OFFICE OF INSPECTOR GENERAL

U.S. Department of Energy

AUDIT REPORT

DOE-OIG-20-51 July 2020

SMALL BUSINESS SUBCONTRACTING REQUIREMENTS FOR PRIME CONTRACTORS AT THE HANFORD SITE

Department of Energy
Washington, DC 20585

July 20, 2020

MEMORANDUM FOR THE SECRETARY

FROM: Teri L. Donaldson
Inspector General

SUBJECT: INFORMATION: Audit Report on "Small Business Subcontracting Requirements for Prime Contractors at the Hanford Site"

BACKGROUND

The Small Business Act, as amended, requires Federal agencies to ensure that a fair proportion of their total purchases, contracts, or subcontracts are with small business entities. According to the Small Business Act, the Government should aid, counsel, assist, and protect the interests of small business entities. The Department of Energy's policy is to reinforce the goals of the Small Business Act by fostering a dynamic business environment for the small business community, promoting inclusiveness, creating jobs and strengthening the small business economy, encouraging new perspectives, and increasing small business access to Department opportunities.

Mission Support Alliance, LLC (MSA) and CH2M HILL Plateau Remediation Company (CHPRC) are Hanford Site prime contractors with contracts valued at $3.75 billion and $6.47 billion respectively, as of September 30, 2018. MSA's contract award date was April 2009 and CHPRC's contract award date was June 2008. MSA's contract includes small business-related requirements limiting self-performed work scope to 60 percent of the total contract value and requires subcontracting to small business entities of at least 25 percent of the total contract value. Similarly, CHPRC's contract requires limiting self-performed work scope to 65 percent of the total contract value and requires subcontracting to small business entities of at least 17 percent of the total contract value. Due to the Department's emphasis on small business development, we initiated this audit to determine whether select Hanford Site prime contractors met their small business subcontracting requirements.

RESULTS OF AUDIT

Of the two Hanford Site prime contractors we reviewed, we determined that MSA did not meet all of its contractual small business subcontracting requirements, while CHPRC may still be able to meet its requirements. Although MSA reported meeting its contractual requirements, we found that MSA's calculations were not correct. Specifically, we found that MSA:

- Reported subcontracting 27 percent of its total contract value to small business entities; however, based on our calculations, MSA only subcontracted 21 percent to small business entities, thereby not meeting its contractual requirement of 25 percent; and

- Reported self-performing 55 percent of its total contract value; however, based on our calculations, MSA self-performed 73 percent of its total contract value, exceeding its contractual limit of 60 percent.

MSA inaccurately reported costs associated with team arrangements[1] and incumbent employee subcontract arrangements[2]. In particular, MSA excluded the costs of large business subcontractors of the team arrangement from its self-performed percentage calculations even though its contract required these costs to count as self-performed. In addition, MSA excluded incumbent employee subcontract arrangement costs from its self-performed percentage calculations and included them in small business subcontract percentage calculations. We concluded that incumbent employee subcontract arrangements are self-performed work because the arrangements represent an employee-employer relationship between MSA, not the subcontractor, and the incumbent employees.

Like MSA, CHPRC inaccurately excluded the costs of large business subcontractors of the team arrangement and incumbent employee subcontract arrangements from its self-performed percentage calculations. However, when we adjusted its reported figures, it appeared that CHPRC may still be able to meet its self-performance and small business subcontracting contractual requirements, as of September 2018.

Further, the incumbent employee subcontract arrangements used by MSA and CHPRC led to charging for subcontractor indirect costs that were potentially not allocable to the contracts. Specifically, the subcontractors with incumbent employees charged MSA and CHPRC indirect costs for employer administrative functions, despite no apparent corresponding benefit to the prime contracts. These indirect costs should not have been charged by the subcontractors because MSA and CHPRC performed these employer administrative support functions and charged the associated indirect costs.

We attributed these issues to inadequate oversight by MSA, CHPRC, and the Richland Operations Office. In particular, we found that MSA did not have formal procedures for reviewing and validating its own small business subcontracting reports. In addition, MSA and CHPRC did not adequately evaluate the appropriateness of incumbent employee subcontract arrangements. We also found that the Richland Operations Office lacked formal guidelines for conducting risk-based evaluations of MSA's and CHPRC's small business reports. Furthermore, the Richland Operations Office was not always proactive in its evaluation of incumbent employee subcontract arrangements.

