

U.S. Department of Labor

Office of Inspector General—Office of Audit

**EMPLOYMENT AND TRAINING
ADMINISTRATION**

**OFFICE OF THE ASSISTANT
SECRETARY FOR
ADMINISTRATION AND
MANAGEMENT**



**JOB CORPS NATIONAL CONTRACTING NEEDS
IMPROVEMENT TO ENSURE BEST VALUE**

**Date Issued:
Report Number:**

**September 27, 2013
26-13-004-03-370**

BRIEFLY...

Highlights of Report Number: 26-13-004-03-370, issued to the Assistant Secretary for Employment and Training and to the Assistant Secretary for Administration and Management.

WHY READ THE REPORT

During 2006, the Job Corps program and its acquisition authority was transferred from the Employment and Training Administration (ETA) to the Office of the Assistant Secretary for Administration and Management (OASAM), but was subsequently transferred back to ETA in 2010. These transfers resulted in Job Corps' national contracts having been awarded in some cases by ETA and in other cases by OASAM.

Twenty-four national contracts totaling more than \$506 million were awarded for Job Corps during the 5-year period ending December 31, 2012. We found that adequate sole source justification was not provided for contracts totaling \$353 million, key contracting documentation was not maintained for contracts totaling \$38 million, and claimed costs were not validated as required for contracts totaling \$335 million.

WHY OIG CONDUCTED THE AUDIT

We conducted this audit to address the following question:

Were Job Corps' national contracts awarded and costs claimed in accordance with Federal Acquisition Regulation (FAR) requirements?

Our scope covered 16 of 24 Job Corps national contracts that were awarded during the period January 1, 2008, through December 31, 2012. We also reviewed costs claimed for those 16 Job Corps national contracts.

READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to:

<http://www.oig.dol.gov/public/reports/oa/2013/26-13-004-03-370.pdf>.

September 2013

JOB CORPS NATIONAL CONTRACTING NEEDS IMPROVEMENT TO ENSURE BEST VALUE

WHAT OIG FOUND

ETA and OASAM did not comply with the FAR when awarding 13 of the 16 contracts we reviewed. In addition, claimed costs for Job Corps national contracts were not always reviewed and supported as required. Those 13 Job Corps national contracts were awarded without adequate sole source justifications or were missing key contracting documentation.

ETA and OASAM improperly awarded 10 sole source contracts, totaling \$353 million, and cited "one responsible source" as justification for the award, despite procurement records indicating the availability of more sources that could potentially have performed the services. In addition, ETA and OASAM could not demonstrate they complied with the FAR when competitively awarding 3 Job Corps' national contracts, totaling \$38 million, because key award documentation, including evidence that bids were evaluated and costs considered, was missing from the contract files.

We also found that Job Corps paid \$335 million for 8 sole source Job Corps national training contracts without requesting invoices or reviewing adequate supporting documentation. However, for the 8 other contracts we audited, claimed costs were generally reviewed and supported.

WHAT OIG RECOMMENDED

The OIG recommended that ETA provide training and oversight to ensure compliance with the FAR and DOL requirements, develop standard operating procedures for requesting documentation before making payments, and adhere to internal control standards of the Federal Government.

In response to our report, ETA management agreed that contractors had not provided proper evidence that costs claimed and paid were valid. However, ETA and OASAM disagreed that sole source justifications were inadequate and key documentation was missing from the contract files. ETA and OASAM did not provide additional information that changed our conclusions. Despite the disagreements, ETA management accepted all four of our recommendations.

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210



September 27, 2013

Assistant Inspector General's Report

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The Office of Inspector General (OIG) conducted a performance audit of the Office of Job Corps (Job Corps) national contracts. Job Corps is an office within the Employment and Training Administration (ETA). ETA's Office of Contract Management is responsible for executing Job Corps' operational acquisition authority and was authorized to perform the contracting for Job Corps National and Regional Offices. During 2006, Job Corps operational acquisition authority was transferred from ETA to the Office of the Assistant Secretary for Administration and Management (OASAM), but subsequently transferred back to ETA in 2010. The transfers of Job Corps operational acquisition authority resulted in Job Corps' national contracts having been awarded in some cases by ETA and in other cases by OASAM.

Our audit objective was to answer the following question:

Were Job Corps' national contracts awarded and costs claimed in accordance with Federal Acquisition Regulation (FAR) requirements?

To accomplish our objective, we reviewed ETA's standard operating procedures and FAR contracting requirements; interviewed ETA, OASAM, and Job Corps personnel and obtained walkthroughs of their procurement and payment processes; assessed ETA and OASAM internal controls over procurement; and reviewed contract awards and their associated payment and reimbursement documents for compliance with the FAR. We tested the award of 16 national contracts representing \$466 million, or 92 percent of the total value of Job Corps' national contracts. The 16 Job Corps national contracts we tested were awarded and managed by ETA and OASAM for the 5 year contract award period from January 1, 2008, to December 31, 2012. We separately audited claimed costs for the 16 national contracts by testing all claimed costs for 8 Job Corps national

training contracts totaling \$335 million and by testing a portion of the \$131 million in claimed costs associated with the other 8 national contracts. For the other 8 national contracts, we performed a statistical sample of approximately \$25 million in claimed costs for the period October 1, 2010, through September 30, 2011.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Background information on this audit is detailed in Appendix A, and our objective, scope, methodology, and criteria are detailed in Appendix B.

RESULTS IN BRIEF

ETA and OASAM did not comply with the FAR when awarding 13 of the 16 contracts we reviewed. In addition, claimed costs for Job Corps national contracts were not always reviewed and supported as required.¹ Job Corps may achieve future cost savings if ETA and OASAM improve their internal controls to ensure contracts are awarded competitively and claimed costs are verified and paid in accordance with the FAR. These cost savings could be substantial as the total value of the 16 contracts we audited totaled \$466 million.

Thirteen Job Corps National Contracts Awarded Without Adequate Sole Source Justifications or Key Contracting Documentation

ETA and OASAM improperly awarded 10 sole source contracts, totaling \$353 million. We found that these contracts cited “one responsible source” as justification for the award, despite procurement records indicating the availability of more sources that could potentially have performed the services, and for that reason, we determined the justification was inadequate. For about 40 years, these contracts for nationwide vocational training services were awarded to trade unions without competition. We determined that these awards were not justified because the contracted services were not unique as defined in the FAR. We concluded that the 8 contracts totaling \$355 million should have been competitively awarded. We also found that in 1995 and in 1998, GAO concluded the sole source justification for these contracts, the same justification used in the contracts we audited here, was inadequate. GAO criticized the justification and cited the unions’ network of support affiliates and major industry players at the local, regional, and national levels to be insufficient reasons for the sole source awards since the services provided by those contracts were not unique.

¹Of the 16 Job Corps’ national contracts included in our review, 11 contracts were sole source awarded (3 by ETA and 8 by OASAM) and 5 contracts were competitively awarded (1 by ETA and 4 by OASAM).

