



U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

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MEMORANDUM FOR ROBERT A. PECK
COMMISSIONER
PUBLIC BUILDINGS SERVICE (P)

FROM: *R. Nicholas Goco*
R. NICHOLAS GOCO
DEPUTY ASSISTANT INSPECTOR GENERAL
FOR REAL PROPERTY AUDITS (JA-R)

SUBJECT: Audit Memorandum – Project Management Contract for
Land Port of Entry Modernization Program
PBS's Reimbursable Work Authorization Projects Funded
by the American Recovery and Reinvestment Act of 2009
Audit Memorandum Number A090169-2

The purpose of this memorandum is to notify you that the Public Buildings Service (PBS) awarded a task order funded by the American Recovery and Reinvestment Act¹ against an existing indefinite delivery indefinite quantity (IDIQ) contract that was not within the scope of the contract. This action violated the Competition in Contracting Act of 1984.

Project Management Services Were Awarded Without Adequate Price Competition

The General Services Administration's (GSA) PBS awarded an out-of-scope task order for project management services for the Department of Homeland Security's (DHS) Land Port of Entry (LPOE) Modernization program in violation of the Competition in Contracting Act of 1984.

On November 20, 2009, PBS awarded a \$2.9 million² task order for program/project management services for the LPOE Modernization program under a performance-based IDIQ contract. The IDIQ contract was awarded by PBS in April 2006 for the purpose of supporting DHS's US-VISIT program. The contract's solicitation for offers, acquisition plan, and scope of

¹ The General Services Administration, Office of Inspector General is overseeing projects funded by the American Recovery and Reinvestment Act (Recovery Act). These projects include those for which Recovery Act funds were transferred to GSA's PBS through Reimbursable Work Authorizations (RWA) for the purpose of constructing, renovating, and altering federal buildings. One of our objectives is to determine if PBS is planning, awarding, and administering contracts for RWA projects in accordance with prescribed criteria and Recovery Act mandates.

² Subsequent modifications increased the task order amount to almost \$4.6 million.

work (SOW) all describe the contractor's services as "providing planning and execution of a variety of program and project management and other related services for the U.S. DHS US-VISIT program." The US-VISIT program supports DHS's mission by providing biometric identification services (digital fingerprints and a photograph) to assist in accurately identifying people and determining whether they pose a risk to the United States.

Under the LPOE Modernization program, DHS received \$420 million in Recovery Act funds for the planning, management, design, alteration, and construction of U.S. Customs and Border Protection (CBP) owned LPOEs. These funds are to be used to (1) expand the ports to address increasing demands, thereby reducing wait times at many locations; (2) incorporate mission enhancements required to bring these facilities up to current operational requirements; and (3) address deteriorating physical conditions. CBP provided PBS approximately \$94 million in Reimbursable Work Authorizations to perform LPOE modernization work at nine LPOEs.

While aspects of the US-VISIT program will operate within the modernized LPOEs receiving the project management services, the task order is well outside the scope of the IDIQ contract. The US-VISIT program and the LPOE Modernization program are distinctly different programs.

We questioned the Program Manager of the Land Ports of Entry Special Program Division about PBS's rationale in using the IDIQ to support the LPOE Modernization program. He said that he understood the contract was primarily for US-VISIT projects but thought the contract's SOW included language that allowed it to be used by other DHS programs.

The IDIQ contract's SOW states that it can be used for the "US-VISIT program and related services." However, the contract's acquisition plan defines program management/project management (PM) and related services as: "The PM contractor's responsibilities for managing the DHS US-VISIT program which includes management and support services of other GSA contracts and contractors, in compliance with the PM's contract, including administrative and support services." Thus, PM and related services correlate to services that are interrelated to DHS's US-VISIT program and not other DHS program areas such as LPOE Modernization. Therefore, we do not agree with PBS's rationale.

GSA's Office of the Chief Acquisition Officer, Office of Acquisition Integrity, also questioned using the US-VISIT IDIQ contract for the LPOE Modernization program. In reviewing the task order's acquisition plan, The Office of Acquisition Integrity noted that:

"... Earlier, in the paragraph on "Technical and Contractual History" we are told that the base IDIQ contract was awarded primarily to support a separate program for the Department of Homeland Security, but that the contract also allowed for related services such as those here, under the Customs/Border Protection Program. (The plan specifically references a paragraph of the base contract that allows this extended scope.) However, under "Acquisition Alternatives" it states that the base contract was solely for the DHS Program (in which case you wouldn't be placing an order for the CBP)."

In response to a draft of this memo, an official from the Greater Southwest Region Acquisition Management Division stated that the US-VISIT program IDIQ was in direct support of PBS's Special Programs Division and the task order for program/project management services was consistent with the scope of the IDIQ. Our review concluded that the CBP LPOE Modernization program does not fall under the umbrella of the DHS US-VISIT program. Thus, an IDIQ contract created to provide services for the US-VISIT program should not have been used to issue a task order for program/project management support for the LPOE Modernization program. Doing so violated the Competition in Contracting Act of 1984. Once the procurement came into question by the Office of Acquisition Integrity, the matter should have been forwarded to PBS's Office of General Counsel for a legal interpretation.

The task order in question has expired. A follow-on project management services contract was competed amongst five contractors on a GSA Federal Acquisition Services Blanket Purchase Agreements (BPA) list. On September 29, 2010, an order was placed against an existing BPA contract for Program Management/Construction Management Services for the LPOE Modernization program through September 30, 2012, in the amount of \$4,005,910.

We appreciate the support that has been provided throughout this review. If you have any questions about this memorandum, please contact me at (202) 219-0088.

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