

GENERAL SERVICES ADMINISTRATION OFFICE OF INSPECTOR GENERAL

**REVIEW OF THE GREATER SOUTHWEST REGION
PUBLIC BUILDINGS SERVICE
EL PASO SERVICE CENTER'S PROCUREMENTS
REPORT NUMBER A070150/P/7/R08001**

NOVEMBER 29, 2007





U.S. General Services Administration
Office of Inspector General

Date: November 29, 2007

Reply to

Attn of: Regional Inspector General for Auditing
Greater Southwest Region (JA-7)

Subject: Review of the Greater Southwest Region
Public Buildings Service
El Paso Service Center's Procurements
Report Number A070150/P/7/R08001

To: Scott Armev
Regional Administrator (7A)

James S. Weller
Assistant Regional Administrator
Public Buildings Service (7P)

This report presents the results of the Office of Inspector General's review of the Greater Southwest Region (GSR) Public Building Service (PBS), El Paso Service Center's procurements. Contracting officials of the PBS Acquisition Services Operations Branch Border Section were responsible for procuring the majority of the services over the micro-purchase threshold while the El Paso Service Center building management specialists were responsible for and made most procurements within the micro-purchase threshold¹.

The building maintenance and cleaning services contractor for various buildings and border stations managed by the El Paso Service Center was Ben Fitzgerald Real Estate Service, LLC, doing business as Rosemark Facilities Management (Rosemark). Part III, Section J, Exhibit 1, Paragraph 11 of Rosemark's contract allows for awards up to \$25,000 for repairs without competition.

¹ The micro-purchase threshold for supplies, equipment, and some services is currently \$3,000 and \$2,000 for contracts involving construction, alteration, or repair of public buildings or public works. Prior to September 28, 2006, the micro-purchase threshold for supplies, equipment, and some services was \$2,500.

Objective, Scope, and Methodology

The objective of the review was to determine whether the El Paso Service Center made procurements in accordance with procurement laws and regulations and General Services Administration (GSA) policies and procedures. If not, why not?

To accomplish our objective, we:

- ❑ Obtained a listing of credit card purchases totaling \$132,484, and monthly credit card logs for the period October 1, 2005, through March 31, 2007;
- ❑ Calculated the distribution percentage of credit card purchases made to all vendors;
- ❑ Identified the three vendors whose micro-purchases represented about \$90,460, or about 79.7 percent of the total micro-purchases per the credit card purchases listing;
- ❑ Reviewed the underlying support of all micro-purchases for the three vendors to determine compliance with Federal Acquisition Regulations (FAR) and GSA policies and procedures;
- ❑ Reviewed the supporting documentation for 30 procurements over the micro-purchase threshold valued at \$244,736 for the period October 1, 2005, through March 31, 2007, for the same three vendors;
- ❑ Reviewed the terms and conditions (T&Cs) of the El Paso Service Center's Mechanical Operation/Maintenance Service and Performance-Based Custodial Services Contract (Building Maintenance Contract), Contract Number GS-07P-02-UHC-1004; and
- ❑ Interviewed the contracting officials to obtain an understanding of procurement procedures and specific details of selected procurements.

The audit was conducted in accordance with generally accepted government auditing standards.

Results of Review

Although we found the El Paso Service Center's micro-purchases, valued at about \$90,460, were in compliance with procurement regulations and GSA policies and procedures, procurements over the micro-purchase threshold, valued at about \$244,736, were generally not compliant with procurement laws or the T&Cs of the Building Maintenance Contract. We found 25 of 30 procurements over the micro-purchase threshold had compliance issues. Specifically, four of eight procurements awarded using simplified acquisition procedures were not fully compliant with procurement regulations. In addition, 21 of 22 procurements awarded on the basis of the repair clause were not compliant with all T&Cs of the Building Maintenance Contract.

Finding – Purchases Over Micro-purchase Threshold

The GSWR's Border Section procurement officials did not fully comply with FAR or the T&Cs of the El Paso Service Center's Building Maintenance Contract when procuring services over the micro-purchase threshold. As a result of non-compliance with FAR and the T&Cs of the Building Maintenance Contract, the Government may not have received best value.