[1] Team arrangements are two or more companies acting as a prime contractor. MSA's and CHPRC's team arrangements include primary business entities and large and small business subcontractors.
[2] Incumbent employee subcontract arrangements are arrangements to offer employment through subcontractors to employees who are eligible for continued participation in the Hanford Site Pension Plan, known as incumbent employees.

As a result, MSA potentially deprived other business entities of subcontract awards. In addition, MSA did not support the Department's emphasis on small business subcontracting and may be in breach of contract. Lastly, MSA and CHPRC incurred potentially unallowable costs for incumbent employee support.

MANAGEMENT RESPONSE

Management concurred with each of the report's recommendations. Its comments and proposed corrective actions are responsive to our recommendations. Management's comments are included in Appendix 3.

Attachment

cc: Chief of Staff
Under Secretary for Science
Senior Advisor for Environmental Management to the Under Secretary for Science

SMALL BUSINESS SUBCONTRACTING REQUIREMENTS FOR PRIME CONTRACTORS AT THE HANFORD SITE

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SMALL BUSINESS SUBCONTRACTING REQUIREMENTS FOR PRIME CONTRACTORS AT THE HANFORD SITE

BACKGROUND

To minimize the social and economic impacts on individuals and communities, during contract transition for the Mission Support Alliance, LLC (MSA) and CH2M HILL Plateau Remediation Company (CHPRC) contracts, MSA and CHPRC inherited responsibility for certain employees of the previous contractor and had to offer them first right of refusal to employment. These employees, referred to as incumbent employees, were eligible to continue participation in the Hanford Site Pension Plan and accrue Benefit Service, as defined in the Hanford Site Pension Plan. To provide employment for certain incumbent employees, MSA and CHPRC arranged employment through its subcontractors, many of which were small business entities. We refer to these arrangements as incumbent employee subcontract arrangements.

In addition, MSA and CHPRC proposed team arrangements to execute each of their contractual work scopes. Federal Acquisition Regulation 9.6, *Contractor Team Arrangements*, defines team arrangements as two or more companies forming a partnership or joint venture to act as a potential prime contractor, or a potential prime contractor agreeing with one or more other companies to have them act as its subcontractors. MSA's and CHPRC's team arrangements included primary business entities and numerous large and small business subcontractors as team members. MSA's and CHPRC's prime contracts require any work scope performed by large business subcontractor team members to count as self-performed. In contrast, work scope performed by small business subcontractor team members is counted as small business subcontracting.

DETAILS OF FINDINGS

Of the two Hanford Site prime contractors reviewed, we found that MSA did not meet all of its contractual small business subcontracting requirements. Specifically, based on our calculations, MSA did not limit its self-performed work scope to 60 percent of its total contract value and did not subcontract at least 25 percent of its total contract value with small business entities, resulting in a potential breach of contract. Although MSA reported meeting both contractual requirements, we determined that MSA's calculations were not correct. In particular, MSA inaccurately excluded large business subcontractor team members' costs from its self-performed work scope calculations. Also, based on our analysis, MSA inaccurately excluded incumbent employee subcontract arrangement costs from its self-performed work scope calculation and included them in its small business subcontracting calculation. Additionally, MSA's incumbent employee subcontract arrangements led to charging costs that were potentially not allocable to MSA's contract.

The other Hanford Site prime contractor we reviewed, CHPRC, also inaccurately excluded a large business subcontractor team member from its self-performed work scope. Additionally, for the first 5 years of its contract, CHPRC utilized incumbent employee subcontract arrangements and inaccurately excluded the arrangements' costs from its self-performed work scope calculation and included them in its small business subcontracting calculation. Nevertheless, when we adjusted CHPRC's reported figures, it appeared that CHPRC may still be able to meet

its self-performance and small business subcontracting contractual requirements, as of September 2018. However, similar to MSA, CHPRC's incumbent employee subcontract arrangements led to charging costs that were potentially not allocable to its contract. To its credit, after the Richland Operations Office expressed concerns that using incumbent employee subcontract arrangements did not provide meaningful involvement, CHPRC revised its subcontracting strategy for fiscal year (FY) 2014 and discontinued use of the incumbent employee subcontract arrangements. CHPRC anticipated that the revised strategy would generate savings of up to $13 million per year while still meeting or exceeding subcontracting goals.

