



U.S. ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF INSPECTOR GENERAL

*Catalyst for Improving the Environment*

## **Quick Reaction Report**

# **Hotline Allegations Unsubstantiated, but Region 7 Contract Administration and Award Issues Identified**

**Report No. 11-P-0217**

**May 4, 2011**

## Report Contributors:

Michael Petscavage  
David Penman  
Brad Jones  
Doug LaTessa

## Abbreviations

ASW	ASW Associates, Inc.
CO	Contracting Officer
D&F	Determination and Finding
DOE	U.S. Department of Energy
EPA	U.S. Environmental Protection Agency
FAR	Federal Acquisition Regulation
IDIQ	Indefinite Delivery/Indefinite Quantity
OIG	Office of Inspector General
T&M	Time and Materials

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Washington, DC 20460



# At a Glance

*Catalyst for Improving the Environment*

## Why We Did This Review

We received a Hotline complaint regarding a U.S. Environmental Protection Agency (EPA) contract with ASW Associates, Inc. (ASW). The allegations were that EPA replaced Superfund appropriations with American Recovery and Reinvestment Act of 2009 (Recovery Act) funds and that EPA unfairly terminated the ASW contract.

## Background

EPA awarded ASW a Superfund contract for environmental remediation services in September 2008. In January 2009, the U.S. Department of Energy (DOE) suspended ASW from contracting with government agencies for submitting to them invoices with false certifications. EPA awarded a second contract to a different contractor to obtain the same services, as EPA did not know when DOE would lift the suspension. The Federal Acquisition Regulation prohibits agencies from renewing with a suspended contractor unless the agency head agrees.

**For further information, contact our Office of Congressional, Public Affairs and Management at (202) 566-2391.**

**The full report is at:**  
[www.epa.gov/oig/reports/2011/20110504-11-P-0217.pdf](http://www.epa.gov/oig/reports/2011/20110504-11-P-0217.pdf)

## ***Hotline Allegations Unsubstantiated, but Region 7 Contract Administration and Award Issues Identified***

### **What We Found**

The complainant's allegations were not substantiated. No funds were replaced on the ASW contract. The contract was solely funded with Superfund appropriations and no Recovery Act appropriations were obligated on the ASW contract. Secondly, the ASW contract was not terminated for convenience as alleged; EPA simply elected not to exercise the second option.

EPA could have awarded a less risky contract type. EPA awarded a time and materials (T&M) contract to ASW, but could have awarded a lower-risk fixed-price type contract. According to the contracting officer, Region 7 awarded a T&M contract because the program office was reluctant to use a fixed-price type contract due to the environmental unknowns surrounding the site to be cleaned up.

EPA did not perform some required contract administration functions. The contracting officer did not conduct required annual invoice reviews even though DOE suspended ASW during the base period of the contract for submitting invoices with false certifications. Also, EPA did not conduct an interim contractor performance evaluation despite several performance issues that EPA staff identified. The contracting officer cited not having time to perform the annual invoice reviews or the interim performance evaluations. As a result, Region 7 does not have assurances that the contractor and EPA project staff were fulfilling their roles, and other potential clients were not made aware of ASW's performance on this contract.

### **What We Recommend**

We recommend that Region 7 (1) revise the Region 7 peer review checklist to require review of the pre-award file to ensure proper documentation and support for the contract type selected, (2) provide clarification to contracting officers on T&M contracts and annual invoice reviews, (3) implement a process to ensure annual invoice reviews are completed by contracting officers, and (4) prepare and submit a contractor performance evaluation for the ASW contract in the Contractor Performance Assessment Reporting System as required. EPA Region 7 generally agreed with the recommendations in the draft report and provided corrective actions or acceptable alternatives. The completed and planned actions address the intent of the recommendations in the report.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

May 4, 2011

**MEMORANDUM**

**SUBJECT:** Hotline Allegations Unsubstantiated, but Region 7  
Contract Administration and Award Issues Identified  
Report No. 11-P-0217

**FROM:** Arthur A. Elkins, Jr.  
Inspector General

A handwritten signature in black ink, appearing to read "Arthur A. Elkins, Jr.", is written over the printed name.