We also found for 3 contracts totaling \$38 million that ETA and OASAM could not provide evidence that bids were evaluated and costs considered, as required by the FAR. In addition, 5 sole source contract files were missing other key documentation, such as contract modifications, procurement action requests, and procurement approvals.

Claimed Costs Were Not Consistently Supported

We reviewed 16 Job Corps national contracts to determine if claimed costs were adequately supported by the contractor and reviewed by Job Corps. We found that Job Corps paid \$335 million for the 8 training contracts without requesting invoices or reviewing adequate supporting documentation from the contractors. ETA had a limited review process in place for travel costs, but had no other process to determine if the majority of costs were supported or allowable under the FAR.

However, for the 8 other national contracts, we found that claimed costs were generally reviewed and supported. We statistically sampled approximately \$12.7 million of the \$25 million paid for the other 8 national contracts during FY 2011 and estimated that at least \$24 million (96 percent) was adequately supported. However, we questioned \$351,207 in claimed costs for which the contractors did not provide supporting documentation required by ETA and the FAR. Based on our statistical sample, we are 95 percent confident that questioned costs could be as high as \$1.1 million.²

These conditions occurred because ETA and OASAM had not established a control environment to ensure contracts were awarded in accordance with applicable laws, policies, and procedures and claimed costs were adequately validated.

We recommended ETA provide training and oversight to ensure compliance with the FAR and DOL requirements, develop standard operating procedures for requesting documentation before making payments, and adhere to internal control standards of the Federal Government. ETA management accepted the recommendations to further improve DOL's procurement practices.

In response to our report, ETA and OASAM maintain their position that the sole source awards were justified. However, they provide no new information or evidence to support this position. In regards to our recommendations, they indicated many actions are completed or underway. Nothing in their responses changed the conclusions in our report.

²For the 8 other Job Corps national contracts totaling \$25 million in claimed costs paid in FY 2011, we statistically selected 39 of 80 invoices totaling approximately \$12.7 million. Of the 39 invoices sampled, we identified 17 totaling \$351,207 that did not have support documentation to substantiate the costs claimed. The sample projects show a lower limit of \$445,436 and a midpoint estimate of \$792,522.

RESULTS AND FINDINGS

Objective — Were Job Corps’ national contracts awarded and costs claimed in accordance with Federal Acquisition Regulation (FAR) requirements?

Job Corps’ Contracting Controls Need Strengthening as ETA and OASAM Did Not Consistently Comply with FAR Procurement Requirements

Finding 1 — Thirteen Job Corps National Contracts Awarded Without Adequate Sole Source Justifications or Key Contracting Documentation.

ETA and OASAM did not comply with FAR requirements when awarding 13 of the 16 Job Corps’ national contracts we reviewed.³ Of the 13 contracts with procurement deficiencies, ETA and OASAM improperly awarded 10 sole source contracts, totaling \$353 million, without fair and open competition, proper evaluation of competing contractors, or required contract documentation to support that the contracts were properly awarded. In addition, 5 of these sole source contract files were missing documentation, such as contract modifications, procurement action requests, and procurement approvals. Furthermore, OASAM did not comply with the FAR when competitively awarding 3 Job Corps’ national contracts, totaling \$38 million, because key award documentation, to include evidence that bids were evaluated and costs considered, was missing from the contract files.

These conditions occurred because ETA and OASAM had not established a control environment, including training and oversight, to ensure proper supporting documentation was maintained or that awards and the numerous contract modifications were appropriate, accurate, and in accordance with applicable laws, policies, and procedures. Consequently, the assurance of best value to the government was lost. Job Corps may achieve future cost savings if ETA and OASAM improve their internal controls to ensure contracts are awarded competitively in accordance with the FAR. These cost savings could be substantial as the total value of the 13 contracts we tested and found non-compliant totaled \$391 million (see Table 1 on the next page for a summary and Exhibit 1 for a listing of the 13 contracts improperly awarded by ETA and OASAM).

³Of the 16 Job Corps’ national contracts included in our review, 11 contracts were sole source awarded (3 by ETA and 8 by OASAM) and 5 contracts were competitively awarded (1 by ETA and 4 by OASAM).

The below table shows the contract procurement deficiencies we identified reflecting FAR non-compliance by the number of contracts, contract awards (sole source or competitive), and contract dollars.

Table 1: ETA and OASAM non-compliance by Contracts and Dollars		
FAR Non-compliance	Contracts with Non-Compliance Issues	Contract Awards (Sole Source or Competitive)
Inadequate Sole Source Justification and Missing Documentation*	10 of 16 total contracts (63%) \$353,336,831	10 of 11 sole source contracts (91%) \$353,336,831
Competitive Awards Missing Key Contract Documentation	3 of 16 total contracts (19%) \$37,786,855	3 of 5 competitive contracts (60%) \$37,786,855
Totals	13 of 16 (81%) \$391,123,686	13 of 16 (81%) \$391,123,686

*The missing documentation applies to 5 of the 11 sole source contracts. See Exhibit 1 and Exhibit 2 for details of our findings for each of the 16 contracts.

For 13 Job Corps national contracts, totaling \$391 million, we determined that 10 contracts, totaling \$353 million, were improperly awarded as sole source contracts in that there was inadequate sole source justification and missing documentation; and 3 contracts, totaling \$38 million, were improperly awarded competitively as the contract files were missing key contract documentation to support the awards.

Inadequate Sole Source Justification and Missing Documentation

We found that 10 contracts were improperly awarded without fair and open competition, proper evaluation of competing contractors, or required contract documentation. These contracts cited “one responsible source” as justification for the award despite procurement records indicating the availability of more sources that could potentially have performed the services. As such, OASAM and ETA could not demonstrate that they awarded the 10 sole source contracts at best value to the government. The 10 contracts included 8 national training contracts totaling \$335 million and 2 other national contracts (PB Dewberry and IMPAQ International) totaling \$18 million, for a total of \$353 million.

Eight sole source contracts, totaling \$335 million, were awarded by OASAM to trade unions to provide vocational training to Job Corps students. These national training contracts were for materials, services, and all necessary personnel to operate career technical training programs. The justification for making the sole source awards cited that the unions provided “unique services or unique capabilities” and that the unions have a “network of support affiliates associated with labor unions and major industry players at the local, regional, and national levels.” However, the sole source justification did not include any evidence, support, or quantifiable data that would indicate the national training contractors were the only possible sources that had such services or capabilities. We reviewed the research and market analysis documented in the contract

files to support the sole source awards and we determined that the research and market analysis was superficial and inadequately supported. More importantly, the Department could not demonstrate that the “unique” services and capabilities it cited were necessary to provide the services which Job Corps required. These 8 national training contracts have been issued as sole source awards for over 40 years without adequate documentation to show that competitive awards could not have been used in lieu of the sole source awards.

FAR 6.302-1(a)(2) states:

When the supplies or services required by the agency are available from only one responsible source ... and no other types of supplies or services will satisfy agency requirements, full and open competition need not be provided for.

In addition, FAR 10.002 (b)(1) states:

The extent of market research will vary, depending on such factors as urgency, estimated dollar value, complexity, and past experience.

