



January 14, 2004

MEMORANDUM

TO: Acting/AA/ANE, Gordon West
M/OP, Timothy T. Beans

FROM: AIG/A, Bruce N. Crandlemire /s/

SUBJECT: USAID's Compliance with Federal Regulations in Awarding
the Iraq Monitoring and Evaluation Program Performance
Task Order (AIG/A Memorandum 04-001)

SUMMARY

The Office of Inspector General (OIG) has completed a review to determine compliance with federal regulations in awarding a task order for monitoring and evaluation of USAID/Iraq's technical assistance portfolio to Management Systems International (MSI) of Washington, D.C.

The OIG determined that the U.S. Agency for International Development (USAID), in making its award to MSI, complied with applicable federal regulations. In addition, at the request of the Administrator in an April 14, 2003 memorandum to the Inspector General, we were asked to identify areas for improvements. Accordingly, we suggest the following improvements be made in the award process to ensure that: 1) adequate cost estimates are prepared for required services and 2) the contract files document any discrepancies in the winning contractor's cost proposal to ensure they are considered before the final selection is made.

After the task order request was issued, the government estimate for the proposed monitoring and evaluation task order was doubled such that it exceeded the available indefinite quantity contract (IQC) ceiling for all four IQC firms under contract to USAID. In addition, the proposed task order was awarded for up to three years (award year plus two option years); extending beyond the date in the IQC when task orders had to be completed.

Also, MSI's cost proposal did not follow the instructions of the Request for Task Order Proposals and supplemental instructions because it did not include funding for consultants and local national salaries (exclusive of funding for the required level of effort) as required of all the IQC contactors. There is no documentation in the contract files that this shortcoming in the winning contractor's cost proposal was considered before the final selection was made.

BACKGROUND

USAID is awarding 10 or more contract awards for reconstruction activities in Iraq. As of the date of this memorandum, USAID has made 10 contract awards estimated to cost a total of \$1.5 billion for economic governance, personnel support, seaport administration, local governance, education, infrastructure reconstruction, monitoring and evaluation, health, airport administration and agriculture. In addition to these 10 awards, USAID has also awarded grants, cooperative agreements, and interagency agreements.

The Office of the USAID Administrator authorized expedited acquisition and assistance procedures for activities and programs in response to the crisis in the Near East. This approval allowed USAID to award contracts using other than full and open competition requirements as is authorized under 40 USC 474 and most of the contracts for assistance in Iraq were awarded using this statutory authority. However, this award to MSI was competitively awarded under a preexisting USAID IQC designed to provide these services.

On April 17, 2003, USAID issued a Request for Task Order Proposal to all four contractors of the IQC. The firms were given until May 2, 2003 to respond (later extended to May 5) and all four firms submitted a proposal. On June 25, 2003, USAID awarded MSI a task order with a ceiling price of \$15,116,328 (\$5,038,776 for a base year and also for each of two option years).

The Bureau for Asia and Near East (ANE) recommended the use of the IQC, with the concurrence of M/OP, in order to meet urgent Iraq requirements. M/OP awarded the monitoring and evaluation task order in approximately ten weeks.

REVIEW RESULTS

The OIG reviewed USAID documentation and interviewed USAID officials and representatives of the IQC contractors to determine the events that took place and decisions made supporting the award of the task order. In our opinion, USAID complied with applicable federal regulations in making the award. However, we suggest the following improvements be made in the award process to ensure that: 1) adequate cost estimates are prepared for required services and 2) the contract files document any discrepancies in the winning contractor's cost proposal to ensure they are considered before the final selection is made.

Adequate Cost Estimates Needed For Required Services

To expedite issuance of an award for monitoring and evaluation services in Iraq, ANE officials considered using a preexisting IQC managed by the Bureau for Policy and Program Coordination (PPC). Initially, USAID ANE program officials estimated the required services would cost \$3 million per year for three years for a total of \$9 million. Federal Acquisition Regulation (FAR) Subpart 16.505 concerning IQCs requires that "Orders shall be within the scope, issued within the period of performance, and be within the maximum value of the contract". Similarly, section F.3c of the IQC used for this award states that "In no event shall the aggregate total of all task orders exceed the Maximum Ordering Limitation authorized in the contract". ANE and M/OP officials confirmed with PPC that the four IQC contractors had sufficient ceiling on the IQC to accept the proposed task order and M/OP issued a task order request for proposal to use the IQC to obtain these services.

However, within days of issuance of the task order request, IQC contractors pointed out that the requested level of effort and other program costs could not be provided for \$3 million per year. M/OP officials found that ANE bureau officials had not prepared a budget for the scope of work. After working with ANE officials to develop a budget, M/OP determined that USAID's government estimate for the services was actually \$6 million per year, or \$18 million over three years. The choice of using the preexisting IQC for evaluation and monitoring services was premised on inaccurate cost information. Two of the IQC contractors did not have \$18 million remaining in their IQC ceiling and the other two IQC contractors had IQCs that were originally issued with a ceiling less than \$18 million. Ultimately, however, MSI's cost proposal was less than the

government estimate and under its remaining IQC ceiling so that M/OP did not have to justify or obtain an increase in the IQC ceiling.