**TO:** Karl Brooks  
Regional Administrator, Region 7

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The estimated direct labor and travel costs for this report are \$85,533.

**Action Required**

In responding to the draft report, the Agency provided a corrective action plan for addressing the recommendations. Therefore, a response to the final report is not required. The Agency should track corrective actions not implemented in the Management Audit Tracking System. We have no objections to the further release of this report to the public. The report will be available at <http://www.epa.gov/oig>.

If you or your staff have any questions, please contact Melissa Heist, Assistant Inspector General for Audit, at 202-566-0899 or [heist.melissa@epa.gov](mailto:heist.melissa@epa.gov); or Janet Kasper, Director, Contracts and Assistance Agreement Audits, at 312-886-3059 or [kasper.janet@epa.gov](mailto:kasper.janet@epa.gov).

# *Table of Contents*

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<b>Purpose</b> .....	1
<b>Background</b> .....	1
<b>Scope and Methodology</b> .....	2
<b>Results of Review</b> .....	3
Complainant Allegations Not Valid.....	3
Region 7 Could Have Used a Less Risky Contract Type.....	4
Annual Invoice Review Not Conducted.....	6
Contractor Performance Evaluation Not Conducted .....	7
<b>Recommendations</b> .....	7
<b>Agency Response and OIG Comment</b> .....	8
<b>Status of Recommendations and Potential Monetary Benefits</b> .....	9

## **Appendices**

<b>A Agency Response to Draft Report</b> .....	10
<b>B Distribution</b> .....	14

## Purpose

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) receives hotline complaints of fraud, waste, and abuse within EPA programs and operations. In June 2010, a complainant alleged that EPA Region 7 possibly replaced appropriated funds for a contract with ASW Associates, Inc., with American Recovery and Reinvestment Act of 2009 (Recovery Act) funds and used the appropriated funds for another project. The complainant also alleged that EPA terminated an ASW contract for the convenience of the government and awarded a contract to another contractor that had higher rates. Based on the complainant's allegations, our objectives were to determine whether Region 7:

- Replaced appropriated funds with Recovery Act funds
- Terminated the ASW contract for the convenience of the government

## Background

Region 7 awarded EPA contract number EP-R7-08-15 on September 26, 2008, to ASW to perform a remedial action for lead-contaminated residential property surface soil at the Madison County Mines Superfund site. The contract included a 1-year base period and two 1-year option periods. EPA had the choice to exercise the first option after the base period expired and could reassess again before exercising the second option. The maximum value of the contract was \$24,345,902. As of November 2010, EPA paid the contractor \$5,471,001 for the base period and the first option period. In January 2009, around the same time ASW began remediation work on the Superfund site, the U.S. Department of Energy (DOE) suspended ASW for submitting invoices containing false certifications to the Argonne National Laboratory, a DOE contractor.

In February 2009, Region 7 informed ASW that it would likely receive Recovery Act funding, and Region 7 was considering a variety of options to implement the Recovery Act, including exercising one or both of the options on the ASW contract. After becoming aware of the ASW suspension, Region 7 informed ASW that it would have to be removed from the excluded parties list<sup>1</sup> before Region 7 would decide to exercise the next option period. The Federal Acquisition Regulation (FAR) Subpart 9.405-1(b) prohibits federal agencies from exercising options with suspended contractors unless the agency head makes a compelling reason to justify the action.

In March 2009, Region 7 informed ASW that EPA had received Recovery Act funding for the Superfund program and that it was beginning the process to

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<sup>1</sup> Provided as a public service by the General Services Administration for the purpose of efficiently and conveniently disseminating information on parties that are excluded from receiving federal contracts, certain subcontracts, and certain federal financial and nonfinancial assistance and benefits, pursuant to the provisions of 31 U.S. Code 6101, note, Executive Order 12549, E.O. 12689, 48 Code of Federal Regulations 9.404, and each agency's codification of the Common Rule for Nonprocurement suspension and debarment.

obligate the Recovery Act funding. The goal of the Recovery Act was to obligate all funding by September 30, 2009—near the time that the base period of the ASW contract would expire. Region 7 stated in the March letter that due to the human health risk at the Madison County Mines Superfund site and the need to obligate Recovery Act funds quickly, a decision would be made on April 1, 2009, whether to exercise the option in the ASW contract. Region 7 contracting staff informed the OIG that they contacted DOE to learn if DOE intended to terminate the ASW suspension. According to Region 7, DOE did not have plans at that time to terminate the suspension.

