



U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

February 18, 2011

MEMORANDUM FOR JASON KLUMB
HEARTLAND REGIONAL ADMINISTRATOR (6A)

FROM: JOHN F. WALSH 
REGIONAL INSPECTOR GENERAL FOR AUDITING (JA-6)

SUBJECT: Task Order for Environmental Communications
Services at the Bannister Federal Complex: GS-P-06-10-GX-
0012 Awarded to Jane Mobley Associates, Inc.

The purpose of this memorandum is to inform you of problems related to the award and administration of the subject task order¹ that we discovered during our review of the health and safety conditions at the Bannister Federal Complex. The objective of our review was to determine if decisions associated with this contracting action were adequately documented and supported.

Specifically, we noted that the procurement was directed to a single vendor without adequate justification for limiting competition. In addition, the scope of work and amount of services ordered were not adequately supported. Further, while the task order was classified as fixed-price, it had no specific deliverables and an extension was awarded on a time-and-materials basis.

These actions did not comply with the requirements of the Federal Acquisition Regulation (FAR). Contracting actions should always be properly supported in terms of need, including any source restrictions, and cost.

Task Order Background

After consulting with General Services Administration (GSA) Central Office personnel², the PBS Regional Commissioner informed regional contracting staff on February 4, 2010, that, due to unusual and compelling circumstances, environmental communications services were needed for the Bannister Federal Complex. According to the task order file, media reports and "multiple Government agency investigations" of the health conditions at the Bannister Federal Complex created an "impending crisis event for the Government to address citizen concerns and media reports." The Regional

¹ The total value of the task order and its modification was \$234,338.

² According to the Public Buildings Service (PBS) Commissioner, discussions with the Region had been on-going for months to hire a public relations contractor.

Commissioner instructed PBS contracting officials to award a task order to Jane Mobley Associates, Inc. (JMA), under JMA's existing GSA multiple award schedule contract number GS-23F-0354P.

One day later, on February 5, 2010, the contracting officer awarded a \$99,940.25 "firm fixed price" task order to JMA. The performance period for the task was February 5 through March 8, 2010.

The statement of work (SOW) for the project called for "Public Relations Services" and required that:

The contractor shall provide expertise and technical support, equipment, materials and supplies necessary to support the government in responding to complaints against government officials about handling of notice by current and former government employees indicating health concerns caused by toxic substances at the site of the Bannister Federal Complex.

The SOW listed the following four general tasks and related deliverables:

1. Meetings
 - a. Neutral facilitator
 - b. Notes and reporting
 - c. Logistics arrangements
2. Message Development
 - a. Media
 - b. Government officials
 - c. Bannister Federal Complex employees
3. Materials Development
 - a. Leadership preparation materials
 - b. Media materials (press releases, press kits)
 - c. Information management across multiple agencies
 - d. On-going report documents
4. Stakeholder Identification and Communication
 - a. Most immediate area surrounding the complex
 - b. Secondary/tertiary stakeholders

A March 8, 2010, modification extended the task order on a time-and-material basis through May 10, 2010, at a proposed cost of \$134,400.

Task Order Analysis

Our analysis of the task order was limited to a review of the task order file and related documentation and discussions with the contracting officer and other PBS personnel. There are several problems related to this award. First, the award inappropriately cited

“an unusual and compelling need” for restricting competition. Second, the file documentation did not adequately explain why JMA was selected to perform these services. Third, the scope of work was not adequately defined or priced, and fourth, there was no independent government cost estimate upon which to base a decision that the task order price was reasonable.

We also noted that the task order file included no indication that the Regional Commissioner consulted legal counsel, the competition advocate, or other regional offices for assistance with this procurement.

Task Order Award. FAR 8.405-6 states that consideration of sources may be restricted if an urgent and compelling need exists and following the ordering procedures would result in an unacceptable delay.

