



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL

Northeast Region

Suite 2-2230

5601 Sunnyside Avenue, Stop 5300
Beltsville, Maryland 20705-5300



DATE: September 25, 2009

REPLY TO

ATTN OF: HY-0813-0004

TO: Thomas Tidwell
Chief
USDA Forest Service
Washington, D.C.

THROUGH: Dave Dillard
Executive
Forest Service Recovery Team
Washington, D.C.

FROM: BRIAN L. HAASER /s/
Special Agent-in-Charge
for Investigations

SUBJECT: Contract Compliance Review – Cabin Construction, Eight Fathom Bight, Alaska -
American Recovery and Reinvestment Act of 2009

We conducted a contract compliance review based on referrals (RATB-R-0006) from the Recovery Accountability and Transparency Board (RATB) staff of a contract let by the Department of Agriculture's (USDA) Forest Service (FS) and funded by the American Recovery and Reinvestment Act of 2009 (Recovery Act). We were specifically asked to determine if FS utilized a competitive set-aside process in making the award.

This review is part of a series of contract compliance reviews we are doing as a result of referrals from the RATB. In each, we reviewed relevant documentation and talked to contracting personnel. We reviewed the specific areas of concern raised by the RATB, checked for compliance with the Contract Checklist put together by the RATB, and verified the contract type used.

Project Summary

FS entered into a contract with Channel Construction Inc., Juneau, Alaska: AG-0489-C-09-0002 (March 13, 2009) for the construction and installation of one recreation cabin with furnishings for public use, with related site work including stream rehabilitation, deck and ramp, aggregate trail, construction of furnishings, installation of Government furnished stove, sign and mooring buoy (award amount \$157,830). The project is located at Eight Fathom Bight, about 15 miles east of Hoonah, Alaska off of Port Frederick. There are no utilities at the site. The site is connected to the Neka Bay remote road system and is not accessible from the Hoonah road system. The cabin site is an abandoned roadbed near the beach. Hoonah is accessible by scheduled air taxi service, boat, barge and the Alaska Marine Highway System. The contract was funded with Recovery Act funds designated for "Capital Improvement and Maintenance," for priority road, bridge and trail maintenance and decommissioning, including related watershed restoration and ecosystem enhancement projects; facilities improvement, maintenance and renovation; remediation of abandoned mine sites; and support costs necessary to carry out this work. This contract was among the projects that were identified by FS as ones that could be acted upon within 7 days of the enactment of the Recovery Act.

The contract in question was a fixed price, historically underutilized business zone (HUBZone) award authorized under Federal Acquisition Regulation (FAR) 6.205. HUBZone set-aside awards are issued with full and open competition after exclusion of sources as authorized by statute under the HUBZone Act of 1997 (15 U.S.C. 631 note) and are awarded in accordance with FAR 19.1305.

Results of Review

The following are the results of our review of the issue raised by the RATB:

- **Competitive Set-Aside Process:** The contract was a HUBZone set-aside procurement authorized under FAR 6.205, made with full and open competition after exclusion of sources as authorized by statute under the HUBZone Act of 1997 (15 U.S.C. 631 note) and was awarded in accordance with FAR 19.1305 utilizing a competitive process. The process included a request for proposal with full and open competition among HUBZone business concerns only. Technical and price evaluation was used to determine the best value contractor. Ten proposals were received. Technical and price factors were considered by an evaluation panel rating the proposals based on cabin materials, design and past performance. Channel Construction Inc.'s proposal had the lowest cost, the highest technical rating and the price proposed was comparable to the government estimate.

In addition, we noted other issues related to the procurements:

- **Chapter 6.2 of OMB Guidance of 2/18/09:** The OMB guidance issued on February 18, 2009, details actions, beyond standard practice, that agencies must take related to solicitation of offers and award of contracts under the Recovery Act.
- The OMB guidance issued on February 18, 2009, required agencies to include the word “Recovery” as the first word in the title field of FedBizOpps (FBO) presolicitation notices and award announcements for any Recovery Act funded projects when these notices are required under FAR Part 5. (OMB Initial Implementing Guidance (M-09-10) at 6.2 (1)), 6.2 (2).¹ There was a presolicitation notice and award announcement posted in FBO for this project and neither contained the word “Recovery” in the title field. We note that FS could not have done this as the presolicitation notice was posted for this project in FBO prior to Recovery Act funding availability. For both FBO postings, the Contracting Officer (CO) informed us that FBO will not allow changes to the name of contracting actions once they are established in FBO so the word “Recovery” could not have been added to the notice titles. This was confirmed by the Federal Service Desk, technical support services for FBO. We noted that the CO included directly under the title field in the FBO award announcement that the project is a Recovery Act project and the award announcement synopsis included the Recovery Act Treasury Accounting Symbol (TAS) and Recovery Act project number.

This compliance review determined, in the areas reviewed, that the contract substantially complied with the FAR and the new Recovery Act requirements, with the few noted exceptions. As a result, we are closing our file.

If you have any questions, please call William G. Squires, Jr., Assistant Special Agent-in-Charge, at (212) 264-8400.

cc:

Assistant Inspector General for Investigations, OIG
Regional Inspector General for Audit, NER, OIG
Director, Law Enforcement and Investigations, Forest Service
Director, Rural Development and Natural Resources Division – Audit, OIG

¹ As of March 31, 2009, the FAR, 5.704 now requires agencies to publicize notices of proposed contract actions in accordance with the procedures of FAR 5.201. 74 Fed. Reg. 14633, 14638. As of March 31, 2009, FAR 5.705 now requires contracting officers to use the instructions at www.fedbizopps.gov to identify actions funded in whole or in part by the Recovery Act. 74 Fed. Reg. 14633, 14638.