



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

**AUDIT OF BUREAU OF
INDIAN AFFAIRS CONTRACT No.
AI6PC00003 WITH CHEROKEE
NATION TECHNOLOGIES**



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Memorandum

MAY 08 2017

To: Nancy Sloanhoffer
Bureau Procurement Chief, Bureau of Indian Affairs

From: Chris Stubbs *Chris Stubbs*
Director, Office of Financial and Contract Audits

Subject: Final Report – Audit of Bureau of Indian Affairs Contract No. A16PC00003
With Cherokee Nation Technologies
Report No. 2016-FIN-072

This report presents the results of our audit of Contract No. A16PC00003 between Cherokee Nation Technologies (CNT) and the Bureau of Indian Affairs (BIA).

On November 13, 2015, BIA issued a 12-month (plus 2 option years) time-and-materials contract with a base amount of \$5,448,858 to CNT, a certified Indian-owned small business under the Small Business Administration's 8(a) Business Development Program. The purpose of the contract was to provide IT support services to BIA.

We found three areas in which CNT did not comply with the contract requirements. Before issuing this report, we issued three notices of findings and recommendations (NFRs) to CNT officials, who concurred with all three. CNT has already resolved one of the issues, and we referred another to the BIA Director; in this report, we make one recommendation to BIA to resolve the remaining issue.

Objective

Our audit objective was to determine whether the costs CNT claimed under the contract were allowable, allocable, and reasonable, and whether CNT complied with applicable Federal laws, contract clauses, and U.S. Department of the Interior (DOI) guidance. See the attachment for CNT's background and our audit scope and methodology.

Audit Results

We found no reportable issues with the costs CNT claimed under the contract, but we did find that CNT did not always comply with applicable laws, contract clauses, and DOI guidance. Specifically, CNT failed to—

1. follow proper procedure when awarding subcontracts;
2. receive approval from BIA’s contracting officer (CO) to hire a new project manager; and
3. receive approval from BIA’s chief information officer (CIO) to share sensitive information with CNT’s subcontractor.

CNT Failed To Follow Proper Procedure When Awarding Subcontracts

When hiring its subcontractor, CNT failed to adhere to the Department of the Interior Acquisition Regulation (DIAR) “Indian Preference” requirement (DIAR Clause 1452.226-70(a)). CNT provided no evidence that it did any market research to fill the position with an American Indian subcontractor.

CNT officials gave two reasons for not following this requirement:

1. BIA pressured CNT into hiring a subcontractor that BIA had worked with before.
2. The officials believed there could be an exception for a non-Indian subcontractor under Tribal Employment Rights Ordinance (TERO) rules.

Pressuring CNT into hiring a specific subcontractor may violate the requirement that BIA officials act impartially and avoid giving preferential treatment to any individual during the contract process. Therefore, we referred this matter to our Office of Investigations; investigators determined that it had some merit and referred it to the BIA Director for further review. We have attempted to follow up with BIA, but as of the date of this report we have not received a response.

In addition, CNT officials stated in response to our NFR that they are working with the employee services department from Cherokee Nation Businesses, CNT’s parent company, to develop a procedure that will ensure compliance with DIAR 1452.226-70 on future contracts that contain this requirement. CNT has also consulted with its legal department and determined how the TERO affects DIAR 1452.226-70. CNT officials informed us that CNT would govern itself in accordance with its legal advice and applicable laws, including DIAR 1452.226-70.

CNT Did Not Receive Approval From BIA’s CO To Hire a New Project Manager

CNT did not meet the contract’s requirement to obtain written approval from the CO before hiring key personnel, in this instance a new project manager. After we mentioned this noncompliance to CNT, CNT requested and received written approval from the CO, but the project manager had already been hired.

CNT officials stated that they had requested and received approval from the contracting officer representative (COR), not the CO, before hiring the project manager, because they had believed that the COR's approval was sufficient. The CO acknowledged that, because of an oversight, the COR did not inform CNT that the CO's approval was necessary.