Simplified Acquisition Procedures - The Border Section procurement officials awarded eight procurements over the micro-purchase threshold using simplified acquisition procedures and four were not fully compliant with FAR. Specifically, procurement officials did not: (1) solicit competition in accordance with FAR 5.101(a)(2), for construction services; (2) obtain funding approval prior to contractor performing services as required by FAR 1.602-2(a); (3) demonstrate anticipated costs to the Government were fair and reasonable in accordance with FAR 6.303-2(a)(7) for a sole source award; (4) include mandatory clauses for construction services contracts required by FAR 22.407; and (5) issue a written solicitation for construction services over \$2,000 as required by FAR 13.106-1(d). Furthermore, we found a credit cardholder with micro-purchase authority that procured construction services that exceeded the micro-purchase threshold as defined by FAR 2.101.

Building Maintenance Contract - The Border Section procurement officials awarded 22 procurements based on Part III, Section J Exhibit 1, Paragraph 11 of the Building Maintenance Contract and 21 were not fully compliant with all the T&Cs of the Building Maintenance Contract. Specifically, the procuring officials did not document on the GSA Form 300: (1) the description of services being procured; (2) the maximum number of hours and amount of material costs for which the contractor would be compensated; and (3) a ceiling amount that may not be exceeded without the written approval of the contracting officer's representative (COR). Furthermore, the COR did not: (1) obtain an itemized written estimate of the labor hours and the cost of parts and materials, which may be required to complete the repair; and (2) ensure the contractor maintained a log showing each person involved in repairs.

Furthermore, three procurements were outside the scope of the Building Maintenance Contract repair clause. These procurements were for repairs and alterations of floors or wall coverings, which are specifically excluded from the repair clause. Part III, Section J, Exhibit 1, Paragraph 14 of the Building Maintenance Contract in part states, "... The repair of roofs, wall and floor coverings are excluded from this contract."

Other Matters

While not material in terms of dollars, we noted for the review period approximately 80 percent of the micro-purchases made by credit cardholders was directed to three contractors without competition. Further, a company owned by the nephew of an El Paso property manager, received 33 percent of these purchases. There is an appearance the El Paso Service Center may be giving preferential treatment to these three contractors.

FAR 3.101-1 in part, states, "Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in government-contractor relationships."

According to procuring officials, the pool of contractors performing services under the micro-purchase threshold is limited because: (1) it may take up to six months to obtain contractor security clearances; (2) these contractors are familiar with the buildings in cases of emergency repairs; (3) these contractors are willing to accept work in remote locations; and (4) GSA customers with security concerns prefer the same contractors in their buildings. In addition, the procuring officials informed us measures were being taken to increase the pool of contractors performing work at the micro-purchase level in order to eliminate or decrease the appearance of preferential treatment. Further, the Acquisition Director informed us a regional policy would be issued addressing the roles and involvement of PBS associates when familial relationships exist.

Conclusion

Although the non-compliant procurements have a small dollar value, we believe the number of procurements in non-compliance with FAR or contract T&Cs should be a matter of concern to management. In accordance with Office of Management and Budget Circular A-123, management is accountable for assuring programs are managed in compliance with applicable laws and, in doing so, should establish management controls to reasonably ensure laws and regulations are followed. The regional PBS Acquisition Services Operations Branch should consider making site visits to other Service Centers within the GSWR to determine if these procurement issues are isolated to the El Paso Service Center, or if the problem is pervasive.

Recommendations

We recommend that the Assistant Regional Administrator, Public Buildings Service, require the Acquisition Director to:

- 1a. Develop training for procuring officials to ensure:
 - ❑ Procurements of construction services over \$2,000 meet FAR requirements;
 - ❑ Costs anticipated for sole source awards are fair and reasonable;
 - ❑ Credit cardholders do not exceed their micro-purchase authority; and
 - ❑ Procurements awarded on the basis of the Building Maintenance Contract repair clause, if any, meet the T&Cs;
- 1b. Develop and implement policies and procedures to ensure funding approval is obtained before work is performed; and
- 1c. Ratify the transaction made by the cardholder that exceeded his micro-purchase procurement authority.

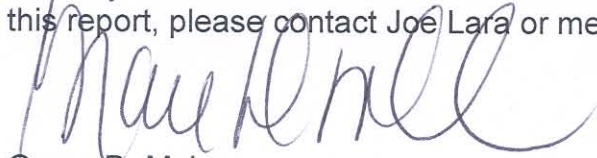
Management's Response

In his November 27, 2007 response, the Regional Administrator generally concurred with our findings and recommendations. Management's response is included in its entirety as Appendix B of this report.