While the FAR does not specifically reference the amount or type of documentation required for the market research, we believe that the market research conducted by Job Corps was superficial. Specifically, Job Corps records indicate 13 contractors having the potential to provide vocational training were identified through research. However, 5 were eliminated from consideration because they did not respond to voicemail. Another 7 contractors were eliminated because they were determined incapable or did not submit adequate documentation. We question the thoroughness of these 7 determinations because Job Corps did not document the methodology used to evaluate capability or the reasons contractors were determined incapable. Considering that the estimated dollar value of the contracts totaled \$335 million, we believe more extensive research, analysis, documentation, and contractor follow up was warranted. One contractor informed Job Corps they were not interested and we agreed that this contractor was properly eliminated from consideration.

Our conclusions were consistent with two prior audit reports in which the Government Accountability Office (GAO) specifically criticized the justification DOL used for the 8 sole source contract awards as insufficient to the circumstances for awarding these training contracts. GAO reported in 1998 that the fundamental justification cited for the sole source status for the national training contracts was their network of support affiliates associated with labor unions and major industry players at the local, regional, and national levels.⁴ In its 1998 report, GAO concluded that DOL had used the same justification with unions in order to award these sole source contracts for over 30 years and essentially listed the qualities expected in a contractor rather than establishing that

⁴ GAO Report GAO/HEHS-99-15, “Job Corps Links with Labor Market Improved but Vocational Training Performance Overstated,” dated November 1998

the services contracted for can be provided by only one source. GAO further concluded that DOL's justification for sole source procurement does not explain or demonstrate the basis for the Department's determination of need. Three years earlier in 1995, GAO also recommended that DOL reevaluate its sole source justification. GAO concluded the sole source justification for the contracts, the same justification used in the contracts we audited here, was inadequate.

DOL disagreed with the two GAO reports and stated its use of noncompetitive procedures was justified as Job Corps training programs could not be served as well through locally or regionally competed procurements. DOL also cited the continued strong performance of its sole source training contracts as well as the lack of response to its attempts to solicit other qualified providers as proper justification for its decision to use noncompetitive procedures. However, Job Corps offered nothing that would support these assertions. As such, we have the same concerns as those noted in GAO's reports. We believe that DOL had not adequately determined the availability of other potential training providers. Accordingly, we conclude that DOL needs to increase its due diligence in soliciting training providers to support future competitive awards of Job Corps national training contracts rather than continuing in its past use of noncompetitive procedures for training services that do not represent unique services as defined by the FAR.

In the combined response to our report, ETA and OASAM stated that no companies responded to the sources sought notice posted in Federal Business Opportunities and had any companies responded to the notice, then the OASAM contracting officer would have assessed their capability to provide the needed services. We believe the lack of response to the sources sought notice was indicative of the restrictive qualifications specified by OASAM as noted in their response to our draft report. For example, one of the qualifications required was that the proposed contractors have direct access to a large nation-wide membership related to the trades and national and local apprenticeship programs, which ETA and OASAM stated was necessary for student success while in the program and after matriculation from the program. This requirement eliminated potential competition because regional contractors that may have had superior apprenticeship and/or job placement records would not have been considered.

ETA and OASAM also stated that high dollar contracts with unique circumstances such as these 8 sole source national training contracts required review by DOL's Procurement Review Board (PRB) to ensure best value was obtained and the interests of the government were protected. ETA and OASAM stated that Job Corps' market research was included in its submission to the PRB along with the unique qualifications of the respective incumbent national training contractors (e.g., network of support affiliates associated with labor unions and major industry players). The PRB reviewed all 8 proposed contracts along with supporting documentation and recommended approval to DOL's Chief Acquisition Officer (CAO). All 8 were approved by the CAO. However, we concluded that neither the PRB nor the CAO's actions ensured OASAM's compliance with the FAR requirements for competition or adequate sole source justification. As noted, we believe that the market research on which the PRB and CAO partially based their decisions was superficial and limited by the restrictive qualifications

that had been set. It did not adequately support ETA and OASAM's assertion that the qualifications of the incumbent national training contractors warranted sole source procurement.

For the other 2 sole source national contracts (PB Dewberry and IMPAQ International), totaling \$18 million, ETA cited "only one responsible source" despite many other contractors with experience in general construction and management services that could have been considered and competed for those contract awards. The contract awarded to PB Dewberry, totaling \$15 million, was for architectural, engineering, design, and construction projects to help ensure complete implementation of the annual construction, renovation, and acquisition budget for the Job Corps facilities program. The other contract to IMPAQ International, totaling \$3 million, was for management services such as collecting survey data, processing and analyzing data collected, preparing specialized reports for dissemination, web site hosting activities, and technical assistance and training to the Job Corps National Office, regional offices and centers in the areas of continuous improvement, best practices, and other programmatic areas. Because these 2 contracts did not represent unique services as defined in the FAR, these contracts should not have been sole source awarded, and as such, the competitive procedures should have been utilized.

ETA management stated that the PB Dewberry sole source contract award resulted from numerous protests against ETA's awarded contract and that those protests caused the delay in making a competitive contract award. However, ETA has not provided documentation to support this assertion and accordingly, our conclusion that the sole source award to PB Dewberry was not adequately justified remains unchanged.

In regards to the contract with IMPAQ International, ETA stated that due to procurement delays, the sole source contract was made to ensure continuity of services while ETA competed and awarded a new contract. ETA also stated that it successfully competed the services and awarded a new follow-on contract to IMPAQ International on June 28, 2012.

Job Corps' National Contracts Were Missing Documentation

FAR 4.802 requires that contracting files have documentation to support the acquisition and the award, the assignment of contract administration (including payment responsibilities), and any subsequent actions taken by the contracting office and that such documentation be retained in any medium (paper, electronic, microfilm, etc.) or any combination of media, as long as the requirements of this subpart are satisfied.

Neither OASAM nor ETA could produce documentary evidence that the contract files contained all the required documentation. OASAM told us that all of the required documentation was in the contract files when they were transferred to ETA in October 2010.

We found that files for five sole source contracts were missing documentation, including contract modifications, procurement action requests, and procurement approvals. Three of the Job Corps' national training contracts and two of the other Job Corps national

contracts were missing documentation related to the procurement process. The missing procurement process documentation included: justification for the sole source award, a conflict of interest certification that personal or business relationships did not exist, a Procurement Review Board (PRB) memo, evidence the Excluded Parties List System (EPLS) was checked prior to contract award, certified cost or pricing data, and an explanation of why the contract type selected was used to meet the agency's needs.

Competitively Awarded Job Corps National Contracts Were Missing Key Documentation

ETA and OASAM together competitively awarded 5 national contracts. OASAM improperly awarded 3 of its competitively awarded Job Corps' national contracts, totaling \$38 million. We could not determine that these procurement actions complied with the FAR because the contract files were missing evidence that competitive award procedures were executed, and competitive award documentation (to include evidence that bids were evaluated and costs considered) was also missing from the contract files. The 3 contracts had missing documentation including solicitation and source selection documents, Blanket Purchase Agreement (BPA) competitive procedures and documentation, EPLS documents, and support that the bid was the lowest price or a list of all the lower bids and the reason for rejection.