PBS personnel informed us that they contracted for this task because PBS did not have in-house expertise to address the media reports. However, they were unable to demonstrate how soliciting other sources would have resulted in an unacceptable delay. Media reports began in November 2009 but the Regional Commissioner did not direct the award of the task order until February 4, 2010³.

In addition, the task order file contains very little information as to why JMA was selected. PBS officials told us that the decision was made to award to JMA based on a recommendation to the Regional Commissioner by an EPA⁴ employee. However, the task order file does not contain documentation to indicate what this contractor’s unique qualifications were for performing this work.

Also, the task order file does not adequately support the SOW. The FAR requires a detailed description supporting both the need for the services and the amount of the task order in order to fully support the basis for the award. Because the task order file does not include this information, it is not possible to determine what specific work was purchased or how the task order was to be evaluated. There were also indications that JMA drafted the SOW.

Further, the task order file contained only general descriptions of tasks and deliverables. For example, a deliverable under the task order was for a neutral facilitator; however, the file does not document the qualifications needed for this labor category, the number of times the category would be used, or the associated costs. FAR 37.6 specifically requires that all performance based awards will, “Enable assessment of work performance against measurable performance standards.”

Lastly, we could find no evidence supporting the basis for a price reasonableness determination. JMA initially proposed the equivalent of five people working full time for the period February 5 through March 8, 2010. The proposed hourly rates, which were the company’s multiple award schedule contract rates, ranged from \$61.41/hour to

³ The FAR does not consider a lack of advance planning to be a basis for limiting competition.

⁴ Environmental Protection Agency

\$270.41/hour but these labor rates are not linked to individual tasks or deliverables. The task order file shows a lump sum award of \$99,940 and merely included an e-mail from an EPA employee that stated the proposed price was "reasonable for the quality of work I expect from this firm." The file did not document why an EPA employee was involved with the task order.

Task Order Modification. The task order file does not include documentation to support the need to extend JMA's task order. As with the initial award, the modification was ordered at the direction of the Regional Commissioner. The task order file did not contain any documentation supporting why the task order was extended without soliciting additional sources.

The extension called for the equivalent of three full time staff for an additional two months. However, the file included no information as to why these additional services were needed. In addition, task order file documents show that JMA prepared the SOW for the modification because the Government's SOW was considered too broad.

Task Order Type. The task order file states that the initial \$99,940 task order was fixed-price but does not document exactly what work was to be done for this fixed price or how the work would be evaluated to ensure that the Government received the appropriate value for the amount paid. A lump sum payment of \$99,940 was made for the initial period of the task order but the file did not include any detailed breakdown of work items performed or deliverables received. Payment was authorized solely on an e-mail from an EPA employee stating, "I approve this invoice for payment." and an e-mail from a GSA employee stating, "I approve."

However, for the extension, GSA required,

Jane Mobley shall provide documentation upon invoicing showing the hours invoiced for during that monthly period. Jane Mobley will be paid based on the hours documented and verified for each labor category and task during that month. Monthly payment shall not exceed documented hours. If at any time services are no longer needed, the Government reserves the right to cancel services and reimburse Jane Mobley for any direct labor costs incurred prior to the cancellation. Any over-committed funds shall be de-obligated from the task order.

This changed the task order to a time-and-material type contract. The two payments made under the modification were approved after PBS compared JMA's billed hours and rates to labor information provided by JMA.

In addition, we noted that the task order file did not contain any JMA work product. The JMA work product that PBS eventually provided to us generally consisted of information that is available on the internet. The work product showed no particular expertise and included some incorrect information.

Conclusion

PBS awarded this task order in one day without adequate competition or support for the “unusual and compelling need” for this work. Therefore, the use of a sole source was not justified. Further, because the scope of work was not appropriately defined, the Government cannot support the need for these services or that the Government received value for the monies expended. Finally, this procurement created a situation that could have allowed the contractor to overcharge the Government because the award did not contain measurable deliverables.

This memorandum is provided to make management aware of the problems with this procurement and to assist the region in ensuring that these problems are not repeated on future procurements.

