U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

August 19, 2010

MEMORANDUM FOR MARY RUWWE
REGIONAL COMMISSIONER, PBS
HEARTLAND REGION (6P)

FROM: JOSEPH MASTROPIETRO
ACTING REGIONAL INSPECTOR GENERAL FOR AUDITING
GREAT LAKES REGION (JA-5)

SUBJECT: Audit Memorandum: Procurement of Renovations for the Roman Hruska Courthouse (Omaha, Nebraska)—a PBS Limited Scope Construction Project Funded by the American Recovery and Reinvestment Act (ARRA) of 2009[1]

The Heartland Region PBS office (Region) awarded a sole-source contract (contract number GS06P09GYC0026) under section 8(a) of the Small Business Act to Johnson Roofing and Construction, Inc. (Johnson Roofing) of Vidalia, Georgia, for $2,498,539 on July 28, 2009. The base contract related to renovations for the Roman Hruska Courthouse located in Omaha, Nebraska (Omaha), specifically for "design-build services for the removal and replacement of the existing roof systems over the facility and facility penthouses." Our review of the subject contract identified three areas of concern related to the procurement process. First, the PBS contracting personnel did not use the local Small Business Administration (SBA) District Office to identify a fully

[1] The American Reinvestment and Recovery Act of 2009 (Recovery Act) provides the General Services Administration (GSA) with $5.55 billion for the Federal Buildings Fund. The Recovery Act mandates that $5 billion of the funds must be obligated by September 30, 2010 and that the remaining funds be obligated by September 30, 2011. One objective of this oversight is to determine if PBS is awarding and administering contracts for limited scope and small construction and modernization projects in accordance with prescribed criteria and Recovery Act mandates.

230 South Dearborn Street, Suite 408, Chicago, IL 60604

qualified local contractor. Second, we found multiple Government Cost Estimates (GCEs) which were inconsistent. Finally, the memo of negotiations was ambiguous and did not address cost savings. Our review was based upon the documentation found in the contract file and interviews with PBS contracting personnel. In some instances, we also consulted additional sources for supplemental information.

Local SBA District Office Approval Not Sought to Identify a Fully Qualified Contractor

PBS bypassed the SBA District Office in Omaha and awarded a sole source contract to Johnson Roofing, located in Vidalia, Georgia, more than 1100 miles from the Omaha worksite. We found that PBS did not follow guidance when it awarded a contract to a company outside the project area. All correspondence between SBA and GSA contained in the contract file referred to SBA's office in Atlanta, Georgia. The correspondence included a letter from PBS requesting Johnson Roofing as the 8(a) contractor and SBA's "Memo of Understanding" accepting GSA's request. Both documents were addressed to SBA's Atlanta District Office, and were dated May 28, 2009. The sole source award to a firm located far from the project is contrary to the Federal Acquisition Regulation, which states that, "an agency offering a construction requirement should submit it to the SBA District Office for the geographical area where the work is to be performed." 48 C.F.R § 19.804-2(b)(1). This is further supported by SBA's directive of June 9, 2009, for Recovery Act funded construction projects which requires local SBA involvement and promotes competition. The SBA's website indicated that there were at least four 8(a) certified roofing contractors in the Omaha area.

Additionally, the company has no demonstrable experience with energy management systems (EMS), a key component of the design-build contract. The contract contained options related to implementing recommendations of an energy study report (dated January 29, 2009) by the University of Nebraska. Approximately $700,000 of the contract was for the EMS enhancements. The EMS has no relationship to the roof replacement. It is largely an enhancement of the existing heating, ventilation, and air conditioning management control system. This portion of the project was never communicated to the SBA. The company's North American Industry Classification System code on SBA's acceptance letter was for a roofing contractor, code 238160. The code's description made no mention of the nature of work associated with implementing the energy study's recommendations. We found no record in the file of the contractor having engaged in energy management work on its previous construction projects for GSA.

Further, the EMS enhancements required some level of professional design and engineering in order to implement the study's recommendations. According to the PBS project management guide, a detailed program consisting of performance criteria and unique prescriptive requirements as the basis for the design program is necessary to minimize costly changes during this process. The energy study was intended "to evaluate the facility's energy performance and identify potential cost-effective solutions to improve the faculty [sic] energy efficiency while address[ing] the existing comfort and system reliability issues." The study's conclusions then needed to be transformed into specifications for the project. We found no evidence of the type of prescriptive requirements referred to in the project management guide such as a separate A-E design or specifications in the file. It appears that the roofing contractor was given total responsibility to design and engineer the energy study's recommendations with no input or approval required from the government. We believe that, unless a high level of oversight is provided to the project, the government's investment may be at risk.

Government Cost Estimates are Inconsistent

We concluded that the GCEs and other budgeted costs were inconsistent and did not provide a clear and transparent audit trail for this sole-source procurement. We reviewed the GCEs and compared them with the awarded amount. There were primarily two GCEs[2] in the file. As the following table shows, the first was for $2,241,146. This GCE matched the amount in the procurement's acquisition plan, dated May 27, 2009. The second GCE was for $2,445,501. This GCE was dated after the solicitation was issued, and after the initial offer was received.

Date	Base contract	Option(s)/unit price	Total	Notes
May 17, 2009 estimate	$2,236,646	$4,500 (note 1)	$2,241,146	1.Wood blocking
July 14, 2009 estimate	$1,793,664	$645,867 (note 2) and $5,970 (note 3)	$2,445,501	2. EMS 3.Wood blocking/insulation
July 28, 2009 contract award	$1,716,000	$697,000 (note 4) and $85,539 (note 5)	$2,498,539	4. EMS 5.Wood blocking/ insulation/EMS supervision

The GCE cited in the "Reasonableness of Price" memo ($2,445,501) was approximately $53,000 less than the award amount, or about 2 percent. However, we could not determine how this or the other GCE was derived. The estimates lacked any audit trail, or reference to other roofing projects for context. The GCEs provided only line items and amounts, and changes between the two were not explained. For example, the price for roof replacement decreased from $30 per square foot (May 17, 2009) to $20(July 14, 2009). The total square footage listed was 54,500, so the total change in this line item was $545,000. There was also no mention of what caused the change in the unit price. Although we sought to clarify this matter and requested supporting documentation, we did not receive a response.

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[2] Another GCE, prepared on July 23, 2009, had a different square footage for the roof compared to the other GCEs and is not discussed in this memo.

Memo of Negotiations is Ambiguous

The Memo of Negotiations, signed on July 27, 2009, was a summary of the principal elements of the negotiated agreement, including: the purpose of the negotiation, the nature of the acquisition, a summary of the contractor's proposal, and a comparison of pre-negotiation objectives to the negotiated agreement. The memo refers to cost categories, such as labor burden, profit, and overhead that are not found anywhere on the offer documents. The memo also identifies certain costs as having been negotiated down (for example, labor burden); however, the final offer amount did not decrease. As a result it was not clear what cost savings, if any, were realized from negotiations.

We appreciate the support that has been provided throughout this review. If you have any questions about this memorandum, please contact me on (312) 353-7782.

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