.

## **Internal Controls**

We assessed the internal controls relevant to the Pacific Rim CSC procurements to assure that they were made in accordance with the FAR, Defense procurement requirements, and the terms and conditions of the contracts utilized. The Pacific Rim CSC needs to continue its commitment to effective controls over procurement processes.

If you have any questions regarding this report, please contact me at (415) 522-2733.



PERLA CORPUS  
Audit Manager (JA-9)  
San Francisco Field Audit Office

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REPORT NUMBER A090139/Q/9/P10008

MANAGEMENT COMMENTS



June 14, 2010

MEMORANDUM FOR JAMES P. HAYES  
REGIONAL INSPECTOR FOR AUDITING (JA-9)  
FROM: JOHN W. BOYAN *John W. Boyan*  
REGIONAL COMMISSIONER (9Q)  
SUBJECT: Review of the Federal Acquisition Service's Client Support  
Center, Pacific Rim Region, Report Number A090139-5

In response to your May 21, 2010 request for comments, we have reviewed the subject draft report. We concur with the draft report's identification of the areas of concern and we remain fully engaged and committed to enhancing existing internal controls where needed, as well as improving our statutory/regulatory compliance and documentation requirements throughout the acquisition cycle.

The Region has taken a proactive approach in addressing the contracting weaknesses articulated in the draft report through the implementation of additional training (including a mandatory meeting and webinar conducted on May 26, 2010 on the IG's assessment of the sampling of task/delivery orders and modifications), promulgation of regional policies, and the revision of operational manuals in the Assisted Acquisition Services and Acquisition Operations Divisions.

In conjunction with the recommendation incorporated in the draft report, we agree with this suggestion and will initiate a review of the identified transaction to ascertain if this is a reportable matter. FAS, Region 9, anticipates the commencement of this evaluative process no later than October 1, 2010 with preliminary results completed no later than December 31, 2010.

We appreciate the atmosphere of collaboration which prevails between our two organizations. The draft report's insights serve as an excellent tool and catalyst to help our service aspire for acquisition excellence while maintaining our fiduciary responsibility to the taxpayers and our customers.

US General Services Administration  
FAS, Acquisition Policy (9Q)  
450 Golden Gate Avenue, 4th Floor  
San Francisco, CA 94102

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