

Memorandum

DATE: October 30, 2008 Audit Report Number: OAS-L-09-01

REPLY TO:
ATTN OF: IG-30 (A08GT053)

SUBJECT: Audit Report on "Review of the Department of Energy's Contract with AHTNA Government Services Corporation Contract No: DE-AC52-04NA25282"

TO: Director, Office of Field Financial Management, NNSA

INTRODUCTION AND OBJECTIVE

The National Nuclear Security Administration (NNSA) awarded a general construction contract to AHTNA Government Services Corporation (AHTNA), an Alaskan Native Corporation (ANC), in September 2004. The contract was awarded under the Small Business Administration (SBA) Section 8(a) small disadvantaged business program to provide design, construction, and engineering services for radiation sensors and communication equipment in support of the Department of Energy's (Department) Second Line of Defense program.

In April, 2006, the Government Accountability Office (GAO) issued an audit report on *Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight* (GAO-06-399) related to the lack of oversight for ANC contracts. The GAO report found, among other things, that the Federal agencies subject to their review needed to improve their controls over monitoring subcontractor limitations and reporting contract modifications or awards to the SBA. In conjunction with a review conducted by the SBA Office of Inspector General (OIG), we conducted this review to determine whether the AHTNA contract was managed in accordance with the SBA 8(a) program.

CONCLUSION AND OBSERVATIONS

For the most part, we found that the AHTNA contract was managed in accordance with SBA 8(a) program requirements. However, we noted certain issues that, if corrected, could enhance NNSA's management of ANC contracts. In the case of AHTNA, we found that NNSA had not properly monitored compliance with subcontracting limitations and did not always submit contractual documents to the SBA.

Our review found that NNSA did not adhere to requirements designed to ensure that the contractor performed the required amount of work on the contract. Specifically, NNSA did not have a formal documented process for monitoring the percentage of work performed by AHTNA and reporting the results to the SBA.

The Code of Federal Regulations (CFR) requires that general construction contracts under the SBA 8a program be monitored semiannually to ensure that at least 15 percent of the cost of the contract is performed by the contractor's own employees (not including the cost of materials). The Contracting Officer indicated that periodic informal checks were conducted to estimate the percentage of work being performed and that AHTNA was performing 27 percent of the work as of February 2008. However, documentation we were provided indicated that only one estimate had been prepared since the contract was awarded in September 2004. We also determined that the method used by the Contracting Officer to calculate the percentage of work being performed by AHTNA was not in accordance with the CFR.

Using data obtained from AHTNA invoices, we determined that AHTNA performed approximately 17 percent of the cost of the contract as of February 2008. During the first 18 months of contract performance, AHTNA performed less than the required 15 percent of work. While it is not uncommon for small businesses to perform somewhat less than the required 15 percent during the initial stages of the work, it is important for the Department to use an accurate process for determining the percentage of work performed by the ANC to ensure that it is satisfying program goals.

We also found that NNSA was not providing the SBA with all contractual documents required by the CFR and the Partnership Agreement between the Department and the SBA. The Partnership Agreement delegates SBA's contract execution functions to the Department, permitting expedited 8(a) contract awards. According to the Partnership Agreement, the Department is required to provide copies of any contract, orders, modifications, and purchase orders to the SBA servicing district office. However, we found that only one of the 34 modifications to this contract was provided to the SBA. Providing this information to the SBA is important because they are the prime contractor on all 8(a) contracts and they retain the ultimate responsibility for ensuring that companies comply with all applicable program regulations. Consequently, the SBA can suspend or rescind the Department's authority under the Partnership Agreement for failure to submit the required contractual documents or adequately monitor compliance with 8(a) contract requirements.

We discussed the results of our review with the SBA OIG on April 24, 2008. We also provided the SBA OIG with answers to a number of questions they had about subcontracting limitation compliance, monitoring and reporting. The SBA OIG informed us that our results were consistent with what they had found at other Federal agencies and that in their view, lack of sufficient monitoring, reporting and oversight could result in increased performance and cost risk to the government.

SUGGESTED ACTIONS

To address the issues outlined above, we suggest that the Director, Office of Field Finance Management, NNSA develop guidance requiring contracting officers to comply with SBA 8(a) program requirements, including:

- Routine and accurate monitoring of subcontracting limitations in accordance with Code of Federal Regulations requirements;
- Submission of all required documents to the SBA, including all contract modifications; and,
- Adherence to all provisions in the Partnership Agreement between the Department and the SBA.

No recommendations are being made in this report; therefore, a formal response is not required. We appreciate the cooperation of the various Departmental elements and the staff at the NNSA Service Center during this effort.



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Deputy Inspector General
for Audit Services
Office of Inspector General

Attachment

cc: Director, Office of Procurement and Assistance Management, MA-60
Director, Policy and Internal Controls Management, NA-66
Team Leader, Audit Liaison, CF-1.2
Audit Liaison, MA 1.1

SCOPE AND METHODOLOGY

This review was performed between January 2008 and October 2008 at the National Nuclear Security Administration (NNSA) Service Center, Albuquerque, NM and AHTNA Government Services Corporation (AHTNA), Sacramento, CA. To accomplish our objective, we:

- Reviewed applicable laws and regulations pertaining to the execution of contracts awarded to small businesses;
- Reviewed prior reports issued by the Small Business Administration (SBA) Office of Inspector General (OIG) and the Government Accountability Office;
- Interviewed NNSA contracting personnel and AHTNA employees to gain an understanding of roles, responsibilities and procedures for ensuring compliance with applicable laws and regulations;
- **Obtained a listing of all contracts between AHTNA and its subcontractors;**
- Used the U.S. Army Audit Agency Statistical Sampling Software to randomly select a sample of contracts to review at AHTNA using the following parameters: confidence level – 90 percent, precision rate – 6.0, error rate – 7 percent;
- Judgmentally selected three additional contracts at AHTNA to review;
- Analyzed contract invoices and documentation obtained from the NNSA Service Center and AHTNA for Fiscal Years 2004 through 2008;

Provided the SBA OIG with certain details about the Department of Energy's compliance with SBA requirements and management of this contract to assist them in their review; and,

- Calculated the percentage of work being performed by AHTNA with its own employees.

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. Because our review was limited, it would not necessarily have disclosed all internal deficiencies that may have existed at the time of our audit. We also assessed performance measures in accordance with the *Government Performance and Results Act of 1993* and found that performance measures were developed to address contracts awarded to small business concerns. We did not rely on computer processed data to satisfy our audit objectives. A draft of this report was provided to NNSA representatives on October 9, 2008. These officials agreed with the report.