In April 2009, Region 7 informed ASW that it would not exercise the first option on the ASW contract because FAR 9.405-1(3) does not allow, without compelling reasons, exercising options for contracts where the contractor has been suspended. Region 7 then began the acquisition process to award a separate contract to a new contractor for the same services by executing a determination and finding (D&F) for a new contract.

On August 25, 2009—approximately 1 month before the base period on the ASW contract was to expire—DOE terminated the ASW suspension after ASW: (1) acknowledged negligence relating to inaccurate billing procedures, (2) committed to pay a civil judgment and improve internal controls, and (3) agreed to obtain a satisfactory Defense Contract Audit Agency audit. Although Region 7 was ready to award the second contract to another contractor to obtain the required remediation services in Madison County, it exercised the first option period on the ASW contract. According to Region 7 officials, the amount of work in Madison County justified two contracts operating simultaneously for 1 year. On September 9, 2009, EPA exercised the first option period on the ASW contract through a modification of the contract. In that modification, EPA stated that the ASW contract would end after the option period expired. EPA awarded a second contract to another contractor on September 29, 2009. That contract included a 2-year base period and a 1-year option.

## **Scope and Methodology**

We conducted our review from September to December 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform our review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

To accomplish our objectives, we reviewed documents provided by the complainant as well as ASW and Region 7. We conducted interviews with the complainant; ASW officials; and relevant EPA Region 7 staff in Kansas City, Kansas. We reviewed (1) the contracting officer's (CO's) pre-award and contract file for the ASW contract, (2) communications between Region 7 and ASW,

(3) the award and administration of the ASW contract, and (4) the FAR and Agency guidance pertaining to contract award and administration. This included, but was not limited to:

- FAR Subpart 9.4 – Debarment, Suspension, and Ineligibility
- FAR Part 16 – Types of Contracts
- FAR Subpart 17.2 – Options
- EPA Contracts Management Manual

We reviewed a prior EPA OIG report regarding contractor performance evaluations, EPA OIG Report 10-R-0113, *EPA Should Improve Its Contractor Performance Evaluation Process for Contractors Receiving Recovery Act Funds*, issued April 26, 2010. In response to one of our recommendations, Office of Acquisition Management stated that it planned to begin using the U.S. Department of Defense Contractor Performance Assessment Reporting System on May 1, 2010, to replace the National Institutes of Health Contractor Performance System. According to EPA, the Contractor Performance Assessment Reporting System provides an enhanced and more effective capability to monitor the timeliness and quality of contractor evaluations. COs must also certify the accuracy and completeness of the information entered.

### ***Internal Control Structure***

In planning and performing our audit, we reviewed management controls related to our objectives. We reviewed the Region 7 Contracting Quality Assurance Plan along with the EPA's Contracts Management Manual. There were no previous audits of EPA's administration of the ASW contract.

## **Results of Review**

### ***Complainant Allegations Not Valid***

The complainant alleged that EPA Region 7 possibly replaced a portion of appropriated funds with Recovery Act funds, and used the original funds on another project. We found that no funds were replaced on this contract. The contract was solely funded with Superfund appropriations and no Recovery Act appropriations were obligated on the ASW contract. Secondly, the complainant alleged that EPA terminated the contract for the convenience of the government and gave it to another contractor that had higher rates. The ASW contract was not terminated for convenience; instead, option 2 of the contract was not exercised. Further, EPA only procured another contractor because ASW was suspended and it was unclear when the suspension would be lifted. Under the circumstances, EPA Region 7 acted prudently to ensure that EPA had another contractor in place to perform the work. The second contract was awarded with adequate price competition to the lowest responsive bidder. ASW submitted a proposal for that contract. However, its bid was 59 percent higher than the winning bid.