In response to our NFR, CNT officials stated that their hiring process had previously required the program manager to solicit written approval from the CO, through the COR, before hiring any key personnel. CNT believed that written approval was not necessary for this particular hire because the position opening itself was for a program manager and the operations director received oral approval for the hire during an in-person meeting with the COR. CNT's new process, however, requires its recruiting team to verify whether any new hire is considered key personnel and to coordinate with the hiring manager to ensure that contract terms are met. In addition, CNT has modified its intake form for new job orders and hiring requests to require this information whenever key personnel are hired.

CNT Did Not Receive Approval From BIA's CIO To Share Sensitive Information With Its Subcontractor

CNT's subcontractor developed and maintains a software system that contains personal identifiable information. The contract requires CNT to obtain written approval by BIA's CIO, or the CIO's delegate, to share sensitive information with its subcontractor. As of the date of this report, however, CNT has not done so.

CNT officials stated that they did not know about the requirement to obtain written approval from the CIO before sharing sensitive information with the subcontractor. CNT has attempted several times to obtain this approval from the CIO, but the CIO has not responded to CNT's requests.

In response to our NFR, CNT officials stated that they have again requested approval, this time in a formal memo sent to the CO and the CIO on February 17, 2017.

Conclusion and Recommendation

We identified three issues related to CNT's compliance with applicable Federal laws, contract clauses, and DOI guidance. CNT concurred with the three NFRs we issued in response to these matters. Because we referred the potential ethics violation to the BIA Director, we have no further recommendations on that matter, and CNT's response to our finding on obtaining CO approval when hiring key personnel was complete enough that we consider it resolved. For our third finding, we recommend that BIA:

1. Instruct CNT how to obtain formal approval from BIA's CIO to release sensitive information to its subcontractor.

Please respond to this report by June 22, 2017. Your written response should provide detailed information on the actions you have taken, or plan to take, to address each

recommendation, as well as target dates and titles of officials responsible for implementing these actions. Please send your response to aie_reports@doioig.gov.

Although we will not approve extensions to this 45-day response period, we will contact your office to schedule a meeting on or before May 22, 2017 to discuss any questions or issues you may have about the report. If you have any questions before we contact you, please call me at 202-208-5745.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

Attachment

Background

Cherokee Nation Technologies LLC (CNT) is a technology service provider that primarily serves U.S. Government agencies. CNT employs more than 50 people in offices in Tulsa, OK, and Fort Collins, CO, as well as client locations. CNT is a wholly owned subsidiary of Cherokee Nation Businesses.

Scope and Methodology

We focused our audit on CNT's compliance with the terms of Contract No. A16PC00003 with the Bureau of Indian Affairs (BIA) from December 11, 2015, to August 31, 2016. We reviewed CNT's compliance with applicable Federal regulations, contract terms and conditions, and BIA policies and procedures. We conducted our audit fieldwork from August 2016 to January 2017.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We determined that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To accomplish our objectives, we—

- interviewed the BIA contracting officer, BIA contract personnel, CNT personnel, and other appropriate individuals;
- reviewed the contract for compliance requirements;
- reviewed the terms of the contract;
- reviewed the support related to CNT's contract compliance;
- reviewed the Federal Acquisition Regulations and U.S. Department of the Interior guidance related to contract compliance;
- reviewed CNT's internal controls for monitoring the contract;
- reviewed computer-generated documentation;
- conducted a site visit to CNT's operations center in New Mexico; and
- conducted a site visit to CNT's location in Reston, VA.

We reviewed CNT's internal controls for contract monitoring by interviewing project managers and reviewing the minutes from weekly progress meetings. We also reviewed the organizational structure as part of the control environment.

CNT provided us with a general ledger in August 2016. To test the accuracy and completeness of the computer-generated documentation provided, we obtained and analyzed revenue, expenditures, and vendors in the general ledger and reconciled them with appropriate supporting documentation. We used the general ledger to select our sample to test for other direct costs and labor costs charged to the contract and to determine whether CNT complied with the "Limitations on Subcontracting" clause.

