



MAR 27 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 Avaya, Inc. (A-03-06-00510)

This report provides the results of our audit of the Program Support Center's (PSC) award process for a contract with Avaya, Inc. (Avaya), of Arlington, Virginia. 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, PSC was tasked with arranging a prompt upgrade to its communication system for response to emergencies. To accomplish this task, PSC awarded a fixed-price contract to Avaya. The contract obligated Avaya to furnish computer hardware and software to upgrade telephone systems in support of emergency operations. The contract, effective September 24, 2005, provided \$197,098 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)). With respect to full and open competition, FAR 6.102 states that competitive procedures include the use of the General Services Administration's (GSA) Multiple Award Schedule. Agencies also must develop a statement or description of the goods or services being requested (FAR 16.504(a)(4)(iii)).

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 Avaya.

Scope

We limited our audit to the award process for PSC's contract HHSP233200500075W, effective September 24, 2005, with Avaya. 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 HHSP233200500075W with Avaya. PSC awarded the contract under GSA's Multiple Award Schedule, a list of contracts with commercial firms to provide supplies and services at stated prices for given periods of time. GSA had already determined that prices for goods and services on the schedule were fair and reasonable. Further, pursuant to FAR 6.102, contract awards under the schedule met the requirement for full and open competition.

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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-03-06-00510.