



U.S. General Services Administration
Office of Inspector General

May 15, 2013

MEMORANDUM FOR: THOMAS A. SHARPE, JR.
COMMISSIONER, FEDERAL ACQUISITION SERVICE

FROM: JAMES P. HAYES
DEPUTY ASSISTANT INSPECTOR GENERAL FOR
ACQUISITION PROGRAMS AUDITS

SUBJECT: Fiscal Year 2011 Federal Acquisition Service Leadership
Conference – Atlanta, Georgia
Memorandum Number A120130-05

This memorandum provides the results of our survey work related to the subject conference. This conference was not initially selected from the preliminary report of agency-wide conference activity compiled by the General Services Administration (GSA) Office of Administrative Services. It was selected for review as a result of its connection with a conference from that list, as noted by our review of the Federal Acquisition Service (FAS) Leadership Conference in Orlando, Florida.¹ Our objective was to determine if conference acquisition procedures were compliant with the Federal Acquisition Regulation (FAR) and whether additional audit or investigative inquiries are warranted. We are providing comments on how the Southeast Sunbelt Region (Region 4) conference acquisition procedures were not compliant with the requirements of the FAR resulting in a flawed source selection methodology.

Background

In response to congressional inquiries following disclosures in the Office of Inspector General's Management Deficiency Report, concerning the 2010 Western Regions Conference, GSA provided interested congressional committees with a listing of GSA conferences. Since conferences have not historically been tracked as discrete financial events, supporting data is not accessible from GSA's financial systems. As an alternative, the GSA Office of Administrative Services initiated an agency-wide data call in April 2012. Subsequent revisions have improved the accuracy and completeness of this data. The compiled records include conference name, purpose, GSA business line, location, number of attendees, and cost data.

¹ See Audit Memorandum A120130-04, FAS Leadership Conference, Orlando, Florida.

Our survey effort attempted to validate a subset of the agency compiled conference data. The subset of conferences chosen for survey:

- Occurred after September 30, 2010;
- Had an attendance of at least 25 people; and
- Incurred total cost of at least \$10,000.

The fiscal year 2011 FAS Leadership Conference in Orlando, Florida met those criteria. However, during review of that conference, we identified a related, but smaller, prior training conference held in Atlanta, Georgia. These conferences are interconnected as the contract file for the Atlanta conference was used as the basis for developing the contract requirements for the Orlando conference.

Our inquiry into the Atlanta conference indicated the conference acquisition procedures were potentially in noncompliance with the FAR. The procurement for this training was made using a GSA Mission Oriented Business Integrated Services (MOBIS) schedule task order under special item number (SIN) 874-4, Training Services. The contracting officer and a technical representative, through personal knowledge of potential training vendors, forwarded a Request for Quotation (RFQ) to three vendors. Roberts Business Associates (Roberts) was the only vendor to submit a proposal and on October 21, 2011, was awarded the task order in the amount of \$73,029.

Roberts, under its MOBIS contract, provides off-the-shelf or customized off-the-shelf training packages. The contract identifies course titles, course prices, minimum (4-10) and maximum (20) limits on participants, and an additional fee per participant over the minimum up to a maximum of 20 participants. A total of 23 FAS participants attended the conference.

Finding 1 – The Performance Work Statement was not independently developed.

Roberts employed The Disney Institute as a subcontractor for the purpose of providing the training as required in the Performance Work Statement (Work Statement). Roberts' proposal included the statement, "The lists of course objectives and training modules from the Work Statement are very similar to those already used for courses taught by Roberts and The Disney Institute." The Disney Institute's on-line course offerings, in some cases, either matched or closely matched the requirements in the Work Statement. The appearance is that the contracting officer used The Disney Institute's on-line course offerings as the basis for developing the Work Statement. This could be the reason that the only proposal received was from Roberts/The Disney Institute. The Work Statement should not be structured towards a particular schedule contract holder, but allow for open and fair competition.

