



MAY 16 2007

TO: Joe Ellis
Assistant Secretary for Administration
and Management

FROM: Daniel R. Levinson *Daniel R. Levinson*
Inspector General

SUBJECT: Emergency Response to Hurricanes Katrina and Rita: Audit of Program Support Center's Award Process for a Contract With Henry Schein, Inc. (A-03-06-00517)

This report provides the results of our audit of the Program Support Center's (PSC) award process for a contract with Henry Schein, Inc. (Henry Schein), of Melville, New York. The audit is one of several reviews of procurements by PSC and other components of the Department of Health and Human Services (HHS) in response to Hurricanes Katrina and Rita in 2005.

BACKGROUND

Hurricane Relief Efforts

Following Hurricanes Katrina and Rita, Congress provided more than \$63 billion to the Department of Homeland Security for disaster relief. Under its National Response Plan, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) coordinated relief efforts by assigning tasks, known as missions, to other Federal agencies. FEMA agreed to reimburse the other agencies for their costs.

FEMA assigned HHS the responsibility for relief operations in the areas of public health and medical services. As part of the HHS relief operations, PSC awarded a fixed-price contract to Henry Schein. The contract obligated Henry Schein to provide urgently needed medical and surgical supplies for use at Federal medical shelters, which were set up to provide emergency medical care for those in the affected areas. The contract, effective September 5, 2005, provided \$315,977 for this purpose.

PSC's Strategic Acquisition Service was responsible for soliciting, negotiating, awarding, and administering the contract.

Federal Acquisition Regulations

The Federal Acquisition Regulation (FAR) defines a contract as a mutually binding legal relationship obligating the seller to furnish the supplies or services and the buyer to pay for them. It includes all types of commitments that obligate a Government expenditure of appropriated funds, including awards, job orders, letter contracts, orders, and bilateral contract modifications (FAR 2.101).

The FAR establishes the basic requirements for acquisitions by Federal agencies. The Health and Human Services Acquisition Regulation (HHSAR) implements and supplements the FAR and provides requirements that specifically govern the HHS contract process.

The FAR and the HHSAR provide, among other things, that HHS agencies award each contract to a responsible party (FAR 9.103(a)) and document compliance with requirements for full and open competition and the determination that the price was fair and reasonable (FAR 6.101(b) and 15.402(a)). Agencies also must develop a statement or description of the goods or services being requested (FAR 16.504(a)(4)(iii)).

FAR 6.302-2 recognizes that an unusual and compelling urgency could preclude full and open competition if a delay in awarding a contract would result in serious financial or other injury to the Government. However, written justifications and approvals are required (FAR 6.303 and 6.304).

Letter contracts may be used only for urgent needs. Unpriced orders, which must contain price ceilings, may be used only when it is impractical to obtain pricing. In addition, agencies must consider the appropriate contract type pursuant to guidance in FAR part 16. In certain situations, consideration must be given to small and minority businesses and local firms.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our audit was to determine whether PSC complied with FAR and HHSAR requirements during the award process involving Henry Schein.

Scope

We limited our audit to the award process for PSC's contract HHSP233200500317A, effective September 5, 2005, with Henry Schein. We did not assess PSC's overall internal control environment. We also did not review contract performance or the acceptance and inspection of goods and services received.

We performed fieldwork at PSC's Strategic Acquisition Service in Rockville, Maryland, from January through March 2006.

Methodology

To accomplish our objective, we:

- reviewed FAR and HHSAR requirements,
- met with PSC officials to ensure an adequate understanding of PSC's actions during the award process and the basis for those actions, and
- examined the records of negotiation and other documentation related to the award of the contract to determine whether PSC followed FAR and HHSAR requirements.

We performed our audit in accordance with generally accepted government auditing standards.

RESULTS OF AUDIT

PSC complied with FAR and HHSAR requirements during the award process for contract HHSP233200500317A with Henry Schein. PSC awarded this contract to meet an unusual and compelling urgency that precluded full and open competition. According to the procurement records, PSC had determined that delaying the contract award would have resulted in serious impairment of the Government's efforts to provide emergency medical services to hurricane victims. Furthermore, the procurement records contained all required documentation, including written justifications and approvals.

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This audit was conducted in conjunction with the President's Council on Integrity and Efficiency (PCIE) as part of its examination of relief efforts provided by the Federal Government in the aftermath of Hurricanes Katrina and Rita. As such, a copy of the report has been forwarded to the PCIE Homeland Security Working Group, which is coordinating Inspectors General reviews of this important subject.

If you have any questions about this report, please do not hesitate to call me, or your staff may contact Joseph J. Green, Assistant Inspector General for Grants, Internal Activities, and Information Technology Audits, at (202) 619-1175 or through e-mail at Joe.Green@oig.hhs.gov. Please refer to report number A-03-06-00517.