M/OP acknowledges that preparing adequate cost estimates for services being requested is a good procurement practice and is standard practice in USAID procurements. M/OP states that the problems associated with quickly assembling Iraq procurements make this an exception rather than the norm. Although problems with this procurement were avoided by the lower than expected amount of the task order, the necessity of doubling the initial government estimate for the award and the absence of a budget for the acquisition are indications of acquisition planning steps that could be improved when contracts are quickly awarded, as with many of the Iraq contracts.

RECOMMENDATION No. 1

The Office of Inspector General recommends that the Bureau for Asia and Near East issue a memorandum to remind its staff that an analysis of program or contractual needs—with an appropriate budget or government estimate—should be prepared before proceeding with any procurement action.

In response to Recommendation No. 1, ANE has prepared and distributed a memorandum to its staff reminding them of the need to ensure that a budget or government estimate is completed and documented before procurement action is taken. As a result, final action has been taken on Recommendation No. 1.

Contract Files Do Not Reflect Consideration Of Discrepancy in Winning Contractor's Proposal

FAR Subpart 16.505(b)(1) requires contracting officers to provide, under multiple award contracts, a "fair opportunity to be considered for each order exceeding \$2,500". The contracting officer has broad discretion in developing appropriate order placement procedures "that will provide each awardee a fair opportunity to be considered for each order". All four contractors under this IQC were given a fair opportunity to compete for this task order. MSI's cost proposal for the task order, however, did not follow USAID's task order request instructions and USAID's contract files do not document that this discrepancy was given any consideration in the final selection.

The task order request, as amended, requested a level of effort of 8,125 staff days per year spread over several functional areas and at three levels of seniority or experience. In addition, offerors were instructed to include two constant or plug-in amounts in their cost proposals to provide for expenses that were difficult to estimate at that time. These estimated amounts included \$500,000 for consultants and \$1,500,000 for other direct costs. The line item for consultants was further described as being "short term, local, cooperating country nationals (CCNs), third country nationals (TCNs), etc."

As part of the award process, offerors submitted 50 questions in response to the task order request. On April 25, 2003, USAID provided each offeror answers to the questions to clarify the requirements. As part of the answers provided, USAID specifically pointed out that

. . . CCN, TCN, and local staff can serve in the positions identified in the staffing configuration. In addition, the estimated budget assumes the use of consultants, including CCN, TCN, local, and other short and long term staff.

On April 30, 2003, responding to a query about increasing the estimated amounts for consultants and other direct costs, an M/OP official notified offerors that

These amounts are "plug" numbers for the other direct costs and the consultants and are to assist contractors with preparing the cost proposal. We used plug numbers because of the uncertainties involved with pricing the request. These numbers may change or may remain as stated depending on future circumstances. The plug numbers should not affect your level of effort total.

Three of the four offerors followed USAID's instructions and submitted cost proposals that provided for the required level of effort¹ as well as the required plug figures for consultants and other direct costs.

MSI's cost proposal, however, included a budget for only 3,705 staff days for its level of effort instead of the required 8,125 staff days. The MSI cost proposal did include the \$2 million for consultants and other direct costs. From

¹ One offeror provided for 8,071 days or 99 percent of the required level of effort

discussions with MSI officials and review of a "level of effort chart" submitted as part of their cost proposal, we determined that MSI planned to provide the remaining 4,420 days with TCNs, CCNs and Iraqis and fund the positions from the estimated costs of \$500,000 for consultants. MSI officials stated it was their understanding that the estimated amount for consultants was to be used to fund any non-American level of effort positions. Regardless, MSI's cost proposal had a cost advantage in that it technically did not contain any provision for consultants as these funds were to have been used to fund some of the required level of effort staff days.

The OIG notes that significant variances from task order requests are typically commented on in the memorandum of negotiation or in the technical evaluation panel's report to show that it was adequately considered in the procurement deliberations so as to avoid any appearance of giving one competing contractor an advantage over the other contractors. Based on our review of all four technical and cost proposals along with the results of the technical evaluation panel's report, we believe it is unlikely that correcting MSI's cost proposal to provide the funding for consultants would have changed the panel's selection of MSI as the best choice for the task order. Accordingly, we believe all four contractors under this IQC were given a fair opportunity to compete for this task order. We did not consider this to be a systemic problem in the procurement award process and accordingly are not making a formal recommendation to address this oversight.

We appreciate the courtesies extended to the OIG staff on this review, and we are continuing to examine other Iraq contracts.

cc: AA/LPA, E. Fox
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GC, J. Gardner
M/OP/E, K. Triplett
ANE/SPO, L. Brady