

BRIEFLY...

Highlights of Report Number 05-07-003-03-390, *ETA's Contract with TCE Digital Solutions Violated Provisions of the Small Business Act Section 8(a)*, to the Assistant Secretary for Employment and Training, dated September 2007.

WHY READ THE REPORT

The Office of Inspector General (OIG) conducted a performance audit in response to a complaint received through the OIG Complaint Analysis Office regarding ETA. The complaint alleged improprieties in awarding and managing a specific task order under Contract No. DOL J051A20206, a Small Business Act Section 8(a) contract to The Creative Eye, doing business as TCE Digital Solutions (TCE), which was awarded by ETA's Division of Contract Services.

The Small Business Administration (SBA) has a partnership agreement with DOL to establish basic procedures for expediting the award of contracts and places the responsibility for compliance with DOL. ETA requested approval from SBA for a potential 8(a) contract with TCE. SBA authorized ETA to negotiate and contract with TCE directly, as specified in the partnership agreement. On June 30, 2005, ETA awarded TCE an indefinite-quantity type contract to perform various tasks orders within ETA. The contracting officer recommended TCE subcontract with Maher and Maher to fulfill a request to sustain the Workforce³ One Project then being performed by Maher and Maher under another agreement. TCE agreed to accept a task order that would be subcontracted to Maher and Maher.

WHY OIG CONDUCTED THE AUDIT

The OIG conducted the audit to determine the merits of two allegations:

1. The Assistant Secretary for Employment and Training inappropriately directed the use of a specific company, Maher and Maher (a small business firm that is not 8(a) qualified), as a subcontractor on a task order to support the "Workforce³ One" project, and
2. ETA violated the Federal Acquisition Regulation (FAR) by approving a task order in which substantially all of the cost (and related work) was passed through the 8(a) contractor to the subcontractor.

Our scope included only one contract with TCE for the period June 30, 2005, through June 30, 2006.

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/2007/05-07-003-03-390.pdf>

U.S. Department of Labor Office of Inspector General Office of Audit

WHAT OIG FOUND

We found that the allegations were unsubstantiated, as summarized below:

1. We found no evidence that ETA's Assistant Secretary directed the use of Maher and Maher as a subcontractor on a task order to support the "Workforce³ One" project.
2. ETA did not violate the FAR by approving a task order in which substantially all of the cost and related work was passed through the 8(a) contractor to a subcontractor. While Federal regulations and the FAR require an 8(a) contractor to complete at least 50 percent of the work on a contract with its own employees, this requirement does not apply to each individual task order within the contract.

However, the contracting officer recommended TCE use Maher and Maher as a subcontractor to perform the Workforce³ One task order. This action violated sound procurement practices and created the appearance of preferential treatment toward Maher and Maher.

This report incorporates our earlier Alert Report (No. 05-06-005-03-390) detailing three violations of either SBA regulations or contract provisions. Subsequent audit work disclosed that TCE expected to perform only 32 percent of the cost of the contract incurred for personnel with its own employees, although SBA regulations require that 8(a) contractors perform 50 percent. In addition, SBA regulations require this work performance requirement be calculated semiannually.

WHAT OIG RECOMMENDED

We recommended that ETA's Assistant Secretary:

1. ensure that all contracting personnel fully comply with, and promote, the spirit and letter of the Federal procurement and ethics laws and regulations, including, but not limited to, acting impartially and abstaining from the appearance of giving preferential treatment to any organization or individual;
2. establish procedures for contracting officers to monitor the percentage of work contractors perform with their own employees before issuing new task orders or modifying existing contracts for new work; and
3. establish procedures for semiannually monitoring actual compliance with the 50 percent work performance requirement.

HOW THE AGENCY RESPONDED

ETA agreed with all our recommendations and provided a plan for corrective action.