Finding 2 – Roberts’ proposal and contract award was not consistent with its MOBIS schedule or the RFQ.

Roberts’ MOBIS contract did not provide for training services of the nature requested under SIN 874-4; however, The Disney Institute’s on-line training offerings did. Roberts’ proposal included labor costs for facilitation services,² which was not included in the RFQ. In addition, Roberts’ proposal included a price for Other Direct Costs (ODCs) of \$25,000 which the RFQ capped at \$3,000. It appears that Roberts’ proposal was developed by The Disney Institute under its pricing model instead of Roberts’ pricing schedule. This arrangement is contrary to the purpose of the MOBIS schedule program to provide a price already determined fair and reasonable as required by FAR 8.404(d).

The Independent Government Estimate (IGE) of \$75,000 was based on an estimate of 30 participants at a cost of \$2,500 per person (2,500 X 30 participants = \$75,000). The estimate was not supported by any analysis or other documentation. In addition, the IGE was not structured to permit an evaluation of the proposed level of effort or the cost of training materials. The IGE is consistent, however, with The Disney Institute’s on-line pricing schedule.

Although only one proposal was submitted, the contracting officer determined that Roberts’ proposal was fair and reasonable with the basis for award being the lowest price technically acceptable (FAR 8.405). As discussed above, the RFQ required training and pricing based on SIN 874-4, Training Services. However, Roberts’ based its proposal on labor costs from SIN 874-2, plus other direct costs that exceeded the RFQ cap. If the contracting officer had compared Roberts’ proposal to its MOBIS contract under SIN 874-4 and the RFQ, the contracting officer should have recognized inconsistencies with Roberts’ proposal. If this comparison had occurred, Roberts’ proposal would have been subject to rejection requiring the re-solicitation of contractor proposals.

Finding 3 – Roberts’ final invoice was not consistent with its price proposal, contract award or FAS requirements under a prime contractor/subcontractor arrangement.

Roberts’ final invoice of \$60,824 reflected an all-inclusive rate of \$2,400 per attendee plus \$5,624 in ODCs [(\$2,400 x 23) + \$5,624 = \$60,824]. This pricing methodology does not agree with Roberts’ proposal or contract award which used a labor hour basis plus ODCs. The rate of \$2,400 per attendee is consistent with The Disney Institute’s on-line commercial pricing schedule.

MOBIS schedule contract rules governing prime contractor/subcontractor arrangements state, “The ordering activity is invoiced in accordance with the prime contractor’s GSA Schedule contract...” The Work Statement stated that the contract type was a firm fixed price task order issued off Robert’s schedule contract. Based on the contract award, the invoice should have reflected the task order award price of \$73,029.

²Facilitation services are offered under SIN 874-2.

Connection to the FAS Leadership Conference in Orlando, Florida

After completion of the Atlanta training conference, the Region 4 FAS Deputy Assistant Commissioner notified the now retired FAS Deputy Commissioner that he should look into using The Disney Institute for a leadership conference. The Region 4 contracting officer's files were subsequently forwarded to Central Office staff for use in developing the RFQ for the FAS Leadership Conference held in Orlando. The act of forwarding contracting officer file information to another GSA office to be used as a guide would normally be a prudent, efficient, and effective practice. However, if the original procurement is flawed and the receiving office that used the information fails to recognize those procurement flaws, the result is a second flawed procurement.

Conclusion

The available evidence appears to indicate that Region 4 preselected Roberts and The Disney Institute, directing a procurement using the GSA Multiple Award Schedule to give the appearance of satisfying FAR competition and price reasonableness requirements. Although only one proposal was received, it was flawed and should have been rejected upon initial review.

These observations were made in the course of our survey efforts. They do not derive from, nor have we conducted, the tests and procedures required under an audit. Accordingly, we are making no formal recommendations. However, this memo will be made available to the independent public accountant and may trigger additional testing as part of its annual audit of GSA's financial statements. If we can be of further assistance, please contact me at 202-273-7321.

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