Management Response

On February 11, 2011, regional PBS management provided a response to a draft copy of this memorandum which is included in its entirety as an attachment. Management’s response reaffirms their position that the contract did meet the criteria for urgent and compelling need and that the contractor was the only local firm and had knowledge of the issues. Further, management’s contention is that the contract was properly awarded and the contractor performed 1885 labor hours for work related to the Bannister Federal Complex.

Nothing in management’s response caused us to change our position. This memorandum is part of an on-going review. At the conclusion of the review we plan to prepare a formal audit report. Therefore a corrective action plan is not required at this time. In addition, because this memorandum is not a report nor does it contain formal recommendations, it is not subject to the audit resolution process.

If you have any questions about this memorandum, please contact me at (816) 926-8615.

Attachment



GSA, Office of the Regional Administrator
Heartland Region, Kansas City

February 11, 2011

MEMORANDUM FOR JOHN F. WALSH
REGIONAL INSPECTOR GENERAL FOR AUDITING (JA-6)

FROM: JASON KLUMB
REGIONAL ADMINISTRATOR (6A)

A handwritten signature in black ink, appearing to read "Jason Klumb", written over the typed name in the "FROM" field.

SUBJECT: Task Order GS-P-10-GX-0012 (under GSA Contract Number GS-23F-0354P) for environmental communications services regarding the Bannister Federal Complex

Thank you for your Memorandum dated January 28, 2011 and referenced above. I appreciate your making me aware of problems you see with the procurement, in order to assist the region in ensuring that any problems are not repeated.

Attached hereto are comments that were provided to me today. I pass them along for your consideration.

U.S. General Services Administration
1500 E. Bannister Road
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jason.klumb@gsa.gov

MEMORANDUM FOR: JOHN F. WALSH
REGIONAL INSPECTOR GENERAL FOR AUDITING (JA-6)

THRU: JASON KLUMB
REGIONAL ADMINISTRATOR (6A)

FROM: MARY RUWWE *Mary Ruwwe*
REGIONAL COMMISSIONER
PUBLIC BUILDINGS SERVICE (6P)

SUBJECT: TASK ORDER GS-P-06-10-GX-0012 FOR
ENVIRONMENTAL COMMUNICATION SERVICES

We appreciate the memorandum from the Office of the Inspector General on the JMA contract award and take seriously recommendations for additional supporting documentation. Please be assured that we have already acted on our internal audit, as well as many of your recommendations, and are discussing your remaining recommendations and will take action as appropriate. The purpose of this letter is to provide the reasoning behind decisions made in February 2010.

Beginning in November 2009, GSA's Heartland Region (Region 6) began receiving reports and media inquiries about health and safety issues at Bannister Federal Complex. These requests were handled in house, and the Region's goal was (and continues to be) to convey to tenants, employees, the media, and stakeholders that Bannister Federal Complex is a safe, viable workplace despite media reports to the contrary. By January 2010, GSA had received inquiries about Bannister from the Missouri Department of Natural Resources, the Missouri Department of Health, and the Kansas City Health Department in addition to a growing number of media requests for information. There were protests at the childcare center in early January amidst reports that it was unsafe. By late January, media inquiries and rumors had increased twofold, causing unprecedented tenant and employee concerns about the safety of Bannister Federal Complex. The quantity and complex nature of these inquiries and reports highlighted the need for a higher level of communications expertise than Region 6 could provide in house. Widespread fear about the safety of both the workspace and childcare center at Bannister Federal Complex and discussions among employees about moving out of the facility added urgency to the Region's need to seek outside assistance with communications.

At the urging of GSA Central Office, Region 6 consulted the Environmental Protection Agency due to EPA's experience with environmental communications. The EPA Associate Regional Administrator for Media and Intergovernmental Relations

recommended that Region 6 contact Jane Mobley Associates (JMA), a local small business with which the EPA staffer had prior experience. JMA was knowledgeable of crisis management, experienced at digesting, evaluating, and translating technical data, and had previously worked with a broad spectrum of government agencies at multiple levels of government. Additionally, JMA was the only local firm on schedule that had knowledge, skills and abilities appropriate to address the issues facing the region related to the Bannister Federal Complex.