Internal Controls

We assessed the internal controls relevant to selected procurements. We identified control weakness and provided recommendations to strengthen and improve the current practices.

Thank you for the courtesies extended to my staff. If you have any questions regarding this report, please contact Joe Lara or me on (817) 978-2571.



Grace D. McIver
Audit Manager
Fort Worth Field Audit Office
Greater Southwest Region (JA-7)

APPENDIX A

Summary of Procurement Irregularities

<u>Contract Number</u>	<u>Contractor</u>	<u>Description of Services</u>	<u>Invoice Amt</u>	<u>Contract Repair Services</u>	<u>Notes</u>
GS07P05UKM3031	Rosemark	Install new compressor	\$9,000.00	Yes	1
GS07P05UKM3032	Rosemark	Repair Energy MGT System	3,750.39	Yes	1
GS07P05UKM3076	Rosemark	Install 4' valve	9,600.00	Yes	1
GS07P05UKM3073	Rosemark	Replace 6 bullet resistant glass	8,032.00	Yes	1
GS07P05UKM3081	Rosemark	Remove, install water Heater	6,890.45	Yes	1
GS07P05UKM3080	Rosemark	Concrete repair gas valves	8,220.00	Yes	1
GS07P05UKM3086	Rosemark	Replace existing sidewalk	5,500.00	Yes	1
GS07P05UKM3096	Rosemark	Window Cleaning	3,150.00	Yes	1
GS07P06UKM0049	Rosemark	Install judge's carpet	15,024.00	Yes	1,2
GS07P06UKM0022	Rosemark	Replace gas line	21,597.00	Yes	1
GS07P06UKM0039	Rosemark	New fire sprinkler heads	2,491.14	Yes	1
GS07P06UKM0046	Rosemark	Installation of HVAC (to 100%)	21,428.00	Yes	1
GS07P06UKM0106	Rosemark	Clean, dust, window blinds	6,645.08	Yes	
GS07P06UKM0126	Rosemark	Replace K-9 kennel door	5,850.00	Yes	1
GS07P06UKM0132	Rosemark	Replace electric water coolers	5,895.02	Yes	1
GS07P06UKM0136	Rosemark	Install 4-ton rooftop HVAC	6,727.15	Yes	1
GS07P06UKM0138	Rosemark	Paint 8,216 sq ft. at Col. POE	8,855.39	Yes	1,2
GS07P06UKM0158	Rosemark	Remove & Install 30 ton HVAC	14,100.94	Yes	1
GS07P07UKM0049	Rosemark	Pump Replacement	8,119.00	Yes	1
GS07P06UKM0039	Rosemark	Install gas line	8,820.00	Yes	1
GS07P06UKM0038	Rosemark	Install carpet Modified	7,467.60	Yes	1,2
GS07P-6UKM0138	Rosemark	Ceiling Repair	6,727.15	Yes	1
GS07P05UKM3038	Rosemark	Patch holes, power wash, etc.	6,025.00	No	
GS07P05UKM0138	Rosemark	Install 5 ton HVAC unit	7,825.00	No	
GS97P05UKM0001	Yucca	Repair fence and gate	4,495.00	No	
GS07P06UKM0137	Yucca	Replace rock/Landscape	9,500.00	No	
GS07P06UKC0019	Yucca	New window shutters	13,950.00	No	3
Credit Card Purchase	Yucca	Install eyewash	3,475.00	No	4
Credit Card Purchase	Federal Construction	Electrical work	3,448.00	No	4,5,6
Credit Card Purchase	Rosemark	Extend ductwork	2,127.50	No	4,7
		Total	\$244,735.81		

Auditor's Notes:

1. Procurement was awarded based on Part III, Section J, Exhibit 1, Paragraph 11 of the Building Maintenance Contract and did not comply with all the T&Cs.
 - a) The COR did not obtain a proposal breaking down the number of hours and material costs as required by Part III, Section J, Exhibit 1, Paragraph 11C(3),

which states, in part, "...The Contractor shall furnish the COR with an itemized written estimate of the labor hours and the cost of parts and materials which may be required to complete any repair in this category."