### ***Region 7 Could Have Used a Less Risky Contract Type***

Region 7 awarded a time and materials (T&M) contract to ASW in September 2008 for environmental remediation services although a less risky contract type would have been a better option. The FAR states that a fixed-type contract is suitable, for example, when there is adequate price competition and reasonable price comparisons with prior purchases of similar services can be made. According to the contracting officer, Region 7 awarded a T&M contract because the program office was reluctant to use a fixed-price type contract because there were too many environmental unknowns surrounding the site to be cleaned up. There also was confusion throughout the acquisition process regarding the type of contract to award. Fixed-price type contracts are generally less risky for government contracts.

The FAR identifies circumstances when a fixed-price type contract is feasible. FAR Subpart 16.202 states that a firm-fixed price contract is suitable for acquiring services when the CO can establish fair and reasonable prices, such as when:

- There is adequate price competition.
- There are reasonable price comparisons with prior purchases of the same or similar supplies or services when made on a competitive basis or supported by valid certified cost or pricing data.
- Available cost or pricing information permits realistic estimates of the probable costs of performance.
- Performance uncertainties can be identified and reasonable estimates of their cost impact can be made, and the contractor is willing to accept a firm-fixed price representing assumption of the risks involved.

FAR Subpart 16.104 discusses factors the government should consider when selecting contract types. Those factors include price competition. Per the FAR, effective price competition normally results in realistic pricing, and a fixed-price contract is ordinarily in the government's interest. The FAR states that when using a T&M contract, the CO must execute a D&F stating that no other contract type is suitable.

Region 7 could have awarded a less risky contract type. Region 7 obtained this type of work before under a previous contract, and as a result, had historical data from 2003–2006 on the cost to remediate properties in the same location where EPA awarded the T&M contract to ASW. Region 7 had data on the average cubic yards per property for work done at the site. In its individual acquisition plan for this contract, EPA noted that the risk on the acquisition was somewhat minimized by the number of similar projects already completed across the Agency.

Region 7 expected reasonable price competition when it planned the acquisition. In its individual acquisition plan, Region 7 noted that there were a significant

number of small businesses that were eligible to respond. Region 7 stated that numerous small businesses existed in the affected area, the region, and across the country that were qualified to pursue the work. Finally, Region 7 noted that it anticipated adequate competition in the marketplace to ensure an adequate number of interested parties. Ten contractors responded to the solicitation, with eight providing complete pricing data.

Region 7 awarded a T&M contract because the program office was reluctant to use a fixed-price type contract. According to the CO who awarded the contract, Region 7 program staff believed that there were too many unknowns surrounding the Madison County site to award a fixed-price contract. However, during the pre-bid conference, a prospective contractor asked why Region 7 was awarding a T&M contract rather than a fixed-price contract, as a fixed-price contract would save the government money. Region 7 responded that there were too many unknowns, and paying by the hour would minimize contractors' risk and place some of the risk on EPA to ensure the contractor was efficient and economical. However, the claim that there were too many unknowns is not convincing given the existence of the historical data (including both the cost of dirt removed and average amount of dirt per property) and history with this type of work. Further, not long after ASW began work (approximately 4 months), Region 7 executed a D&F stating that a fixed-price type contract was the preferred contract type and later awarded a fixed rate contract for the same services.

There also was confusion throughout the process regarding the type of contract to be procured. The contract type was not fully understood by regional staff even after the contract's period of performance had expired. For example, during the OIG kickoff meeting with Region 7, the program staff thought the contract was an indefinite delivery/indefinite quantity (IDIQ) type contract instead of a T&M. IDIQ contracts are used to acquire supplies and/or services when the exact times and/or exact quantities of future deliveries are not known at the time of contract award. Adding to the confusion were the following:

- EPA's active contracts list identified the ASW contract as firm-fixed price.
- The D&F was for the authority to use an IDIQ fixed-rate contract. The D&F also should have stated that no other contract type was suitable but did not.
- Region 7 awarded the contract using the sealed-bidding process. The FAR states that contracts resulting from sealed bidding shall be firm-fixed price or fixed-price contracts with economic price adjustment.
- The performance work statement identified the contract as an IDIQ contract.
- The synopsis of the contract listed in Federal Business Opportunities stated that the contract to be awarded was an IDIQ fixed-rate contract.
- The solicitation for the contract stated that EPA was contemplating awarding a fixed-rate T&M contract.