In response to our report, ETA and OASAM were adamant that the missing contract documentation cited above was available and stored in the contract files. ETA and OASAM did not provide us with any new information that changed our conclusions.

Stronger Controls Needed Over Procurement Actions

These conditions occurred because ETA and OASAM had not established a control environment, including procedures, training, and oversight to ensure proper supporting documentation was maintained or that awards were appropriate, accurate, and in accordance with applicable laws, policies, and procedures. Consequently, the assurance of best value to the government was lost. Job Corps may achieve future cost savings if ETA and OASAM improve their internal controls to ensure contracts are awarded competitively in accordance with the FAR. These cost savings could be substantial as the total value of the 13 contracts we tested and found non-compliant totaled \$391 million.

Finding 2 — Claimed Costs for Job Corps National Contracts Were Not Always Reviewed and Supported.

Claimed costs for the 8 sole source national training contracts, totaling \$335 million, were not adequately reviewed to determine if the costs were allowable under the FAR. Job Corps did not require the national training contractors to submit invoices and other documentation supporting the claimed costs. The claimed costs for the 8 other Job Corps national contracts were generally supported. We statistically sampled approximately \$12.7 million of the \$25 million paid for the 8 contracts during FY 2011 and estimated that at least \$24 million (96 percent) paid was adequately supported.

However, we questioned \$351,207 in claimed costs that did not have supporting documentation required by ETA and the FAR.

This occurred because ETA did not have in place internal controls to ensure that invoices and other supporting documentation were consistently obtained and reviewed before payment. Consequently, ETA had no assurance that the costs submitted by the contractors were fair or accurate.

Invoice Documentation to Support Costs Claimed on Job Corps' National Training Contracts Was Not Requested Before Payments Were Made

Job Corps had no review process in place to verify the claimed costs for 8 Job Corps' national training contracts, totaling \$335 million. Contractors only submitted monthly spreadsheets for their claimed costs. Job Corps did not have standard operating procedures in place or internal controls to require the national training contractors to account for costs or to provide adequate records to demonstrate that costs claimed had been incurred as required by FAR 31.201-2(d), which states:

A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles in this sub-part and agency supplements. The contracting officer may disallow all or part of a claimed cost that is inadequately supported.

In addition, Job Corps did not request invoice documentation as required by a contract clause in the Job Corps national training contracts and except for travel related expenses, no verifications were performed in lieu of the invoice documentation. Furthermore, no documentation to support the claimed costs was requested nor were any of the claimed costs verified before the national training contractors withdrew reimbursable funds using the Department of Health and Human Services' Payment Management System. FAR 52.216-7(a)(1) states:

The Government will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with the FAR subpart 31.2 in effect on the date of the contract and the terms of the contract. The Contractor may submit to an authorized representative of the contracting officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

Each of the Job Corps national training contracts contained the following clause that required invoices to be submitted to DOL:

The contractor shall submit invoices for interim payments in accordance with paragraph (a) of FAR 52.216-7, Allowable Cost and Payment. If the invoice does not comply with contract requirements, it will be returned within 7 days after the date the designated billing office received the invoice.

Despite the fact that FAR 52.216-7 was an enforceable clause in each of the national training contracts, Job Corps did not require contractors to submit any invoices on any kind of schedule, monthly or otherwise.

Furthermore, we found no evidence of a reconciliation process or periodic review process to demonstrate how claimed costs were verified for the Job Corps national training contracts. Agency officials advised us that there were no standard operating procedures regarding the payment process for claimed costs associated with trade union contracts.

In response to our report, ETA is taking steps to require the national training contractors to submit invoices and training has been provided to the CORs to require supporting documentation for costs incurred.

Claimed Costs for the Eight Other Job Corps National Contracts were not Consistently Validated

Although the claimed costs for the 8 other national contracts, including base and option years, totaling \$131 million were generally supported, we identified \$351,207 that were not supported. We statistically sampled approximately \$12.7 million of the \$25 million paid for the 8 contracts during FY 2011. We reviewed the invoices and supporting documentation submitted by the contractors to determine whether the claimed costs were supported as required by the FAR. Based on our statistical sampling, we estimated that at least \$24 million (96 percent) was adequately supported.

We did, however, question \$351,207 in claimed costs because we found no documentation to support those costs. Seventeen of the 39 invoices we reviewed had support deficiencies that resulted in us questioning part of the invoiced amount. Missing or inadequate documentation included support for expenses such as salaries, travel, and labor hours and rates paid to sub-contractors. FAR 31.201-2 requires adequate supporting documentation to demonstrate the costs incurred are allocable to the specific contract, and Title 5, Code of Federal Regulations, Part 1315.9 states that agencies are to ensure payment documentation is established to support payment of invoices.

Projecting to the \$25 million paid during FY 2011, we are 95 percent confident that questioned costs could be as high as \$1.1 million.⁵ Developing and implementing effective invoice review procedures could result in funds put to better use of that amount.

⁵The sample projects a lower limit of \$445,436 and a midpoint estimate of \$792,522.

This occurred because ETA had not established controls to ensure all claimed costs were valid. Specifically, written standard operating procedures for requesting, reviewing, and approving invoices had not been established, and we found no evidence of supervisory review.

In response to our report, ETA agreed that contractors have not always provided proper evidence that expenses invoiced and paid were actually incurred, and accordingly, ETA will have the COR review supporting documentation for those costs questioned in this report and recover costs as appropriate. In addition, ETA management accepted the four recommendations we made below to further improve DOL's procurement practices.

RECOMMENDATIONS

We recommend the Assistant Secretary for Employment and Training:

1. Develop and implement procedures and provide training as needed to ensure contracting officers, contracting specialists, and contracting officers' representatives are up-to-date on applicable FAR and DOL requirements before awarding and managing sole source or competitive contracts.
2. Review future Job Corps' National contracts for FAR and DOL compliance prior to approving any procurement actions.
3. Develop standard operating procedures using the *Standards for Internal Control in the Federal Government* to develop and implement the missing procedures for requesting and reviewing invoices from Job Corps' national training contractors.
4. Recover questioned costs as appropriate on the amount of costs claimed that lacked supporting documentation for the other eight Job Corps national contracts.

We appreciate the cooperation and courtesies that ETA and OASAM personnel extended to the Office of Inspector General personnel during this audit. OIG personnel who made major contributions to this report are listed in Appendix E.



