



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

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.