Team Arrangement Subcontracts

We concluded that MSA inaccurately excluded $459 million of subcontract costs to team members from its self-performed work scope calculation. Specifically, MSA reported costs from three large business subcontractor team members and two primary business entities of the team arrangement as subcontracted instead of self-performed. However, per MSA's contract, work scope performed by large business team members are considered self-performed, and therefore, the associated costs should have been included in the self-performed percentage calculation. Had MSA included team member costs as self-performed, it would have resulted in a self-performed work scope percentage of 67 percent, exceeding its 60 percent limitation. After we brought these issues to the attention of MSA officials, they agreed that these subcontracts with large business subcontractor team members and primary business entities of the team arrangement were misreported and should have been reported as self-performed. MSA disclosed the issue to the Richland Operations Office and submitted revised calculations.

MSA subcontracted approximately $333 million to a subsidiary of one of the team arrangement's primary business entities. MSA's proposal included information technology services as an integral part of its team arrangement's capabilities and provided these services through a subcontract with this subsidiary. MSA reported the costs as subcontracted; however, because the subsidiary was a large business subcontractor, and due to its affiliation with the team arrangement, these costs should have been counted as self-performed work scope. We noted that the primary business entity's subsidiary reported that it in turn subcontracted a portion of its work scope. When we asked MSA for documentation to support the subcontracted amount reported, MSA stated that it did not have or require backup documentation to validate the figures, the reports were certified by the subsidiary, and MSA did not have reason to doubt the information in the reports. Because we were not able to verify the amount of work scope subcontracted by the subsidiary, we did not give credit for any subcontracting performed by the subsidiary. Nevertheless, even if the subsidiary subcontracted, as reported, MSA's self-performed work scope percentage would have been 63 percent, still exceeding its contractual requirement for self-performed work scope of 60 percent.

In addition, MSA subcontracted approximately $115 million to a large business subcontractor team member. MSA did not initially identify the entity as a team member. However, we concluded that MSA should have considered the entity as a team member because MSA did not

compete the entity's subcontract, MSA had a fee sharing arrangement with the entity, and MSA included the entity as a team member on contract modification documents. Therefore, the associated subcontract costs should have been counted as self-performed work scope.

Furthermore, MSA subcontracted approximately $5 million to another large business subcontractor team member. The team member was initially considered a small business subcontractor; however, the team member converted to a large business subcontractor in FY 2015. Nevertheless, MSA continued to report the team member's costs as subcontracted instead of self-performed.

Finally, MSA subcontracted a total of approximately $6 million to two primary business entities of MSA's team arrangement. Because these primary business entities comprise the MSA team, the costs of their subcontracts should have been considered self-performed work scope.