- b) The COR did not ensure the contractor maintained a log showing persons involved in repairs as required by Part III, Section J, Exhibit 1, Paragraph 11C(4), which states, "When authorized to perform a repair within this category, the Contractor shall ensure that each person involved in the repair signs in and out on a log established for that purpose by the COR."
 - c) The CO did not document the description of services being procured, the maximum number of hours and material costs, or the ceiling amount on the GSA Form 300, Order for Supplies or Services, in accordance with Part III, Section J, Exhibit 1, Paragraph 11C(5), which in part states, "...The GSA Form 300 will describe the service to be provided and will establish the maximum number of hours and amount of material costs for which the Contractor will be compensated. The ceilings specified in the GSA Form 300 may not be exceeded without the written approval of the COR."
2. Procurement for repair of floor or wall coverings was awarded based on Part III, Section J, Exhibit 1, Paragraph 14, Architectural/Structural Maintenance Clause. Repairs of floor and wall coverings are specifically excluded from the Building Maintenance Contract, Paragraph 14, which in part states, "...The repair of roofs, wall and floor coverings are excluded from this contract. ..."
 3. CO did not disseminate information on proposed contract action in accordance with FAR 5.101(a)(2). The contracting officer prepared a written solicitation as required in FAR 13.106-1(d), obtained an independent government estimate for \$16,862.84 prior to soliciting bids, and solicited only three bids. However, FAR 5.101(a)(2) states, "For proposed contract actions expected to exceed \$10,000, but not expected to exceed \$25,000, by displaying in a public place, or by any appropriate electronic means, an unclassified notice of the solicitation or a copy of the solicitation satisfying the requirements of 5.207(c)."
 4. Contract action did not include mandatory clauses for construction services over \$2,000 as required by FAR 22.407.
 5. Contract action was awarded sole source; however, the CO did not demonstrate anticipated costs to the Government were fair and reasonable per FAR 6.303-2(a)(7).
 6. Contract action did not have funding approval before the work was performed as required by FAR 1.602-2(a). A review of the procurement file showed the work appeared to have been performed before funds were obligated. The invoice was dated September 6, 2005; GSA Form 49 dated September 12, 2005; GSA Form 300 (Order of Supplies or Services) dated September 16, 2005; and credit card payment September 16, 2005. Procurement of goods and services before having funding approval puts GSA at risk of being anti-deficient.
 7. Credit cardholder with micro-purchase authority exceeded this authority by purchasing construction services over \$2,000. The contractor proposed and invoiced

parts and materials, labor, and general and administrative amounts totaling \$2,127.50 for ductwork on a federal building. Ductwork is a construction service subject to the Davis-Bacon Act. Consequently, this construction service procurement should have been competed per FAR 13.106-1(d), requiring a written solicitation for construction services exceeding \$2,000. Further, since the procurement exceeded the micro-purchase threshold authority of the cardholder, the procurement should be ratified in accordance with FAR 1.602-3(a).

APPENDIX B


Management's Written Response




GSA Greater Southwest Region

November 27, 2007

MEMORANDUM FOR RODNEY J. HANSEN
REGIONAL INSPECTOR GENERAL FOR AUDITING
GREATER SOUTHWEST REGION (JA-7)

THRU: JAMES S. WELLER, P.E. 
ASSISTANT REGIONAL ADMINISTRATOR
PUBLIC BUILDINGS SERVICE (7P)

FROM: SCOTT ARMEY 
REGIONAL ADMINISTRATOR (7A)

SUBJECT: Review of the Greater Southwest Region
Public Buildings Service
El Paso Service Center's Procurements
Report Number A070150P7/XXXXXX

Reference your memorandum, November 1, 2007, same subject. Thank you for the opportunity to review and comment on the draft report. Please find below the management response to the report's findings.

Audit Finding – Purchases Over Micro-purchase Threshold

Simplified Acquisition Procedures

Procurement officials did not:

- (1) Solicit competition in accordance with FAR 5.101(a)(2) for construction services for an award expected to exceed \$10,000 up to \$25,000, by posting the solicitation in a public place. Response: The Acquisition Services Division has taken action to remind employees of the requirements to post solicitations. On March 3, 2007, a regional acquisition bulletin, Acquisition Bulletin R7PBS-07-02 Posting of solicitations and notices of solicitations in paper medium was issued to regional acquisition employees. The acquisition bulletin has also been made readily available electronically on the GSA regional intranet website.