Region 6 requested the EPA representative to draft a Statement of Work and assume the role of contracting officer representative due to the representative's extensive experience with this type of work. The SOW requested strategic communications support, which is more than traditional press relations service. Region 6 described the support as, "environmental communications consulting by a professional communications firm that had extensive experience working with environmental situations."

Upon receipt of the SOW, Region 6 expedited bringing JMA on board and developed a Limited Source Justification utilizing the "urgent and compelling" classification. According to FAR 6.302-2, a requirement is classified as "unusual and compelling" when the government would be seriously injured unless the agency is permitted to limit the number of sources from which bids or proposals are solicited. Region 6 utilized "urgent and compelling" under the Limited Source Justification because the concerns of employees and tenants were severe enough to impair their ability to work as normal. Additionally, Region 6 was compelled to communicate quickly and decisively to prevent irreparable damage to the viability of Bannister Federal Complex and to counter perceptions of unsafe working conditions at both the childcare center and offices at Bannister.

JMA's prices were evaluated for fairness and reasonableness prior to the award. As stated in FAR 13.106-3, price reasonableness may be based on market research, comparison of the proposed prices with prices found reasonable on previous purchases, current price lists, catalogs or advertisements, comparison with similar items in the related industry, the contracting officer's personal knowledge, comparison to an IGE, or any other reasonable basis. The contracting officer determined price reasonableness by comparing JMA's proposed prices with the prices of two other Federal Supply Schedule holders' contract prices. GSA has already determined the prices under schedule contracts to be fair and reasonable. Therefore, in order to evaluate pricing further and ensure price reasonableness, Region 6 utilized a comparison with the two schedule contractors' published, fair, and reasonable, contract prices. In a February 5, 2010, email, EPA deemed the prices to be fair and reasonable as well.

The IG memorandum suggests that Region 6 should have consulted legal counsel before moving forward with this contract, however, it is not standard practice to consult legal counsel for assistance with a procurement of this size. Nevertheless, Region 6 has subsequently discussed the contract with legal counsel and is implementing best practices received from the IG and internal audit staff.

Region 6 began working with JMA the day of the award. Together, Region 6 and JMA developed a contingency plan for an alternate site for the child care center, discussed the results of testing, and started communication planning. By the end of February, significant progress had been made understanding past environmental conditions and current concerns. Nevertheless, the Region still felt uncomfortable with its capacity to respond to the multiple queries from the media, current and former employees, various federal agencies, and the public.

On March 8, 2010, Region 6 issued a firm-fixed price modification to extend the services under the original agreement. The goal of negotiating and awarding a modification to extend services was to keep the long term costs as low as possible and build GSA's skills and in-house capacity to do the work. JMA was requested to provide a breakdown of the hours expended under the modification extension period in order to verify receipt of services in the amount JMA proposed. This action did not change the contract type from a firm-fixed price to a time and materials contract. The SOW for the extension period was a result of negotiations and mutual agreement of the parties. GSA provided JMA with a scope of work for the extension period, but JMA stated that the scope needed more specificity. Through the negotiation process, changes were discussed, and JMA presented the negotiated SOW to the contracting officer. At that time, the negotiated modification to extend services for an additional two months was awarded in accordance with FAR 52.212-4, as a supplemental/bilateral agreement. The scope of the work and discussions with JMA made clear that the last two months were to serve as a transition period, during which GSA's skills would be honed so future communications, strategic planning, and leadership counseling could be managed in-house.

