



Office of Inspector General
Washington, DC 20546-0001

September 5, 2007

TO: Director, Goddard Space Flight Center
Procurement Officer, Goddard Space Flight Center

FROM: Assistant Inspector General for Auditing

SUBJECT: Addendum to Final Memorandum Addressing Unnecessary Subcontract Costs and Other Deficiencies in Goddard Space Flight Center's Multiple Award Schedule Procurement Process (Report No. ML-07-006; Assignment No. S-06-017-00, March 30, 2007)

We requested additional management comments on the subject final memorandum in order to resolve nine recommendations. We received additional management comments on May 8, 2007 (see the Enclosure) that are responsive, and we have closed the recommendations. Following is a summary of management's comments on the recommendations and our evaluation of the comments.

Recommendations 1-9

In our draft memorandum, we recommended that the Goddard Procurement Officer

1. issue a memorandum or directive to procurement personnel instructing them to not issue, sign, or allow the contracting officer's technical representative (COTR) to issue or sign a contractually binding instrument that directs or instructs a prime contractor to subcontract work to a particular subcontractor or authorize unnecessary pass through costs.
2. develop and implement a procedure for contracting officers to review the COTR letter of delegation with assigned COTRs, to clarify the limits of COTR authority and area of responsibility in accordance with the COTR delegation letter, to include a discussion of what a COTR cannot do, such as providing improper direction to the prime contractor, and discuss possible disciplinary action, including the removal of the COTR, for violations; the procedure should also ensure that the COTR signs the delegation letter.
3. provide procurement personnel the necessary training to consider and execute the most cost-effective procurement alternative needed to meet program needs and project schedule.

4. provide procurement personnel the necessary training to negotiate, on a task-by-task basis if necessary, a fair and reasonable subcontract rate commensurate with the prime contractor's effort to let and administer a resulting subcontract.
5. properly train procurement personnel in soliciting, awarding, and administering General Services Administration (GSA) Multiple Award Schedule (MAS) contract actions, including "single award" task orders or delivery orders, single Blanket Purchase Agreements (BPAs), and multiple BPAs, in accordance with Federal Acquisition Regulation (FAR) Subpart 8.4.
6. properly train procurement personnel in soliciting, awarding, and administering GSA Contractor Team Arrangement (CTA), when the use of a CTA is appropriate, in accordance with FAR Subpart 9.6 and GSA CTA guidance and instructions.
7. provide procurement personnel the necessary training to evaluate, analyze, negotiate as necessary, document all non-GSA schedule prices and cost, including any proposed other direct cost and indirect costs, and determine that the rates are fair and reasonable in accordance with GSA MAS Mission Oriented Business Integrated Services policy.
8. provide procurement personnel the necessary training to seek; negotiate; document in the Price Negotiation Memorandum; and, as necessary, incorporate a price reduction provision into the contract in accordance with FAR 8.405-4, 8.405-1(d), or 8.405-2(c)(3)(ii).
9. adhere to Goddard Circular 98-2 requirements for review, concurrence, approval, and "evidence of signature" and that the document used to evidence the signatures is contained in the contract file.

Comments in Response to the Draft Memorandum

The Goddard Procurement Officer's March 19, 2007, response to the draft memorandum concurred with our recommendations, or their intent, but noted that our findings were all based on a single event that occurred under extenuating circumstances. She also stated that Goddard did not believe that there were systemic issues that needed to be corrected because the Goddard procurement workforce is trained pursuant to the Federal Acquisition Certification in Contracting program and in other forums that address the actions cited in our nine recommendations.

Although we considered the comments responsive, we noted that the problems discussed in the memorandum occurred in the context of the existing training programs and statements of contracting officer and COTR responsibilities. Given this, we believed that the collective findings were significant enough to request an assurance from Goddard that contracting officer and COTR responsibilities and ongoing training efforts adequately addressed the problem areas. Therefore, we recommended that Goddard incorporate the

issues we identified into its training regimen as “lessons learned” and requested additional comments in response to the final memorandum.

Management’s Additional Comments

Goddard submitted additional comments on May 8, 2007, stating that it had completed a lessons learned training session with the entire Goddard procurement team on April 18, 2007. Goddard provided us copies of the training handouts and a copy of its updated procurement circular. The documents provided addressed our initial recommendations and provided evidence of Goddard’s intention to provide recurring focus on the issues.

Based on these comments and the supporting documentation provided by management, all nine recommendations are considered resolved and have been closed.

We appreciate the courtesies extended the audit staff during the review. If you have any questions, or need additional information, please contact Mr. Vincent Scott, Procurement Director, Office of Audits, at 202-358-0546.

for *A. Dahnelle Payson*
Evelyn R. Klemstine

Enclosure

Management's Additional Comments

National Aeronautics and
Space Administration
Goddard Space Flight Center
Greenbelt, MD 20771



May 8, 2007

Reply to Attn of: 201

TO: NASA Headquarters
Attn: Office of the Inspector General/Evelyn Klemstine

FROM: 200/Procurement Officer

SUBJECT: Goddard Space Flight Center (GSFC) Response to Final Office of Inspector General (OIG) Memorandum Addressing Unnecessary Subcontract Costs and Other Deficiencies in GSFC's Multiple Award Schedule (MAS) Procurement Process (Report ML-07-006, Assignment S-06-017-00, 3/30/07)

In response to the subject OIG final memorandum, GSFC agrees with the overall general recommendations. Immediately following receipt of your March 30, 2007, memorandum, we took additional steps to ensure that correct procedures are continuously utilized.