Incumbent Employee Subcontract Arrangements – Contractual Requirements

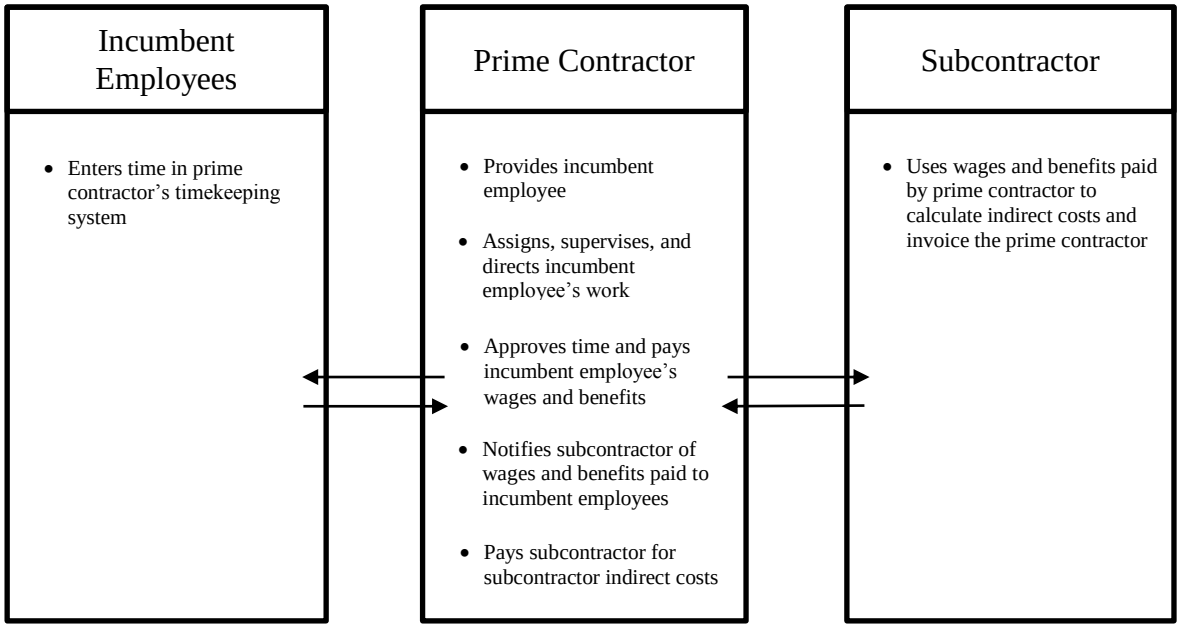
Based on our analysis, MSA inaccurately included incumbent employee subcontract arrangements in the calculation of its small business subcontracting percentage, thus excluding these arrangements from its self-performed work scope percentage. Specifically, MSA included $233 million of incumbent employee subcontract arrangement costs with small business entities in its small business subcontracting percentage. We concluded that small business incumbent employee subcontract arrangements should not have been included in MSA's small business subcontracting percentage but should have been included in MSA's self-performed calculation. According to common law employee rules, incumbent employee subcontract arrangements appear to represent an employee-employer relationship between MSA, not the small business entities, and the incumbent employees. In particular, MSA controls nearly all aspects of the incumbent employees' employment. For example, based on our review of the information available to us, MSA:

- Provided the employees;
- Assigned and supervised the work to be performed;
- Directed when, where, and how work was performed;
- Controlled training and development;
- Provided workers with necessary tools, equipment, and work facilities;
- Provided administrative support functions (i.e., payroll, human resources, etc.); and
- Controlled employee termination authority.

In contrast, the small business entities did not provide employer functions for the incumbent employees, as expected. In one example, an MSA official stated that MSA provided the small business entities with the employees needed to perform the scope of work, so there was no effort expended by the small business entities to hire and train the employees. Additionally, the MSA

official stated that MSA would handle training, payroll, timekeeping, benefits, pension, etc. for all incumbent employees. Figure 1 below summarizes the incumbent employee subcontract arrangements used by MSA.

Figure 1: Incumbent Employee Subcontract Arrangements



Had MSA excluded $233 million of incumbent employee subcontract arrangement costs from its small business subcontracting percentage calculation, the reported percentage would have been 21 percent, below its contractual minimum of 25 percent. In addition, combining the incumbent employee subcontract arrangements with team arrangement subcontract costs further increases MSA's self-performed work scope percentage from 67 percent to 73 percent, above the 60 percent contractual limit. See Appendix 4 for additional details on MSA's reported and adjusted small business and self-performance figures.

Incumbent Employee Subcontract Arrangements – Indirect Costs

Furthermore, the incumbent employee subcontract arrangements used by MSA resulted in charging indirect costs that were potentially not allocable to MSA's contract. According to Federal Acquisition Regulation 31.2, *Contracts with Commercial Organizations*, costs are only allowable if, among other items, they are reasonable and allocable. Costs are only allocable to a contract if they provide a benefit to the contract. However, the subcontractors with incumbent employees charged MSA for employer administrative functions, despite no apparent corresponding benefit. It appeared that MSA already provided most employer administrative functions but still charged the Department of Energy for the associated costs. When we asked MSA officials for justification to support the incumbent employee subcontractors charging indirect costs for employer administrative functions, they could not provide specific details of the

subcontractors providing employer functions. Due to the scope of our audit, we did not determine an exact dollar amount of potentially unallowable costs. It is MSA's responsibility to review these subcontractor indirect costs for allocability and the Contracting Officer's responsibility to determine the extent to which they are unallowable. These indirect costs could be up to an estimated $31.6 million. In February 2019, the Richland Operations Office issued a final decision on the allowability of certain MSA costs related to subcontractor incurred costs during FY 2009 through FY 2016. While we have not performed a detailed comparison of incurred costs, it is possible that some of these disallowed costs were related to incumbent employee subcontract arrangements.