JMA performed 1,885 labor hours for work related to the Bannister Federal Complex. JMA assisted GSA in providing clarity on the issues and counsel to senior PBS leadership to determine the best next steps to address the concerns of the various stakeholders, provided extensive meeting facilitation and mediation between EPA, GSA and DOE, helping to build a long-term partnership; performed extensive research from learning about the 68-year history of Bannister Complex to the potential health implications of exposure to various contaminants, (PCB's, TCE's, Uranium, Beryllium) to understanding the federal and local environmental laws and regulations impacting the facility. JMA also helped develop the skills and knowledge of in-house staff in

preparation of them taking the communications role. Additionally, JMA provided consultation and identification of GSA resources for ongoing risk communication and management, helped build the framework for a community panel and interagency leadership panel, and provided support to GSA in planning and implementing communications outreach strategy. For your reference, a high-level summary of JMA deliverables under the contract is attached.

At the beginning of 2010, GSA faced a complex situation at Bannister Federal Complex that was amplified by media reports and employee fears of unsafe conditions. Because the health, safety, and peace of mind of GSA employees is our primary concern, Region 6 needed assistance to fully understand and characterize the developing situation. Region 6 acted swiftly and decisively to address employee and community concerns and prevent irreparable harm to the agency.

Attachments:

High-level summary of JMA deliverables under the contract

Summary of Professional Services and Knowledge Work for GSA Heartland
(Feb. 5, 2010 – May 10, 2010)

Contractor assigned tasks included facilitating interagency operability and develop a set of operational agreements and support GSA communication and public outreach efforts.

Knowledge work and professional services provided included:

1. Contractor provided facilitation and documentation of two initial teleconference meetings, which included 20 leadership, scientist and communication professionals from GSA Region 6 and Environmental Protection Agency Region 7
 - a. Friday, Feb. 5, 2010 – agenda included contingency planning for alternative site for child care center; schedule for further sampling at buildings 50 and 52; comparison of Missouri Department of Natural Resources and EPA sampling at buildings 50 and 52
 - b. Saturday, Feb. 6, 2010 – discussed relocation plan and contingency locations for child care center; mitigation system for buildings 50 and 52; schedule for results of January and February sampling

Outcome: Contractor drafted for government approval a communication to parents of all children in the on-site child care center and employee and tenant update for immediate distribution.

2. Contractor provided facilitation of a meeting with GSA and EPA (Feb. 9, 2010). Participants included GSA Region 6 Regional Commissioner for Public Building Service, GSA Region 6 Public Affairs Officer, EPA Associate Regional Administrator for Media & Intergovernmental Relations and EPA Director of Environmental Services Division.

Outcome: The contractor facilitated the consensus on preliminary roles and responsibilities for communication around recent EPA sampling and analysis of samples at the Bannister Federal Complex in February, in addition to communication about the 2008 comprehensive sampling conducted by Missouri Department of Natural Resources.

3. Over the course of the contract, contractor participated in regularly scheduled GSA PBS team conference calls to provide updates on environmental sampling, media coverage, upcoming meetings and tasks and assignments (calls were held daily for several weeks and transitioned into weekly calls). As a participant on these calls, contractor staff contributed observations, actively engaged GSA staff with questions, and encouraged GSA staff to test and explore options for action.

Outcome: GSA identified and operationalized its own capacity to work effectively within the agency, as well as with its external agency partners and maximized the use of all internal communication and environmental staff resources.

4. Contractor facilitated a joint GSA/EPA meeting on Feb. 9, 2010, regarding appropriate spokespersons for both organizations during the time period leading up to the appointment of a new Regional Administrator for GSA Region 6 and assisted in the development of orientation and briefing for the newly appointed Regional Administrator for EPA Region 7.