Elliot P. Lewis
Assistant Inspector General for Audit

Exhibits

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Exhibit 1**Thirteen of 16 Job Corps' National Contracts Were Improperly Awarded**

Vendor Name	Amount of Contract*	Service Provided	Awarded By	FAR and DOL Non-Compliance Issues
McNeely Pigott & Fox Public Relations, LLC (Media)	\$18,495,000	Media Outreach Campaign	OASAM	<ul style="list-style-type: none"> Inadequate BPA competitive procedures Missing BPA documentation
McNeely Pigott & Fox Public Relations, LLC	11,477,726	Communications Support	OASAM	<ul style="list-style-type: none"> Missing Competitive Range Documentation and Comparative Assessment Missing EPLS Documentation No Support for Bid Cost Selected
The Ashlin Management Group, Inc.	7,814,129	Career Technical Training Strategies	OASAM	<ul style="list-style-type: none"> Missing Competitive Range Documentation and Comparative Assessment Missing solicitation documents Missing EPLS Documentation
United Brotherhood of Carpenters	63,464,972	Career Technical Training	OASAM	<ul style="list-style-type: none"> Inadequate Sole Source Justification Missing Competitive Award Documentation for Inadequate Sole Source Contracts
International Masonry Institute	31,089,854	Career Technical Training	OASAM	<ul style="list-style-type: none"> Inadequate Sole Source Justification Missing Competitive Award Documentation for Inadequate Sole Source Contracts Missing Contract Modification
International Union of Operating Engineers	24,270,778	Career Technical Training	OASAM	<ul style="list-style-type: none"> Inadequate Sole Source Justification Missing Competitive Award Documentation for Inadequate Sole Source Contracts Missing Contract Modification
International Union of Painters and Allied Trades	33,702,997	Career Technical Training	OASAM	<ul style="list-style-type: none"> Inadequate Sole Source Justification Missing Competitive Award Documentation for Inadequate Sole Source Contracts
National Plastering Industry's Joint Apprenticeship Trust Fund	38,818,590	Career Technical Training	OASAM	<ul style="list-style-type: none"> Inadequate Sole Source Justification Missing Competitive Award Documentation for Inadequate Sole Source Contracts Missing Contract Modification
United Auto Workers Labor, Employment and Training	21,948,363	Career Technical Training	OASAM	<ul style="list-style-type: none"> Inadequate Sole Source Justification Missing Competitive Award Documentation for Inadequate Sole Source Contracts
Transportation Communications International Union	33,162,594	Career Technical Training	OASAM	<ul style="list-style-type: none"> Inadequate Sole Source Justification Missing Competitive Award Documentation for Inadequate Sole Source Contracts
Home Builders Institute	88,362,469	Career Technical Training	OASAM	<ul style="list-style-type: none"> Inadequate Sole Source Justification Missing Competitive Award Documentation for Inadequate Sole Source Contracts
PB Dewberry	15,116,214	Planning, Management and Oversight for Facilities	ETA	<ul style="list-style-type: none"> Inadequate Sole Source Justification Missing EPLS Documentation Missing Conflict of Interest Statement No Contract Type Explanation Missing Procurement Review Board Review Missing Certified Cost or Pricing Data
Impaq International, LLC	3,400,000	Data Processing Support	ETA	<ul style="list-style-type: none"> Inadequate Sole Source Justification No Contract Type Explanation
Total	\$391,123,686			

*The "Amount of Contract" column shows approximately \$391 million (for 13 contracts) out of \$466 million (for 16 contracts) in total Job Corps national contract dollars that we reviewed. The \$466 million for 16 contracts represents 92 percent of the total value of all Job Corps national contracts awarded during the five year contract award period from January 1, 2008, to December 31, 2012.

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Exhibit 2

Three of 16 Job Corps’ National Contracts Were Properly Awarded

Vendor Name	Amount of Contract**	Service Provided	Awarded By
Altech Services, Inc.	\$59,664,482	Information Technology and Telecommunication Services	OASAM
University of Kansas	12,481,595	Staff development Support	ETA
Inspection Experts, Inc.	2,747,412	Environmental Safety and Occupational Health	ETA
Total	\$74,893,489		

**The “Amount of Contract” column shows approximately \$75 million (for 3 contracts) that had no award related issues out of \$466 million (for 16 contracts) in total Job Corps national contract dollars that we reviewed. The \$466 million for 16 contracts represents 92 percent of the total value of all Job Corps national contracts awarded during the five year contract award period from January 1, 2008, to December 31, 2012.

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Appendices

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Appendix A

Background

Job Corps National Office (the National Office) establishes policy and requirements and oversees major Job Corps program initiatives. In addition, the National Office administers several national support contracts to include: national health and wellness consultants, the Job Corps National Call Center, Job Corps nationwide outreach efforts, and nationwide curriculum development. Job Corps' Regional Offices administer contracts and perform oversight activities, which include oversight and ongoing monitoring of Outreach and Admissions and Career Transition Services contracts.

In DOL, the management and administration of the Job Corps program was moved twice within the last seven years. During FY 2006, Job Corps was transferred from the Employment and Training Administration (ETA) and was made an autonomous office under the DOL's Office of the Secretary (OSEC). While under the OSEC, budgeted funds for Job Corps were appropriated directly to the Office of Job Corps and contracting support for the National Office and Regional Offices was provided by the Office of the Assistant Secretary for Administration and Management (OASAM). OASAM also absorbed ETA's contracting staff that previously supported Job Corps. However, the contracting staff was subsequently reassigned to non-Job Corps duties once they became a part of OASAM.

Since the transfer to OSEC, the Secretary of Labor annually submitted DOL budgets to move the Job Corps program back to ETA. The Consolidated Appropriations Act of 2010 finally authorized the transfer of the Job Corps program and its administrative funding from the Office of the Secretary back to ETA. The transfer back was explained as "to better integrate the program with other employment and training programs overseen by ETA." Funding for the Job Corps program is now in a separate appropriation account under ETA.

OASAM, through the DOL's Procurement Executive, is responsible for the overall implementation of DOL's procurements and ensures that procurements are performed in accordance with the appropriate laws and regulations. However, OASAM delegates procurement authority through a decentralized procurement structure via several operational acquisition and assistance offices. For Job Corps, the operational acquisition authority is with ETA's contracting officers and contracting specialists under ETA's Office of Contract Management. These contracting officers and contracting specialists are authorized to perform contracting activities for Job Corps National and Regional Offices.

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Appendix B

Objective, Scope, Methodology, and Criteria

AUDIT OBJECTIVE

Our audit objective was to answer the following question:

Were Job Corps' national contracts awarded and costs claimed in accordance with FAR requirements?

SCOPE

The audit covered Job Corps national contracts (operational service support and technical and training contracts) for 16 national contracts representing \$466 million, or 92 percent of the total value of Job Corps' national contracts awarded during the five year contract award period from January 1, 2008, to December 31, 2012. We separately audited claimed costs for the 16 national contracts by testing all claimed costs for 8 Job Corps national training contracts totaling \$335 million and by testing a portion of the \$131 million in claimed cost associated with the other 8 national contracts. For the other 8 national contracts, we performed a statistical sample of approximately \$25 million in claimed cost for the period October 1, 2010, through September 30, 2011.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

METHODOLOGY

To accomplish the audit objective, we reviewed ETA's standard operating procedures and obtained an understanding of FAR contracting requirements and DOL procurement policies. We also conducted interviews with ETA, OASAM, and Job Corps management and staff responsible for procurements and invoice payments and obtained walkthroughs of the procurement and payment processes.