CHPRC also used incumbent employee subcontract arrangements starting in FY 2009 and ending in FY 2013. Similar to MSA, CHPRC's incumbent employee subcontractors did not appear to provide employer administrative functions, but CHPRC still charged indirect costs to the Department for these functions. Therefore, indirect costs were charged to CHPRC's contract that are potentially not allocable. It is CHPRC's responsibility to review these subcontractor indirect costs for allocability and the Contracting Officer's responsibility to determine the extent to which they are unallowable. These indirect costs could be up to an estimated $32.2 million. According to a Richland Operations Office official, the reasons for eliminating CHPRC's incumbent employee subcontract arrangements in FY 2013 was that the arrangements did not provide meaningful involvement. The arrangements were ended as part of CHPRC's revised subcontracting strategy, and CHPRC estimated that the revised strategy would generate a savings of up to $13 million per year while still meeting its subcontracting goals. After ending these arrangements, CHPRC hired incumbent employees directly.

Prime Contractor's Oversight

The issues we identified in this report occurred, in part, because of weaknesses in MSA's and CHPRC's prime contract oversight. Specifically:

- MSA did not have formal procedures for reviewing and validating its own small business subcontracting reports.

- MSA and CHPRC did not adequately evaluate the appropriateness of incumbent employee subcontract arrangements.

MSA lacked formal procedures for reviewing and validating its small business subcontracting reports, which included self-performance figures, prior to submission to the Richland Operations Office. According to MSA, not including team member costs as self-performed work scope was an inadvertent mistake because the MSA personnel involved did not appreciate that the self-performed work limitation in its contract applied to subcontract costs awarded to large business subcontractor team members. If MSA had detailed procedures for reviewing and validating small business subcontracting reports, MSA likely would have identified these discrepancies on its own.

In addition, we concluded that MSA and CHPRC did not adequately evaluate the appropriateness of incumbent employee subcontract arrangements. In particular, MSA and CHPRC did not

ensure that incumbent employee subcontractors provided the majority of employer functions to their incumbent employees. While neither MSA nor CHPRC adequately evaluated incumbent employee arrangements for appropriateness, both MSA and CHPRC asserted that the arrangements were appropriate based on several factors: the Department accepted them as part of the original contract proposals, the Department reviewed and approved the arrangements through subcontract consent packages, and the Department had the arrangements audited. However, in our review of these factors, we did not identify sufficient evidence to conclude that the incumbent employee subcontract arrangements were appropriate. Furthermore, it is the prime contractors' responsibility to manage their subcontracts, and accordingly, MSA and CHPRC should have taken more action to ensure that their incumbent employee subcontract arrangements were appropriate.

Federal Oversight

We also attributed the problems identified in this report, in part, to the Richland Operations Office not always being proactive in its oversight. Specifically, the Richland Operations Office did not have sufficient formal guidelines for conducting a risk-based evaluation to ensure that self-performance and small business figures were accurately reported. Instead, the Richland Operations Office relied on the accuracy of the information provided in MSA's and CHPRC's certified small business reports. Both MSA's and CHPRC's contracts provided specific opportunities for in-depth reviews of self-performance and small business subcontracting figures at the end of years 3, 5, and 7 of the contracts. However, not having formal guidelines for conducting risk-based evaluations limited the Richland Operations Office's ability to identify issues with MSA's and CHPRC's reporting of team arrangements in self-performance and small business reports. Had the Richland Operations Office developed and implemented more formal guidelines for conducting risk-based reviews of small business reports, it likely may have identified the team arrangement reporting deficiency. To its credit, in August 2019, the Richland Operations Office implemented new guidelines related to small business reporting. While we believe this is a positive step, it is still too early to determine whether the guidelines are sufficient.

In addition, Richland Operations Office personnel were not always proactive in their evaluation of incumbent employee subcontract arrangements. According to the Richland Operations Office, it was aware of MSA's incumbent employee subcontract arrangements; however, it allowed the arrangements for the following reasons:

- MSA priced the subcontractor's indirect costs into its final proposal, which was awarded competitively;
- MSA negotiated fee on incumbent employee subcontractor work that was lower and deemed more reasonable when compared to another Hanford Site contractor;
- The Government cannot choose who contractors subcontract with; and
- Contracting Officers rely on after-the-fact incurred cost audits to make decisions on allowability of costs, some of which are not completed to date.