5. Contractor prepared for, facilitated/moderated a meeting between GSA and EPA leadership on Feb. 18, 2010, to discuss Superfund and the relationship between EPA and Missouri DNR as it relates to the monitoring and sampling at the Bannister Federal Complex, particularly the GSA portion of the complex.
Outcome: This meeting clarified roles among the various agencies and identified next steps for testing.
6. Contractor provided on an as-needed-basis, support and consultation to GSA and EPA to assist in the development of meeting agendas, correspondence and publicly available information regarding the most recent sampling at the complex and release of the results of that sampling and other issues. Contractor worked closely with GSA staff to assure accuracy and clear writing in PowerPoint presentations it developed in conjunction with NNSA for briefing local officials; for media releases; and other publicly available material that communicated environmental testing and results at the complex.
7. Contractor assisted in planning and attended the EPA-hosted Public Availability Session (25 FEB) on EPA sampling results for GSA buildings 50 and 52.
8. Upon the nomination and approval of the new Regional Administrator for GSA Region 6 on Feb. 23, 2010, contractor supported GSA in providing nominee information and background documents to multiple agencies and entities.
9. Contractor participated in and provided facilitation and documentation as requested for inter-agency meetings
 - a. March 2, 2010: Joint meeting between GSA and EPA to discuss inter-agency responsibilities.
Outcome: Contractor wrote the working draft, incorporated negotiated changes and edits then revised.
 - b. March 3, 2010: Joint meeting between GSA and NNSA to share information
 - c. March 5, 2010: Joint meetings (two) between GSA and NIOSH to discuss the health evaluation process and handling of health evaluation requests.
Outcome: Contractor wrote clear language for distribution to all GSA employees, tenants and the public to explain the NIOSH investigation process and the anticipated timeline for this process to be carried out at the Bannister Federal Complex.
 - d. March 24, 2010: Joint meeting between GSA and EPA to reach agreement on the structure and initial operating guidelines for a Community Advisory Panel.
 - e. March 29, 2010: Joint meeting between GSA and EPA to further refine the community advisory panel.
Outcome: Contractor's draft of the Community Advisory Panel framework; became the foundation for the final document describing the role and functions of the CAP.
- Contractor prepared targeted NIOSH press releases, placed with *Kansas City Star*, interfaced with NIOSH Public Affairs Officer and prepared a Frequently Asked Questions document communicating the health evaluation process and requests.
- Consultation to GSA staff on multiple media requests associated with GSA Central Office staff visit to Kansas City for Jason Klumb's swearing-in ceremony.

- At the request of the Regional Administrator, contractor worked with Region 6 PAO and Jason Klumb to prepare talking points for Regional Administrator swearing-in ceremony.
- Worked with PAO to prepare RA for media interview with *Kansas City Business Journal*.
- Strategized media interface (invited and responsive) for RA.
- Strategized on direct contact events (presentations, meetings) for RA and began research into schedule opportunities.
- Conducted environmental scan of media and other published reports related to the Bannister Complex since 1940s.
- Conducted research and analyzed information related to other contamination situations in U.S., e.g., all Superfund sites.
- Conducted research and analysis of similar risk/crisis communication practices for benchmarking purposes and identification of best practices.
- Conducted research and analysis on GSA national history and policies; GSA Region 6 history, processes and terminology.
- Conducted research on contaminants and their effects on humans for development of message maps and other materials prepared for public forums, parent meetings, congressional leadership meetings, and leadership meetings.
- Conducted research on EPA Clean Water and Clean Air Acts, national environmental policies and standards, Missouri Department of Natural Resources policies and standards.
- Edited materials (fact sheets, tenant updates, newsletters, press releases, histories, etc.) prepared by GSA staff for internal and public release.
- Proof-read materials (talking points, press releases, fact sheets, tenant updates, employee newsletters, letters to parents, etc.) prepared for internal and public release.
- Worked with GSA staff to secure and identify photos, architectural drawings and other site illustrations for collateral materials.
- Conducted on-site research at non-GSA-sponsored public/media forums on workers reporting illnesses.
- Tracked media reports on GSA Region 6, KC Plant, appointment of Jason Klumb, new GSA buildings, etc.
- Conducted research on current state of knowledge management activities at GSA Region 6 offices and most recent publications on knowledge management practices.