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- (2) Obtain funding approval prior to contractor performing services as required by FAR 1.602-2(a). Response: Concur. This procurement was expected to be under the micro-purchase level, and was ordered by a building management specialist under his micro-purchase authority. While work was in progress, it became apparent that costs would increase above his dollar authority so a procurement request was processed. The purchase request, dated 10 days after the invoice, should have been processed immediately. In cases where work can be stopped, a competitive procurement should be prepared.
- (3) Demonstrate anticipated costs to the Government were fair and reasonable in accordance with FAR 6.303-2(a)(7) for a sole source award. This finding was on the same procurement noted in (2) above, which was intended to be under the micro-purchase threshold. Response: Concur. The Contracting Officer (CO) should have obtained a technical response from the estimator to demonstrate costs, and then should have prepared a price analysis and made the proper fair and reasonable determination.
- (4) Include mandatory clauses for construction services contracts required by FAR 22.407. Response: Concur. This order originally was intended to be under the micro-purchase threshold. Since a written purchase order had to be processed, the CO should have included proper clauses in the order.
- (5) Issue a written solicitation for construction services over \$2,000 as required by FAR 13.106-1(d). Response: The associates involved in this procurement considered the work to be covered by the Service Contract Act which has a \$2,500 micro purchase threshold. In August 2007, a new section was created in the Acquisition Services Division which will be responsible for the procurement and administration of all building services contracts. The purpose for creating a section dedicated to building services contracts was to ensure consistency and accuracy in procuring and administering building services and placing orders against established building services contracts

Building Maintenance Contract

Procurement officials did not document on the GSA Form 300:

- (1) Description of services being procured. Response: Concur.
- (2) Maximum number of hours and amount of material costs for which the contractor would be compensated. Response: Concur.

- (3) Ceiling amount that may not be exceeded without written approval of the contracting officer's representative (COR). Response: The order included a fixed price that could not be exceeded but concur that this should have been clearly stated as a ceiling amount.

Furthermore, the COR did not:

- (1) Obtain an itemized written estimate of labor hours and cost of parts and materials, which may be required to complete the repair. Response: Concur. The CORs will be trained in this effort. The Senior Property Manager will ensure this is done in the future, and the COs in the Building Services Branch will make sure this is done before awarding orders;
- (2) Ensure the contractor maintained a log showing each person involved in repairs. Response: Concur. The Senior Property Manager will ensure that logs are maintained in the future.

Furthermore, three procurements were outside the scope of the building maintenance contract repair clause (repairs and alterations of floors or wall coverings, which are specifically excluded from the repair clause). Response: All future building services will be ordered by COs in the newly created Building Services Section. The Operations Branch and Building Services Section Chief are reviewing similar procurements issued in other offices to determine if these same issues exist in other Service Centers. Regardless whether the issues are isolated to the El Paso Service Center or also exist elsewhere, refresher training will be provided to all COs and CORs on the requirements to order additional services under the building maintenance contracts.

Other Matters

Micro-purchases

Limited number of contractors receiving awards: Response: As noted in the Audit Report, a team is working on plans for outreach to more contractors. Constraints include time for security clearances; need for contractors familiar with the buildings for emergency repairs; finding contractors willing to accept work in remote locations; and preference by GSA customers for the same contractors in their buildings because of security concerns.

Familial relationship of contractor with GSA employee: Response: The Acquisition Director will issue a regional policy addressing the roles and involvement of PBS associates when familial relationships exist.

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Other Responses

In the second quarter of FY 2008, the Supervisory Contract Specialist (SCS) and the Senior Property Manager will conduct a training session for all associates in the El Paso office on simplified acquisition procedures to include the micro-purchases, ordering off FAS schedules and using the PBS indefinite quantity contracting vehicles. Training materials will be sent to the associates for review prior to the hands-on training. The actual training session will allow sufficient time for discussion. Periodic refresher training will also be provided as necessary.

If you have any questions regarding this response, please contact Teresa Thompson at 817-978-7084.

APPENDIX C

Report Distribution

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