Nevertheless, these reasons do not demonstrate that the Richland Operations Office evaluated the employer functions performed by incumbent employee subcontractors, and it should have taken more action to ensure that the incumbent employee subcontractors were the employers of their incumbent employees. To its credit, the Richland Operations Office expressed concerns with CHPRC's original approach to subcontracting, including incumbent employee subcontractor arrangements, which resulted in CHPRC revising its subcontracting strategy and discontinuing the incumbent employee subcontract arrangements in FY 2013. The Richland Operations Office's decision to allow the practice to continue at MSA, but not CHPRC, was based on varying factors, including differing Contracting Officer approaches to managing prime contracts.

Impact of Contract Management Weaknesses

As a result of not meeting contractual requirements to limit self-performed work scope and subcontracting with small business entities, MSA deprived other business entities of subcontract awards. In particular, MSA withheld up to an estimated $506 million that should have been awarded to other business entities, of which up to an estimated $151 million should have been awarded to small business entities. Therefore, MSA did not fully support the Department's emphasis on small business subcontracting, as envisioned, and MSA may be in breach of contract. In addition, because of the incumbent employee subcontractor arrangements, MSA and CHPRC incurred indirect costs for incumbent employee subcontract support that may be considered unallowable. The potential monetary impact to the Government is up to approximately $31.6 million on MSA's contract and up to approximately $32.2 million on CHPRC's contract, pending the Contracting Officer's review of these costs.

Other Matters

MSA and CHPRC counted purchase card costs that were not with small business vendors toward meeting their small business goals. Specifically, we performed a cursory vendor name review of MSA's and CHPRC's small business vendor list and identified multiple vendors that appeared to be large businesses. In our review, we identified several instances where both MSA and CHPRC included large business transactions in small business calculations. When we discussed our concerns with MSA and CHPRC, both contractors agreed with the errors we identified, attributed the errors to weaknesses in their systems, and suggested a course of action to prevent future errors. We concluded that the dollar amount of these errors was minor and did not have a material impact on the small business subcontracting percentages reported by MSA and CHPRC. In addition, we found the actions taken by both contractors to be responsive to our concerns and helpful in preventing future errors of this nature.

RECOMMENDATIONS

To address the concerns identified in this report, we recommend that the Manager, Office of River Protection/Richland Operations Office direct Contracting Officers to:

1. Require Hanford Site prime contractors to develop written procedures for reviewing and validating small business and self-performance figures prior to submitting reports;

2. Require Hanford Site prime contractors to evaluate incumbent employee subcontract arrangements in current and future contracts for appropriateness;

3. Require Mission Support Alliance, LLC and CH2M HILL Plateau Remediation Company to provide evidence of the allowability and allocability of the indirect costs for incumbent employee support and recover any amounts deemed unallowable;

4. Develop a risk-based approach that includes formal guidelines for reviewing small business reports and figures submitted by prime contractors;

5. Consider reducing Mission Support Alliance, LLC's fee for not meeting contractual self-performance and contractual small business subcontracting requirements; and

6. Determine the consequences of Mission Support Alliance, LLC's potential breach of contract for not meeting contractual requirements.

MANAGEMENT RESPONSE

Management concurred with each of the report's recommendations. The Department, in support of the review, asserted that the term "consent," does not equate to "approval." Further, the Department asserted that, according to the Federal Acquisition Regulation, unless specifically provided for otherwise, consent does not: (1) constitute a determination of the acceptability of the subcontract terms or conditions; (2) constitute a determination of the allowability of any cost; or (3) relieve the contractor of responsibility for performing the contract.

Management comments are included in Appendix 3.

AUDITOR COMMENTS

Management's comments and proposed actions are responsive to our recommendations.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

We conducted this audit to determine whether select Hanford Site prime contractors met their small business subcontracting requirements.

Scope

This audit was performed from November 2018 through March 2020. We conducted the audit at the Department of Energy's Richland Operations Office, CH2M HILL Plateau Remediation Company (CHPRC), and Mission Support Alliance, LLC (MSA), all located in Richland, Washington. Our scope included a review of MSA's and CHPRC's small business requirements from April 2009 through September 2018 and June 2008 through September 2018, respectively. This audit was conducted under the Office of Inspector General project number A19RL003.