Clauses included in the contract were also confusing. According to the CO who signed the contract, Region 7 acquired non-commercial services for the contract. However, there were clauses in the contract dealing with commercial items, as well as change clauses related to fixed-price contracts. None of the contract inconsistencies were discovered because although the Region 7 Quality Assurance Plan requires a review of pre-award source selection documentation prior to award, only the solicitation document was reviewed. We confirmed with the Region 7 acquisition branch chief that only the solicitation documentation was reviewed as part of the quality assurance plan for the ASW contract.

Finally, the inexperience of the CO awarding and administering the contract may have been a contributing factor to some of the confusion. A senior CO signed the contract because the CO responsible for the contract did not have a Level III (unlimited) warrant until 18 months after the ASW contract was awarded, but the CO was responsible for preparing the D&F and other actions before contract award. According to the Region 7 acquisitions branch chief, this was the first site-specific contract that the CO had managed.

The contract type selected by EPA placed unnecessary risk on the government and provided little incentive for the contractor to ensure efficient and economical performance. In fact, the project staff reported that ASW's cost per cubic yard was double previous work at the site.

### ***Annual Invoice Review Not Conducted***

The CO did not conduct an annual invoice review for the ASW contract in the base or the option period. As noted above, shortly after EPA awarded the contract, DOE suspended ASW for submitting invoices containing false certifications. EPA's Contracts Management Manual requires the CO to conduct at least one detailed invoice review per year. COs perform these reviews to ensure that the contractor and project officers are fulfilling their roles properly and that all issues relevant to contract performance are being addressed. After DOE suspended ASW, EPA's risk increased and made performing these reviews even more important. The CO cited not having time to review the invoices due to challenges with the contract. The CO did suspend costs on 17 of 34 invoices submitted by the contractor, but this was based on invoice reviews performed by the project officer, and not reviews done by the CO. Region 7 does not have a tracking system to ensure that COs conduct the necessary reviews. As a result, Region 7 did not have assurances that the contractor and EPA program staff were fulfilling their roles properly, nor did the region have assurances that all issues relevant to contract performance and funding were being addressed.

## ***Contractor Performance Evaluation Not Conducted***

The CO did not perform an interim contractor performance evaluation after the base year. The contract required the CO to complete a contractor performance report within 90 days after the end of each 12 months of contract performance, or after the last 12 months of contract performance. Considering the concerns Region 7 had with the contractor's performance, an interim evaluation, while not required, would have been beneficial. The CO stated that she did not have time to perform the contractor performance evaluation after the base year due to the many challenges that the CO faced managing the contract. The Region 7 acquisitions branch chief stated that the region thought the contract was going to end after the base period expired, so an interim report was a lower priority due to resource constraints. Although Region 7 did not prepare an evaluation of the contractor's performance, the start of work on the contract was delayed for approximately 3 months because the contractor could not obtain a payment and performance bond. Further, ASW did not inform Region 7 that it had been suspended. Region 7 learned of the suspension from another contractor. Finally, the CO provided the contractor a three-page document citing examples of performance issues that needed to be addressed near the end of the base period. EPA should have reported these issues in the performance evaluation. Performance evaluations are available to other federal agencies to consider when ordering new contracts. Because EPA did not submit a performance evaluation, other potential clients are not aware of ASW's performance on this contract.

## **Recommendations**

We recommend that the Regional Administrator, Region 7, require the Region 7 Acquisition and Contracts Management Branch to:

1. Revise the Region 7 peer review checklist to include a review of the pre-award contract file documentation in its entirety prior to award to support the contract type selected.
2. Review active contracts to ensure that proper D&Fs were executed and the contracts contain the correct clauses.
3. Provide clarification to COs, through a briefing, newsletter, etc., on when to use T&M contracts.
4. Provide clarification to COs, through a briefing, newsletter, etc., regarding the requirements of annual invoice reviews.
5. Implement a process to ensure COs conduct annual invoice reviews.
6. Prepare a contractor performance evaluation for ASW and input it into the Contractor Performance Assessment Reporting System as required.