We reviewed 16 Job Corps national contracts, totaling approximately \$466 million, awarded and managed by ETA and OASAM for the five year contract award period from January 1, 2008, to December 31, 2012; and claimed costs managed from October 1, 2010, to September 30, 2011. We reviewed the award process and obtained all contracts, invoices, and supporting documents pertaining to the award, maintenance, and claimed costs for the 16 contracts. We tested the 16 contracts for completeness by performing inquiries of ETA officials, inspecting the contract files, and vouching the contracts to an Electronic Procurement System (EPS) list of all contracts. We performed analysis and tested sole source and competitively awarded contracts, and modifications

specifically to ensure that the documentation required by FAR was present in files and that contract files were managed in accordance to the FAR.

We tested each of the contracts and expenditures for compliance with the FAR requirements, including awarding contracts based on evaluation, competition, adequate justification, documentation, and cost or price analysis. We selected a stratified statistical sample of 80 invoices, totaling \$24,948,421; sampled 39 of 80 invoices totaling approximately \$12,694,187; and tested claimed costs for completeness by verifying invoice dates that were paid during our audit period and by performing inquiries of Job Corps' management and staff.

For the awarded contracts, we obtained a list of invoices from ETA that were authorized for payment by Job Corps, and then compared the list to the payment documentation received for the invoices during our audit period.

A performance audit includes an understanding of internal controls considered significant to the audit objective and testing compliance with significant laws, regulations, and other requirements. To identify and assess internal controls relevant to our audit objectives, we interviewed relevant OASAM, ETA, and Job Corps personnel, and reviewed available policies and procedures. In planning and performing our audit, we considered whether internal controls significant to the audit were properly designed and placed in operation. In addition, we obtained an understanding of the internal controls associated with the procurement and claimed costs, determined whether internal controls had been placed in operation, assessed control risk, and performed tests of internal controls in order to determine our auditing procedures for the purpose of achieving our objectives. This included reviewing ETA, OASAM, and Job Corps policies and procedures related to procurement. We confirmed our understanding of these controls and procedures through interviews and documentation review and analysis.

We also evaluated internal controls used by ETA, OASAM, and Job Corps for reasonable assurance that the awarding of contracts and payment of invoices were done according to Federal requirements. Our consideration of internal controls for awarding of contracts and payment of invoices would not necessarily disclose all matters that might be reportable conditions. Because of inherent limitations in internal controls, misstatements, losses, or noncompliance may nevertheless occur and not be detected.

To achieve the assignment's objective, we relied on the computer-processed data contained in DOL's New Core Financial Management System (the Department's accounting system), DOL's Electronic Procurement System procurement system, and Job Corps Financial Accounting System (Job Corps internal financial accounting system). We assessed the reliability of the data by: (1) performing various testing of required data elements and by utilizing data analysis spreadsheets, and (2) interviewing ETA and the Office of Chief Financial Officer officials knowledgeable about ETA's financial data. We also performed tests of Job Corps manual processes and procedures

for receiving, recording, tracking, and paying invoices associated with Job Corps national contracts.

CRITERIA

- FAR
- Prompt Payment Act
- Department of Labor Manual Series
- GAO's Standards for Internal Control in the Federal Government

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Appendix C

Acronyms and Abbreviations

COR	Contracting Officer’s Representative
DOL	Department of Labor
ETA	Employment and Training Administration
FAR	Federal Acquisition Regulation
GAO	Government Accountability Office
OASAM	Office of the Assistant Secretary for Administration and Management
OIG	Office of Inspector General
OSEC	Office of the Secretary
PRB	Procurement Review Board

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Combined Response from ETA and OASAM to the Draft Report

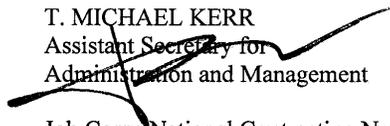
U.S. Department of Labor



JUN 13 2013

MEMORANDUM FOR ELLIOT P. LEWIS
Assistant Inspector General for Audit

FROM: GERRI FIALA 
Acting Assistant Secretary for
Employment and Training

T. MICHAEL KERR 
Assistant Secretary for
Administration and Management

SUBJECT: Job Corps National Contracting Needs Improvement to
Ensure Best Value (Draft Audit Report 26-13-004-03-370)

This responds to the Office of Inspector General (OIG) Draft Audit Report 26-13-004-03-370, "Job Corps National Contracting Needs Improvement to Ensure Best Value." As discussed more fully below, management accepts all four of the OIG's specific recommendations to further improve our procurement practices.

We note at the outset, however, that we believe the ten sole source National Job Corps contracts, which were the subject of this audit, were appropriately awarded in accordance with Federal Acquisition Regulation (FAR) and Department of Labor (DOL) requirements.

Although sole source contracts were appropriate in the Job Corps circumstances discussed in this audit, management acknowledges that competition for contractor services, where competition is possible, is desirable for achieving the best value. The Department has demonstrated its longstanding commitment to competitive procurements and has consistently ranked among the top ten Federal agencies with regard to contract competition. For FY 2012, more than 80 percent of DOL contract dollars were awarded through competition. To date in FY 2013 the Department has competed more than 83 percent of its contract dollars.

Background on Job Corps and National Training Contracts

Job Corps, under the direction of the Assistant Secretary for Employment and Training, offers career development services to at-risk young women and men, ages 16 to 24, and career technical training in more than 100 occupational areas including green job training in advanced manufacturing, automotive, and construction careers at more than 125 campuses throughout the United States and Puerto Rico. Students also receive academic training, including basic reading and math, GED attainment, college preparatory courses, and Limited English Proficiency courses. Courses in independent living, employability skills, and social skills are offered in order to help students transition into the workplace.

Job Corps distinguishes itself from other training programs by providing students with residential services as well as with hands-on training and experience that leads to an industry-recognized credential. This approach is evidenced in Job Corps' work-based learning program, which requires students to participate in real work environments before their training is completed. The work-based learning program links classroom and career training to practical, on-the-job activities. The training provided by the national contractors share these same features, combining classroom and practical learning based on industry standards that enables students to receive hands-on training.

As noted in Appendix A of the draft audit report, Job Corps administers several national support contracts to include: national health and wellness consultants, the Job Corps National Call Center, Job Corps nationwide outreach efforts, and nationwide curriculum development. Job Corps' Regional Offices administer contracts and perform oversight activities, which include oversight and ongoing monitoring of Outreach and Admissions and Career Transition Services contracts.

Finding 1 – Thirteen Job Corps National Contracts Awarded Without Adequate Sole Source Justification or Key Contracting Documentation.

The draft audit report finds that 13 contracts were awarded without competition, proper evaluation of competing contractors, or required contract documentation. As referenced in Exhibit 1 of the draft report, 11 of the contracts were awarded by the Office of Assistant Secretary for Administration and Management (OASAM)—eight were Job Corps national training contracts (2008¹), one was a career technical training strategies contract (2008), one was a media outreach contract (2008), and one was a communications support contract (2009). The remaining two contracts were awarded in 2012 by the Employment and Training Administration (ETA)—one for facilities support services and the other for data processing support services. Management concurs that ten of these contracts were awarded on a sole source basis. As we explain below, these sole source contracts were awarded in conformance with the requirements of the FAR and Departmental policy and provide the needed services at a fair and reasonable price.