Methodology

To accomplish the objective, we:

- Examined small business reports furnished by MSA and CHPRC to the Department.
- Reconciled small business reports to supporting data and documentation.
- Judgmentally sampled 30 of 181,115 MSA small business transactions during fiscal years 2014 – 2018. We evaluated the transactions and subcontracts for small business compliance and accurate reporting. Because the sample selection was based on a judgmental sample, results and overall conclusions are limited to the items tested and cannot be projected to the entire population.
- Judgmentally sampled 30 of 19,478 CHPRC small business transactions during fiscal years 2014 – 2018. We also sampled two additional subcontracts based on Contracting Officer input. We evaluated the transactions and subcontracts for small business compliance and accurate reporting. Because the sample selection was based on a judgmental sample, results and overall conclusions are limited to the items tested and cannot be projected to the entire population.
- Performed a vendor name review of MSA's and CHPRC's purchase card transactions during fiscal years 2014 – 2018.
- Reviewed policies, procedures, contract requirements, and laws and regulations associated with small business requirements for the Hanford Site, MSA, and CHPRC.
- Interviewed key stakeholders, including Department officials, and MSA and CHPRC management.

We conducted this performance 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Accordingly, the audit included tests of controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. Finally, we relied on computer-processed data to satisfy our audit objective. We conducted an assessment of this data by reviewing supporting documentation used to generate the computer-processed data and deemed the data to be sufficiently reliable for our purposes.

An exit conference was held with Department officials on June 18, 2020.

PRIOR REPORTS

- Audit Report on *Management and Oversight of Information Technology Contracts at the Department of Energy's Hanford Site* (DOE-OIG-16-10, April 2016). The audit identified weaknesses related to contract awards and work scope, time and materials task orders, and affiliate fee or profit. Specifically, although the Richland Operations Office intended the Mission Support Contract to consolidate all infrastructure services for the Hanford Site's cleanup mission under one prime contract, some of the site's major prime contractors entered into separate agreements with Lockheed Martin Services, Inc. to perform services that had been included in the scope of the original Mission Support Alliance, LLC contract. Also, time and materials task orders significantly exceeded the amount proposed in the support contract with Lockheed Martin Services, Inc. Additionally, the Department of Energy may have paid unnecessary fee or profit when acquiring information technology support services. Specifically, we identified potential unallowable profit of more than $63.5 million.

- Audit Report on *Small Business Subcontracting Goals at the East Tennessee Technology Park* (OAI-L-16-01, October 2015). The audit determined that while we did not discover any material issues, we identified instances where URS/CH2M Oak Ridge, LLC had incorrectly reported the socioeconomic status of some of its small business awards and did not include the signature date on many of the attestation documents.

MANAGEMENT COMMENTS

Department of Energy
Hanford Site
Richland Operations Office | Office of River Protection

AMB:SMO/20-AMB-0005 May 27, 2020

MEMORANDUM FOR JACK D. ROUCH, DEPUTY ASSISTANT INSPECTOR GENERAL FOR AUDITS
IG-301.1 (ID)

FROM: BRIAN T. VANCE
MANAGER

Digitally signed by Brian T. Vance
DN: cn=Brian T. Vance, o=Office of River Protection, ou=Department of Energy, email=brian.t.vance@orp.doe.gov, c=US
Date: 2020.05.27 07:53:07 -07'00'

SUBJECT: MANAGEMENT RESPONSE TO THE OFFICE OF INSPECTOR GENERAL DRAFT AUDIT REPORT ON "SMALL BUSINESS SUBCONTRACTING REQUIREMENTS FOR PRIME CONTRACTORS AT THE HANFORD SITE"

The U.S. Department of Energy (DOE), Office of Environmental Management appreciates the opportunity to review and comment on the subject Office of Inspector General draft report. The Department is committed to reinforcing the goals of the Small Business Act. We reviewed the information in the draft report with respect to the facts presented, conclusions reached, and appropriateness of the recommendations. In support of the review, DOE is submitting the following clarification of the term "consent," which does not equate to "approval." As described in the Federal Acquisition Regulation, unless specifically provided for otherwise, consent does not: 1) constitute a determination of the acceptability of the subcontract terms or conditions; 2) constitute a determination of the allowability of any cost; or 3) relieve the Contractor of responsibility for performing the contract.