## Agency Response and OIG Comment

EPA Region 7 generally agreed with the recommendations in the draft report and provided corrective actions or acceptable alternatives, as well as milestone dates. The completed and planned actions address the intent of the recommendations in the report. Region 7 modified its peer review checklist, rather than the Quality Assurance Plan, to include all aspects of the pre-award phase and to ensure the entire contract file is reviewed prior to award. We modified our final report recommendation accordingly. The region is in the process of conducting a full review of all active contracts. This is anticipated to be completed by December 31, 2011. Additionally, the Regional Acquisition Manager held discussions with the Acquisition and Contracts Management Section staff regarding the importance of identifying the correct contract type vehicle along with providing further training opportunities for identifying contract types, including T&M contracts, on April 13, 2011, and during the summer of 2011. Similarly, discussions and refresher training have been held on conducting invoice reviews. Region 7 implemented a process to ensure COs conduct annual invoice reviews and modified the Quality Assurance Plan Checklist to include a review of the CO annual invoice review. Finally, in responding to the last recommendation, Region 7 is in the process of conducting a contractor performance evaluation for ASW and expects it to be completed by September 30, 2011.

## **Status of Recommendations and Potential Monetary Benefits**

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status <sup>1</sup>	Action Official	Actual/Planned Completion Date	Claimed Amount	Agreed-To Amount
1	7	Require the Region 7 Acquisition and Contracts Management Branch to revise the Region 7 peer review checklist to include a review of the pre-award contract file documentation in its entirety prior to award to support the contract type selected.	C	Regional Administrator, Region 7	1/28/2011		
2	7	Require the Region 7 Acquisition and Contracts Management Branch to review active contracts to ensure that proper D&Fs were executed and the contracts contain the correct clauses.	O	Regional Administrator, Region 7	12/31/2011		
3	7	Require the Region 7 Acquisition and Contracts Management Branch to provide clarification to COs, through a briefing, newsletter, etc., on when to use T&M contracts.	C	Regional Administrator, Region 7	04/13/2011		
4	7	Require the Region 7 Acquisition and Contracts Management Branch to provide clarification to COs, through a briefing, newsletter, etc., regarding the requirements of annual invoice reviews.	C	Regional Administrator, Region 7	03/09/2011		
5	7	Require the Region 7 Acquisition and Contracts Management Branch to implement a process to ensure COs conduct annual invoice reviews.	C	Regional Administrator, Region 7	03/16/2011		
6	7	Require the Region 7 Acquisition and Contracts Management Branch to prepare a contractor performance evaluation for ASW and input it into the Contractor Performance Assessment and Reporting System as required.	O	Regional Administrator, Region 7	9/30/2011		

<sup>1</sup> O = recommendation is open with agreed-to corrective actions pending  
 C = recommendation is closed with all agreed-to actions completed  
 U = recommendation is undecided with resolution efforts in progress

## ***Agency Response to Draft Report***

Apr 01 2011

### **MEMORANDUM**

**SUBJECT:** *Hotline Allegations Unsubstantiated, but Region 7 Contract Administration and Award Issues Identified,*  
Draft Report No. OA-FY10-0253, dated March 4, 2011

**FROM:** Karl Brooks  
Regional Administrator

**TO:** Arthur A. Elkins, Jr.  
Inspector General

Thank you for the opportunity to review and respond to the Office of Inspector General (OIG) subject draft report. As you will see below, Region 7 generally concurs with OIG recommendations. Region 7 implemented, or is in the process of implementing all recommendations, although with slight modifications to recommendations 1 and 2. However, there are some factual inaccuracies in the report we feel require clarification.

The draft report states a Time and Materials (T&M) contract was awarded because Region 7 Superfund program staff was resistant to awarding a fixed price contract. This stand alone statement does not adequately portray the comprehensive decision process Region 7's Superfund program staff and Region 7's Acquisition and Contracts Management Section (ACMS) staff used to determine contract type. The statement that the program technical staff was resistant should be expanded to say they were ultimately resistant because they did not have a high degree of confidence and reliance on the available information and that there were too many environmental unknowns to have a fixed price contract.

Contracting Officers (COs) understand there are complexities and environmental unknowns associated with each site specific location, and consideration is given to the technical aspects of the requirement and the opinions of the program technical staff as to possible methods for pricing when crafting a suitable contract. However, the final decision, utilizing all procurement information, is that of the CO and it remains the opinion of the CO, the Senior CO and the Regional Acquisition Manager, that the appropriate contract type was utilized.

