



U.S. Department of Agriculture
Office of Inspector General
Washington, D.C. 20250



DATE: October 22, 2009

REPLY TO
ATTN OF: 08703-03-SF

TO: Thomas L. Tidwell
Chief
Forest Service

ATTN: Janet M. Roder
Dianna Capshaw
Audit Liaisons

FROM: Robert W. Young /s/
Assistant Inspector General
for Audit

SUBJECT: Contract Compliance Review - Green Mountain National Forest Critical Deferred Road Maintenance Reduction Projects

We conducted a contract compliance review based on a referral (RATB-R-0095) from the Recovery Accountability and Transparency Board (RATB). The referral expressed concerns about two task orders involving two contractors, funded by the American Recovery and Reinvestment Act of 2009 (Recovery Act) and administered by the U.S. Department of Agriculture's Forest Service (FS).¹ The referral expressed concerns as to whether the contractors (1) were registered in the Small Business Administration's (SBA) Online Representations and Certification Application (ORCA) system and (2) had the ability to complete the scope of work under each task order. We found no evidence to support these concerns.

We analyzed contract files and interviewed FS' contracting personnel in the Allegheny National Forest (NF) office located in Warren, Pennsylvania; the East Economic Recovery Operations Center in Atlanta, Georgia; and the Green Mountain NF office in Rutland, Vermont. We interviewed both contractors and performed site visits to review the contractors' road maintenance work in Vermont. Also, we compared the RATB's Contract Checklist against relevant contract documentation to identify any issues regarding administration of the contracts.

Background

On August 11, 2009, the FS issued two Recovery-funded task orders under two existing Indefinite Delivery Indefinite Quantity (IDIQ) construction contracts for the grading and graveling of 30 miles of roads within the Green Mountain NF in Vermont: task order no. AG-

¹ Public Law 111-5, 123 Stat. 170, "Forest Service Capital Improvement and Maintenance," dated Feb. 17, 2009.

4419-D-09-0047 totaling \$949,524, under IDIQ contract no. AG-24H8-C-09-0010; and task order no. AG-4419-D-09-0048 totaling \$749,286, under IDIQ contract no. AG-24H8-C-09-0011. Both IDIQ contracts were firm fixed price and were awarded via full and open competition.²

Results of Review

The following are the results of our review:

- 1. Registration in SBA's ORCA:** We determined that both contractors were registered in ORCA. According to the Federal Acquisition Regulation³ (FAR), prospective contractors are required to complete annual representations and certifications in ORCA when bidding on Federal contracts. ORCA is an Internet database that is operated by the SBA. It was created to eliminate the administrative burden for contractors in submitting the same information to various contracting offices and to establish a common source for this information to procurement offices across the Federal government. Since both contractors had annual gross revenues below \$33.5 million, they were both registered as small businesses in ORCA.

We also found that the original solicitation,⁴ under which both IDIQ contracts were awarded, was advertised on FedBizOps as “full and open competition pursuant to the Small Business Competitiveness Demonstration Program,” a program administered by the SBA. Congress established the program to eliminate small business set-asides and to assess the ability of small businesses to retain a fair proportion of procurement awards in unrestricted competition. The program requires that agencies report procurement data to the Federal Procurement Data System (FPDS) to determine the level of small business participation in designated industries. We determined that FS’ contracting personnel reported the relevant data in FPDS for both contractors.

- 2. Ability to Complete the Scope of Work:** We determined that both contractors possessed the staff, expertise, and equipment to complete the scope of work under the Recovery-funded task orders. Each contractor had successfully completed a mile of road maintenance under the same IDIQ contracts prior to FS’ issuance of the Recovery Act-funded task orders.

The FS solicited the IDIQ contracts under the North American Industry Classification System (NAICS) code “237310 – Highway, Street, and Bridge Construction.” The work was limited to reconditioning (i.e., grading) Green Mountain NF roads and delivering, placing, and compacting gravel on the roadways, all according to specifications.

We conducted site visits in Vermont to review the contractors’ on-going road maintenance work, completed road maintenance projects, and equipment. We determined that both contractors owned trucks and excavating equipment that are needed to haul, place, and compact the gravel; had sufficient numbers of employees to operate the equipment; plan to continue employment of three- and four-person crews to complete the work; and own and

² “Full and open competition” means that all responsible sources are permitted to compete (i.e., the IDIQ contracts were not set-asides for small business).

³ Subpart 4.12, dated March 2005 with all circulars through 2001-27.

⁴ Solicitation no. AG-24H8-S-09-0022.

operate gravel pits in the area, which are used as the source for gravel needed to maintain the Green Mountain NF roads. Both contractors were allowed 1 year to complete the work, which will be suspended during the winter season beginning about mid-November. Both contractors estimate and FS' forest engineer agrees that at least half of the work, about 15 miles, will be completed before the winter season, with the remaining work completed next spring and summer.

The RATB referral expressed a concern about one contractor's qualifications to perform the work because it was not certified under the NAICS code that the contract was solicited under. We determined that the contractor possessed another NAICS code that was closely related to the contract's scope of work, which is "238910 – Site Preparation Contractors." Also, the contractor routinely performs road grading and graveling projects.

In the areas we reviewed, we determined that the contracts complied with FAR and Recovery Act requirements. If you have any questions, please contact me at 720-6945 or Steve Rickrode, Audit Director, Rural Development and Natural Resources Programs, at 690-4483.

cc:

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