DOE concurs with the report's recommendations and the Department's Management Response to each of the recommendations follows.

Recommendation 1: Require Hanford Site prime contractors to develop written procedures for reviewing and validating small business and self-performance figures prior to submitting reports.

Management Response: Concur
DOE will provide direction to the Hanford Site prime contractors to develop written procedures for reviewing and validating small business and self-performance figures prior to submitting reports. This action is estimated to be closed by December 31, 2020.

Recommendation 2: Require Hanford Site prime contractors to evaluate incumbent employee subcontract arrangements in current and future contracts for appropriateness.

Management Response: Concur
DOE will provide direction to the Hanford Site prime contractors to evaluate incumbent employee

subcontract arrangements in current and future contracts for appropriateness. This action is estimated to be closed by January 30, 2021.

Recommendation 3: Require Mission Support Alliance, LLC and CH2M Hill Plateau Remediation Company to provide evidence of the allowability and allocability of the indirect costs for incumbent employee support and recover any amounts deemed unallowable.

Management Response: Concur
DOE will provide direction to Mission Support Alliance, LLC and CH2M HILL Plateau Remediation Company to provide evidence of the allowability and allocability of the indirect costs for incumbent employee support and take action to recover any amounts deemed unallowable. This action is estimated to be closed by June 30, 2021.

Recommendation 4: Develop a risk-based approach that includes formal guidelines for reviewing small business reports and figures submitted by prime contractors.

Management Response: Concur
DOE will develop a risk-based approach that includes formal guidelines for reviewing small business reports and figures submitted by prime contractors. This action is estimated to be closed by April 30, 2021.

Recommendation 5: Consider reducing Mission Support Alliance, LLC's fee for not meeting contractual self-performance and contractual small business subcontracting requirements.

Management Response: Concur
DOE will consider reducing Mission Support Alliance, LLC's fee for not meeting contractual self-performance and contractual small business subcontracting requirements. This action will be conducted during the evaluation period of the contract. This action is estimated to be closed by April 30, 2021.

Recommendation 6: Determine the consequences of Mission Support Alliance, LLC's potential breach of contract for not meeting contractual requirements.

Management Response: Concur
DOE will evaluate consequences of Mission Support Alliance, LLC's potential breach of contract for not meeting contractual requirements through the actions taken in the other recommendations. This action will be closed through the actions of Recommendation 5.

If you have any questions, please contact Shannon Ortiz, Audit Program Manager, on (509) 373-0908.

cc: M. D. Freeman, IG-301.1 (ID)
L. J. Jackson, EM-5.112, HQ
L. A. Jessup, EM-5.112, HQ
J. Moon, EM-3, HQ
D. M. Thomas, IG-60 (RL)

MSA Reported and Adjusted Small Business Amounts

The following table shows Mission Support Alliance, LLC's (MSA) reported and adjusted small business subcontracting amounts.

TABLE 1: MSA Reported and Adjusted Small Business Amounts (rounded to nearest dollar)

	Reported Small Business Amounts through 9/30/2018	Large Business Team Member Adjustment	Subtotal for Large Business Team Member Adjustment	Incumbent Employee Subcontract Adjustment	Adjusted Small Business Amounts through 9/30/2018
1. Contract Value	**$ 3,753,435,326**		**$ 3,753,435,326**		**$ 3,753,435,326**
2. Self-Performed	**$ 2,065,424,234**	**$ 459,363,946**	**$ 2,524,788,180**	**$ 233,377,382**	**$ 2,758,165,562**
3. Subcontracted	**$ 1,688,011,092**	**$ (459,363,946)**	**$ 1,228,647,146**	**$ (233,377,382)**	**$ 995,269,764**
3a Large Business	667,694,572	(459,363,946)	208,330,626	0	208,330,626
3b Small Business	1,020,316,520	0	1,020,316,520	(233,377,382)	786,939,138
4. Self-Performed % of Contract Value (Rounded)	**55%**		**67%**		**73%**
5. Small Business % of Contract Value (Rounded)	**27%**		**27%**		**21%**

FEEDBACK

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