



January 3, 2011

MEMORANDUM FOR: JULIA E. HUDSON
REGIONAL ADMINISTRATOR
NATIONAL CAPITAL REGION (WA)

FROM: 
BARBARA E. BOULDIN
REGIONAL INSPECTOR GENERAL FOR AUDITING
NATIONAL CAPITAL REGION FIELD OFFICE (JA-W)

SUBJECT: Procurement of Energy Retrofit for the U.S. Secret Service Headquarters—a Public Buildings Service Limited Scope Project Funded by the American Recovery and Reinvestment Act of 2009

As part of our ongoing review of the National Capital Region's (NCR) limited scope and small construction American Recovery and Reinvestment Act¹ (ARRA) projects, we noted certain actions related to the award of the energy retrofit project at the U.S. Secret Service Headquarters (solicitation and contract number GS-11P-10-YA-C-0092)² that may not comply with General Services Administration and/or Federal Acquisition Regulations (FAR) requirements.

Deficient Price Reasonableness Determination

The price reasonableness determination in the Price Negotiation Memorandum (PNM) was deficient. Although the award was made to the lowest-priced technically-acceptable bidder, the justification for price reasonableness was insufficient. The award amount

¹ The American Recovery and Reinvestment Act of 2009 (ARRA) appropriated \$5.55 billion to the General Services Administration (GSA) Federal Buildings Fund for GSA to take measures necessary to convert its facilities to High Performance Green Buildings. These facilities include federal office buildings, courthouses, border stations, and land ports of entry. ARRA also required the Office of Inspector General to oversee and audit programs, grants, and projects funded under this Act.

² This award was to install a demand control ventilation system and install/upgrade occupancy sensors. The award value was \$933,091.

was 22 percent higher than the independent government estimate (IGE). The Government may use various price analysis techniques to ensure a fair and reasonable price, including an IGE. For this project, the basis for price reasonableness was the IGE as prescribed by FAR Part 15.404-1(b)(2)(v). The fact that the IGE is significantly different from the award amount calls into question the accuracy of the IGE and/or the reasonableness of the proposed price, and therefore the basis of award. Alternatively, the contracting officer could have negotiated an award amount more in line with the IGE, or could have rejected all bids as excessive and re-advertised the procurement. The PNM does not sufficiently address the significant difference between the award amount and the IGE.

Further, the percentage difference between the awarded amount and the IGE was incorrectly stated in the PNM. The PNM stated that the award amount was only 0.8 percent higher than the IGE. As mentioned previously, the award amount was 22 percent higher than the IGE. The PNM documents the negotiation and should accurately reflect the pre-negotiation and negotiation objectives, which should be based, among other things, on the IGE. In this case, we cannot determine the impact of this error. For example, PBS officials could have potentially negotiated a lower award amount had they been aware that 22 percent was the actual percentage difference between the award amount and the IGE.

Technical Evaluation Board Error

The Technical Evaluation Board (TEB) reached an erroneous conclusion regarding the technical acceptability of an offer. The TEB evaluated four factors when reviewing the bidders' proposals for technical acceptability: (1) experience of the design-build team, (2) past performance of the design-build team, (3) key personnel, and (4) bonding capacity. According to the TEB report, the lowest bidder's proposal was not technically acceptable, because it did not meet the standards concerning key personnel. Specifically, the TEB stated that there were discrepancies between two key personnel resumes, because they both listed the same project as experience, yet the square footage and budgets of these projects differed. We found that the projects mentioned were actually two separate projects. Despite this error, the lowest bidder's proposal would have been rejected anyway because other factors made the proposal technically unacceptable. However, had the TEB's misjudgment concerning key personnel been the sole factor for technical acceptability, the matter could have potentially impacted the acquisition.

IGE Not Signed by Preparer

The IGE for this award, though otherwise well documented, was not signed. In this case, the estimate worksheet did not include a signature line, which may have contributed to this oversight. GSA guidelines prescribe that IGEs be signed by a qualified government employee whose major responsibility is creating or approving cost estimates. The contracting officer uses the IGE to determine whether an offeror's proposed price is fair and reasonable and reflects an understanding of the project

requirements. PBS took action to provide a signed IGE after the fact; however, the IGE should be signed prior to negotiations since it is used to establish prenegotiation objectives and/or used as the basis for commitment of funds before issuing the solicitation per FAR 15.406-1.

Our audit efforts related to ARRA are ongoing and future work products are anticipated. We appreciate the support the Regional Recovery Executive and ARRA staff is providing for the review. If you have any questions about this memorandum, please contact Marisa Roinestad, Audit Manager at (202) 384-5969.