Eight 2008 Job Corps National Training Contracts

The procurement processes that resulted in the eight 2008 national training contracts started with the OASAM contracting officer and Job Corps working together to identify the requirements for these contracts. Consistent with FAR Part 10, the OASAM contracting officer conducted market research to assess the marketplace for firms capable of providing these services. The OASAM contracting officer posted a sources sought notice, under FAR Part 5, in Federal Business Opportunities (FedBizOpps).² This notice was open for response from providers for 47 calendar days (substantially longer than the FAR-specified 15 days). No companies responded to the

¹ The contracting officer awarded the eight national training contracts in December 2007, with an effective date of January 2008. Hereinafter, these contracts will be referred to as the 2008 national training contracts.

² FedBizOpps is a web-based system for posting solicitations and other procurement-related documents to the Internet and it has been designated by the Federal Acquisition Regulation as the mandatory "government wide point of entry for the posting government business opportunities greater than \$25,000".

notice. Had any companies responded, the contracting officer would have assessed their capability to provide these services.

Job Corps included the results of this market research in its submission to the Department's Procurement Review Board (PRB).³ The PRB serves as an additional internal control, not required by the FAR, that advises the Chief Acquisition Officer (CAO) on certain proposed procurement actions, including sole source awards. In addition to the market research results, Job Corps provided a summary of the unique qualifications of the respective incumbent national training contractors. Those unique qualifications, gleaned from the contract files, can be summarized as follows:

- The proposed contractors have a strong affiliation with their respective industry partners and, therefore, direct access to a large nation-wide membership related to trades and national and local apprenticeship programs, which is necessary for student success while in the program and after matriculation from the Job Corps training program;
- The proposed contractors' instructional capability and capacity, including a large cadre of sufficiently qualified and experienced instructors that have the ability to provide training specifically developed and tailored for the learning level of Job Corps students;
- The proposed contractors' credibility with the trades industry, including industry's ability to recognize training by the contractors as credit toward meeting the requirements of becoming a journey-level worker;
- The proposed contractors' training curriculum is based on industry standards; and
- The proposed contractors' have a positive record of apprenticeship and/or job placement.

Based on Job Corps' submission to the PRB in support of sole source awards to these entities, the PRB voted in favor of recommending that the CAO approve these actions.⁴ The CAO did so under the authority provided by the Competition in Contracting Act, and the implementing regulations at FAR subpart 6.3.

In accordance with FAR Parts 15 and 16, prior to making the awards the contracting officer conducted the appropriate negotiations with each contractor to ensure prices were fair and reasonable, and reviewed certified cost and price data. The prices were found to be fair and reasonable using cost analysis conducted in accordance with FAR 16.104(c). The cost proposals were reviewed by the OASAM Office of Cost Determination to determine the appropriate indirect cost rates and verify the appropriateness of the cost accounting system of each

³ Pursuant to the Department of Labor's Manual Series (DLMS) 2-836, the PRB is an advisory board comprised of designees from OASAM, the Office of the Solicitor (SOL), the Office of the Chief Financial Officer (OCFO), and the Office of the Assistant Secretary for Policy. Among other things, the PRB is tasked with making recommendations to the Chief Acquisition Officer (CAO) on all proposed sole source contracts to be awarded having an estimated value over \$150,000. DLMS 2-836 also states that any proposed action from any of the board member agencies requires the recusal of that member from participating in deliberations on the proposed action. Each designee advises the PRB on specific aspects of a proposed action. For example, the SOL designee advises the PRB on legal sufficiency, while the OCFO designee advises on financial matters and internal controls. In its over 25-year history, no PRB-recommended CAO decision has been overturned by any tribunal.

⁴ As outlined in DLMS 2, Chapter 800, approval of a PRB recommendation by the CAO does not constitute an award; an acquisition may only be awarded by an acquisition or assistance official. The CAO's approval "authorizes the initiation of a non-competitive acquisition," while "[d]isapproval by the CAO of a proposed acquisition will mean that the acquisition instrument may be awarded only using full and open competition."

offeror. The reasonableness of each cost element was reviewed in accordance with FAR 15.404-1(c) to determine how closely it matched the data; for example, timecards to verify actual salary rates and fringe benefits currently provided. Judgment values such as proposed labor cost escalation were compared to published forecasts from the Bureau of Labor Statistics. The amount of fee was reviewed in accordance with the Workforce Investment Act requirements for a minimum one percent fee. The sum of reasonable prices for each element was the basis for establishing a total fair and reasonable price.

Eight 2013 National Training Contracts

As previously noted, this audit was conducted on the eight 2008 national training contracts. ETA/Job Corps recently completed the sole source award of the eight national training contracts for continued service for a base year and four option years, with effective dates in June 2013.

ETA, through the ETA contracting officer and Job Corps, followed similar steps in conducting this procurement action to the 2008 national training contracts. ETA identified the program requirements for these procurements. The ETA contracting officer posted sources sought notices on FedBizOpps for each contract, under FAR Part 5, similar to the action taken by the OASAM contracting officer in 2008. The announcements were open for 15 calendar days in December 2011, consistent with FAR requirements. Only three of the eight postings received responses from organizations other than the incumbent, and none were considered to have met the rating criteria set by the contracting officer: 1) History of providing career technical training to disadvantaged youth; 2) Level of familiarity with the Job Corps program; 3) Affiliation with registered apprenticeship programs or employers in the industry on a national, regional, and local level; 4) Ability to deliver existing training curricula and develop new curricula; and 5) Quality of existing instructional staff. In order for an entity to be determined capable they must have met each of the five criteria.⁵

- One company responded to the announcement to provide training to carpenters but was determined not meet any of the five rating criteria.
- Three companies responded to the announcement to provide residential construction training. Two of the companies failed to meet any of the five criteria. The other failed to meet two of the five criteria.
- One company responded to the announcement to provide training for heavy equipment and asphalt paving but failed to meet any of the five criteria.

In completing these awards, ETA/Job Corps sought and received recommendations in favor of the sole source award of these contracts from the PRB and, based on the PRB's recommendation, approval from the CAO under FAR 6.302-1, the implementing regulation allowing for sole source contracts when only one source is available to meet the requirements. Finally, appropriate negotiations with each contractor were conducted to ensure prices were fair and reasonable and a review of certified cost and price data was conducted, consistent with the process outlined above for the 2008 awards.

⁵ The number of responses to a sources sought notice and the evaluation of the responses are generally viewed as procurement sensitive or source selection information under the FAR. In the event of public release of this report, this information should be redacted.

Two Additional Job Corps Sole Source Contracts

The draft audit report finds that two additional contracts (PB Dewberry and IMPAQ International) should have been subjected to competition.