On April 18, 2007, we completed a "lessons learned" training session with the entire procurement management team. The training session included a review of the audit findings and lessons learned for immediate application to our current subcontracting procedures and uses of General Services Administration (GSA) Schedules. The individual managers are, in turn, disseminating the information from this session to their respective staffs, and this step will ensure the entire procurement community is well versed in policies and procedures regarding the use of Multiple Award Schedules.

We are also reviewing currently written guidance to ensure these lessons learned are incorporated, where appropriate. A reissuance of our internal GSFC Procurement Circular 01-01, "GWACs, MACs, Etc.—Conditions for Use," will be completed in the near future, and will include these appropriate revisions as well as serve as a reminder on the associated policies and procedures. A copy of Circular 01-01 is enclosed.

Finally, our internal GSFC Procurement Circular 98-2, "Review And Approval Of Procurement Documents And Related Actions," was recently updated. Among several other changes, we added reference to GSFC Procurement Circular 01-01 and FAR Part 16.505(b)(2) for GWACs, MACs, Etc. This solidifies that proper management oversight is to be given to these types of instruments. A copy of Circular 98-2 is enclosed.

In your final memorandum, you stated that you found our comments to each of the nine recommendations to be responsive and would close them once a lessons-learned training session was conducted. As noted above, that training was held on April 18, 2007. A copy of the training handout is enclosed. We request that the nine recommendations be closed.

We do have the following comments on the indicated sections of the final memorandum.

Executive Summary:

Pursuant to Federal Acquisition Regulation (FAR) 6.102(d)(3), the use of multiple award schedules issued under the procedures established by GSA is considered competitive and compliant with the Competition in Contracting Act. Therefore, when placing orders agencies need not seek further competition, synopsise the requirement in the Commerce Business Daily, or make a separate determination of fair and reasonable pricing, FAR 16.505(b). We concur that the Contracting Officer (CO) should have established ordering procedures at the onset of the delivery orders (DOs) and further offer that the original Request for Quotes (solicitation) should have stated that one or more awards could result from the solicitation.

With respect to the Procurement Officer's statement that "this matter was resolved by the Office of Investigations," it appears that the comment was misconstrued. The comment was in reference to the Procurement Officer's knowledge that an investigation was being conducted by the OIG, and it was not until February 2007 that she was informed that the investigation had been closed with no findings of violation of criminal law or malfeasance. To clarify, at the time we were administering the orders, there were extraordinary circumstances being reviewed by the OIG, and based on advice from the OIG, we were not at full liberty to take action without the possibility of jeopardizing the outcome of the investigation.

Deficiencies Related to the Misuse of Funds Allegation:

Improperly Directing the Center for Systems Management (CSM) to Subcontract with Four-Dimensional Leadership (4-D). We concur that the CO made an error in judgment and should not have allowed the task order with the "directed subcontract" to be issued. The lessons-learned training has been conducted addressing this matter.

Contract Action, which was not the Most Appropriate Method, Resulted in Waste of Funds. CSM proposed a 15-percent General and Administrative (G&A) rate on its Other Direct Costs, which was accepted by the CO at the award of the original DO. Therefore, the "pass through" or G&A rate was allowed pursuant to the terms and conditions negotiated in the original DO to CSM. We do agree that at the time CSM proposed this rate and before execution of the original order, we could have questioned this cost and should have evaluated, analyzed, negotiated as necessary, and documented the non-GSA schedule rate. The lessons-learned training addressed this requirement.

Other Contracting Deficiencies and Irregularities in Goddard's Multiple Award Schedule Procurement Process:

DO Blanket Purchase Agreement (BPA) Deficiencies. As contracting officials utilizing Mission Oriented Business Integrated Services (MOBIS), we have different contracting methods available. One option is the use of DOs, and the other option is the use of BPA/DOs. The original CO chose the use of DOs as the methodology. Further, the MOBIS schedule in effect at the time of award specifically stated that FAR 8.4 was not applicable and that the instructions delineated in the schedule were the presiding procedures. Thus, the option of the CO to determine the best method of awarding the contractual vehicle was authorized. In this instance, the CO had the discretion to either award DOs or BPAs. The original method chosen was to use DOs. We concur that there were no ordering procedures delineated for subsequent orders, and there should have been. The lessons-learned training addressed this requirement.

Fair and Reasonable Cost Determination Deficiencies. Pursuant to FAR 16.505(b), a separate determination of fair and reasonable pricing is not needed when using GSA MAS.

Maximum Order Threshold and BPA Price Reduction Deficiencies. We concur that a discount should be sought on orders or calls that exceed the specific schedule's established ordering threshold. This was discussed in the lessons-learned training session.

Contract Review and Approval Deficiencies. The Review and Approval Matrix, GSFC Procurement Circular 98-2, that was used at the time of the award of the DOs was correctly followed. Unfortunately, the version that was in effect at the time of the awards did not separately address Government-wide Acquisition Contracts (GWACs) or GSA MAS schedule awards. At the time of your review, the Matrix had been revised to include review and approval thresholds for GWAC and GSA MAS awards. We have now further updated GSFC Procurement Circular 98-2 and are taking steps to also update Procurement Circular 01-01 to ensure that proper management oversight and instruction has been given on these types of instruments.

If you need additional information, please contact Ms. Barbara Sally, GSFC Audit Liaison Officer, at (301) 286-8436.



Valorie A. Burr

Enclosures (3)

omitted