A second inaccuracy is that the draft report places much emphasis on a fixed price follow on contract. Although the Determination and Findings (D&F) for the follow on contract states fixed price, the contract is actually an indefinite quantity. The follow on contract contains fixed unit prices for estimated quantities. The D&F is being corrected.

Lastly, the draft report asserts the Region 7 Acquisitions Branch Chief stated Region 7 thought the contract was going to end so an interim report would not be necessary. This statement does not reflect the full discussion. The Regional Acquisition Manager is fully aware of the importance and requirement to complete contractor evaluations at specific intervals and within specific timeframes, and explained the performance evaluation for ASW had become a lower priority due to workload constraints.

The following provides you with a status of corrective actions.

**OIG Recommendation 1:**

Revise the Region 7 Quality Assurance Plan to include a review of the pre-award contract file documentation in its entirety prior to award to support the contract type selected.

**Region 7 Corrective Action:**

The recommendation is to revise the Region 7 Quality Assurance Plan (QAP) and though this appears to be a plausible recommendation, the QAP is designed to evaluate the effectiveness of contract actions which have occurred.

To ensure the entire contract file is reviewed prior to award, Region 7 has modified the Peer Review Checklist, to now include all aspects of the pre-award phase. Peer reviewers are required to annotate that all documents are present and have been reviewed, prior to a contract award.

**OIG Recommendation 2:**

Review active contracts to ensure that proper D&Fs were executed and the contracts contain the correct clauses.

**Region 7 Corrective Action:**

Region 7 has 46 active contracts. The Regional Acquisition Manager has implemented a process to ensure a full review of each contract. Seven contracts are currently being reviewed and the remaining reviews are anticipated to be completed by December 31, 2011. A record of findings and corrective actions will be retained.

**OIG Recommendation 3:**

Provide clarification to COs, through a briefing, newsletter, etc., on when to use T&M contracts.

**Region 7 Corrective Action:**

As soon as the confusion between the contract documents was identified, the Regional Acquisition Manager immediately began discussions with staff on contract types and has

continued to focus on the importance of identifying and supporting the appropriate contract type vehicle.

On April 13, 2011, Region 7's ACMS staff will receive refresher training on T&M contracts. This training will include instruction and review of Federal Acquisition Regulation Part 16, and discussion of the various contract types. Further, the Office of General Counsel is presenting a training session in Region 7 on contract types; this training is tentatively scheduled for summer 2011.

**OIG Recommendation 4:**

Provide clarification to COs, through a briefing, newsletter, etc., regarding the requirements of annual invoice reviews.

**Region 7 Corrective Action:**

The Regional Acquisition Manager held discussions with ACMS staff reminding them of the requirement to conduct invoice reviews, immediately after discussions with OIG. Also, as mentioned to OIG, Region 7 acknowledges the annual invoice review was not performed for the ASW contract; however, the annual invoice reviews are and were performed on other contracts.

On March 9, 2011, the Region 7 ACMS staff received refresher training on the Office of Acquisition Management (OAM) guidance for conducting annual invoice reviews. All staff members received a hardcopy of OAM's invoice review guidance.

**OIG Recommendation 5:**

Implement a process to ensure COs conduct annual invoice reviews.

**Region 7 Corrective Action:**

Region 7 has developed and implemented a process designed to ensure that COs conduct annual invoice reviews. Region 7's Quality Assurance Plan Checklist was modified to include a review of the CO annual invoice review.

**OIG Recommendation 6:**

Prepare a contractor performance evaluation for ASW and input it into the Contractor Performance Assessment Reporting System as required.

**Region 7 Corrective Action:**

The contractor performance evaluation for ASW is underway. Input in the Contractor Performance Assessment Reporting System is anticipated to be complete by September 30, 2011.

Should you have any questions concerning Region 7's corrective actions, please contact Lee Thomas, Regional Acquisition Manager, at (913) 551-7739, or Kathy Finazzo, Regional Audit Follow-Up Coordinator, at (913) 551-7833.

## ***Distribution***

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