The sole source contract award to PB Dewberry was necessitated by several protests to the Department's efforts to compete this requirement. To ensure continuity of services while the protests were resolved, ETA/Job Corps submitted documentation to the PRB demonstrating why a sole source award was appropriate in this case. The PRB recommended approval of this action, and the CAO approved this sole source award under the authority in FAR Part 6.302-1. Ultimately, the Department successfully resolved the last round of protests in connection with this requirement and awarded a contract – which resulted from a competitive procurement process – to a new contractor on September 28, 2012, with a base period of performance of January 16, 2013 through January 15, 2014 (the period of performance was delayed due to protest).

Due to procurement delays, the sole source contract to IMPAQ International was made to ensure continuity of services while ETA competed and awarded a new contract. DOL followed the PRB procedures discussed above, ultimately resulting in the CAO approving the sole source award in accordance with FAR Part 6.302-1. ETA successfully competed the services and awarded a new follow-on contract to IMPAQ International on June 28, 2012, with a base period of performance of July 13, 2012 through July 12, 2014.

Three Remaining Job Corps Contracts

The draft audit report acknowledges that the three remaining contracts – for media outreach, communications support, and career technical training strategies – were awarded competitively but cited missing key file documentation necessary to determine if appropriate competitive procedures were followed. Management's response follows:

McNeely, Piggott, & Fox Public Relations, LLC, blanket purchase agreement (BPA) for media outreach – The draft audit report found that this contract lacked BPA documentation and that the BPA competitive procedures were inadequate. It is unclear what information is considered missing, and specifically what BPA procedures were inadequate. OASAM sent Request for Quotes to qualified vendors and awarded the BPA based on an evaluation of the quotes received. The required documentation is in the contract file.

Looking ahead, the Department anticipates a new competitive acquisition for media outreach services in FY 2014. The current delivery order against the BPA will expire in September 2013, so the Department anticipates that we will continue to rely on the BPA, pending completion of the new competitive procurement process.

McNeely, Piggott, & Fox Public Relations, LLC, contract for communications support – The draft audit report finds that this contract lacked competitive range documentation. Competitive range documentation is not required when the contracting officer makes an award based on initial offers. The source selection documentation contained in the contract file indicates that the contracting officer awarded the contract based on initial offers. The draft audit report also noted

a lack of comparative assessment; however, the contract specialist's award recommendation to the contracting officer included a comparative assessment of the 13 offerors that submitted proposals. Lastly, the draft audit report found that there was no support for bid cost selected, and that the file lacked EPLS documentation. This was a negotiated procurement awarded in accordance with FAR Part 15, Contracting by Negotiation. In negotiated procurements, contractors submit proposals and not bids. The support for the award was included in the award recommendation prepared by the contract specialist, and in the contracting officer's award decision memorandum. EPLS documentation is only required for the successful offeror. All of the required documents are located in the pre-award file.

The Ashlin Management Group, Inc. contract for career technical training strategies – The draft audit report finds the contract file was missing competitive range documentation, solicitation documents and EPLS documentation. This documentation is available in the pre-award file for this contract.

Finding 2 – Claimed Costs for Job Corps National Contracts Were Not Always Reviewed and Supported.

As outlined in responses to Recommendations 2 and 3 below, ETA management is taking steps to change the payment system from a drawdown (prior to incurred cost) to an invoicing procedure after services rendered and will require contractors to invoice for services rendered in accordance with the FAR.

Recommendations

Management's responses to the draft audit report's recommendations follow:

OIG Recommendation 1: Develop and implement procedures and provide training as needed to ensure contracting officers, contracting specialist, and contracting officers' representative are up-to-date on applicable FAR and DOL requirements before awarding and managing sole source or competitive contracts.

Response: Management accepts this recommendation. By way of background, as management has reported in response to other recent OIG audits, in January 2012 the Department began sweeping procurement reforms and training to address weaknesses in the procurement process. More specifically:

- During Q4 FY 2011 and Q1 FY 2012, OASAM, in consultation with SOL, provided procurement integrity and ethics training to more than 1,200 DOL executives, managers and acquisition personnel in the National Office and regions;
- Provided training on unauthorized commitments/ratifications to the DOL acquisition workforce;
- Conducted strategic contract administration reviews to establish how well contracts are administered by the contracting officer representatives (COR); and
- Provided guidance on post-award contract oversight and surveillance requiring a COR for all contracts over \$150,000.

Where applicable, management has also incorporated the above procurement reforms into Department of Labor Manual Series (DLMS) 2-888 Federal Acquisition Certification in Contracting (August, 2012) and DLMS 2-889 Federal Acquisition Certification in Contracting Officer Representatives (updated August, 2012). During regular Procurement Council meetings with leadership from the Department’s acquisition community, the OASAM Office of Acquisition Management Services emphasizes the need to minimize the use of sole source contracting and competitively procure goods and services whenever practicable.

In addition, all ETA staff currently awarding and administering the contracts discussed in this draft audit report have received training on contract award and administration. ETA has established several procurement “standard operating procedures” to provide readily available reference information for staff. This information is located on a shared network drive. CORs have received extensive contract administration training necessary to ensure contractors are in compliance with all procurement laws and the awarded contract. Specifically, Job Corps CORs received contract administration training June 21 and 26, July 11 and 24, and August 16, 2012. They also received COR responsibility training May 15, 2013, and are scheduled to receive follow-up training on July 17, 2013.

OIG Recommendation 2: Review future Job Corps’ National contracts for FAR and DOL compliance prior to approving any procurement actions.

Response: Management accepts this recommendation. For the reasons discussed above, management believes that the Job Corps national training contracts were awarded in accordance with the FAR and DOL policy, including the eight contracts awarded for these training services. Also, in the contract negotiations for the 2013 awards, the payment system was revised from a drawdown (prior to incurred cost) to an invoicing procedure after services are rendered. In addition, the contractors’ proposals were reviewed by the OASAM Office of Cost Determination for reasonableness, a process that is undertaken each time certified cost and pricing data is required.

OIG Recommendation 3: Develop standard operating procedures using the Standards for Internal Control in the Federal Government to develop and implement the missing procedures for requesting and reviewing invoices from Job Corps national contractors.

Response: Management accepts this recommendation. ETA self-identified the inadequacy of the current system in 2012 and took action to correct the invoicing and payment procedures in the new national training contracts. ETA will require the contractors to invoice for services rendered in accordance with the FAR. In addition, the COR has been trained to require supporting documentation for costs incurred. The contracting officer will inspect the CORs files semi-annually.

OIG Recommendation 4: Recover questioned costs as appropriate on the amount of cost claimed that lacked supporting documentation for the other eight Job Corps national training contracts.

Response: Management accepts this recommendation. ETA agrees that contractors have not always provided proper evidence that expenses invoiced and paid were actually incurred. ETA

will have the COR review supporting documentation and recover costs as appropriate. This action will be completed by the beginning of Q4 FY13.

cc: Grace Kilbane, ETA
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Lisa Lahrman, ETA
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Linda Marshall, ETA
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Appendix E

Acknowledgements

Key contributors to this report were Ray Armada (Audit Director), Alvin Edwards (Audit Manager), Renee Harrison-Womack (Team Leader), Travis Williams, Nicholas Cumby, and Daniel Rhodes (Audit Team Members), and Ajit Buttar (Statistician).

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