December 11, 2020

TO: EMILY W. MURPHY
ADMINISTRATOR (A)

FROM: CAROL F. OCHOA
INSPECTOR GENERAL (J)

SUBJECT: Option Award and Extension of The Boston Consulting Group, Inc.'s Multiple Award Schedule Contract Without a Fair and Reasonable Pricing Determination
Assignment Number A180091

This memorandum is to notify you of our concerns with the Federal Acquisition Service's (FAS's) 5-year option award and extension of The Boston Consulting Group, Inc.'s (BCG's) Multiple Award Schedule Contract Number GS-10F-0253V. FAS recently awarded the option and extension without determining fair and reasonable pricing as required by the Federal Acquisition Regulation, General Services Administration Acquisition Regulation, and FAS policy. This warrants your immediate attention as the extension of this contract without a determination of fair and reasonable pricing puts the government at risk of overpaying BCG on an estimated $860 million in sales over the remaining term of the contract.

On July 11, 2019, my office issued a preaward audit report related to the Commercial Sales Practices disclosure and proposal information BCG submitted as the basis for negotiating the first 5-year option of its Professional Services Schedule contract.[1] We found that BCG's Commercial Sales Practices information was not accurate and did not serve as a suitable basis for negotiations. In particular, BCG had no commercial customers who purchased services in the same manner as those offered under its schedule contract.

During the course of our audit, we requested that BCG provide cost buildup information to support its proposed pricing due to the lack of comparable commercial sales. BCG refused to do so. Accordingly, we advised the contracting officer that without cost buildup information, BCG could not

[1] *Preaward Examination of Multiple Award Schedule Contract Extension: The Boston Consulting Group, Inc. Contract Number GS-10F-0253V* (Report Number A180091/Q/3/X19035, July 11, 2019).

support its price proposal. In our July 2019 audit report, we advised the contracting officer to require BCG to provide cost buildup information or cancel the contract.

In May 2019, the contracting officer extended BCG's contract through July 9, 2024, subject to renegotiations based on the audit results. After receiving our audit report in July 2019, the contracting officer agreed to use our audit results and requested that BCG provide cost buildup information to support its proposed contract pricing. However, BCG did not provide cost buildup information necessary for the contracting officer to make a fair and reasonable pricing determination. As a result, on January 30, 2020, the contracting officer issued a modification to cancel BCG's contract effective February 29, 2020.

The contracting officer wrote in a memo to the contract file that they were subsequently asked to withdraw the modification to cancel the contract by the GSA Ombudsman and the FAS Assistant Commissioner for Professional Services and Human Capital Categories, Tiffany Hixson. According to the contracting officer, these officials made this request to provide GSA with sufficient time to notify customers with current open awards against BCG's contract that the contract would be cancelled. On February 26, 2020, just three days prior to the cancellation effective date, the contracting officer again requested the cost buildup information necessary to make a fair and reasonable pricing determination; however, BCG only committed to providing information that it asserted was comparable commercial pricing information. On February 27, 2020, the contracting officer fulfilled the GSA Ombudsman's and Assistant Commissioner's request, issuing a modification to withdraw the cancellation of BCG's contract, despite not determining BCG's contract pricing is fair and reasonable.

In March 2020, the contracting officer reached an agreement with BCG under which it would provide commercial pricing information to support its proposed pricing no later than May 15, 2020. While awaiting this information, the contracting officer began to contact BCG's current customers in response to a recommendation my office made on a separate audit, to review all FAS contracts with team-based pricing to ensure they comply with FAR requirements.[2]

Specifically, in early April 2020, the contracting officer notified BCG's current customers that, given the time it would take to adjust pricing on BCG's contract from team-based pricing to labor hour rates, it was in the best interest of the government to suspend new task order and blanket purchase agreement (BPA) awards under the contract until labor hour rates were established. Even though BCG did not provide any acceptable support for proposed labor hour rates, the contracting officer issued a contract modification on April 17, 2020, stating:

> BCG agrees not to submit a quote in response to any requests for quotes or to accept any new orders, except that BCG may accept new orders under existing blanket purchase agreements that have been established under this contract through May 08, 2020.

[2] *Improper Pricing on the McKinsey Professional Services Contract May Cost the United States an Estimated $69 Million* (Report Number A170118/Q/6/P19004, July 23, 2019).

However, the contracting officer granted a waiver effective June 1, 2020, to allow BCG to award a new BPA after the May 8, 2020, cutoff after a customer agency requested a waiver.[3] FAS stated the waiver had to be considered because the ordering agency was seeking services related to the COVID-19 pandemic and it received a quote using BCG's GSA schedule contract. While we understand the sensitive and urgent nature of COVID-19 related services, there is no requirement that the customer agency use BCG's Schedule to acquire the requested services. This waiver further increases the risk that the government will overpay for BCG's services. Effectively, this modification allows BCG to continue receiving orders at pricing that has not been determined fair and reasonable on all of its existing BPAs, as well as any BPA it awards after receiving a waiver, until the expiration of BCG's contract on July 9, 2024.

After issuing this modification, the contracting officer continued to try to determine whether BCG's offered pricing was fair and reasonable, all while the contract continued. The contracting officer received BCG's additional commercial pricing information on April 21, 2020, and in July 2020 determined that it did not support BCG's proposed contract pricing. As a result, on July 24, 2020, the contracting officer proposed issuing a modification stating that BCG cannot submit any modifications to add labor categories, products, or Special Item Numbers, or to increase its prices. To date, this contract modification has not been issued.

FAS provided the following rationale for continuing BCG's contract and allowing new orders under existing BPAs: (1) BCG's services are critical to customer agencies' missions, (2) the BPAs were competitively awarded, so pricing risk is mitigated; and (3) if the contract was canceled, customer agencies would incur administrative costs to replace the existing BPAs. However, this rationale overlooks that if BCG's contract is canceled it is not banned from supporting customer agencies' missions, it just cannot do so under its GSA schedule contract because BCG failed to support its proposed pricing. Also, the rationale that the orders were competitively awarded and as a result pricing risk is mitigated is also flawed. The BPAs were awarded against BCG's contract, so BCG's contract pricing was used as the beginning point of pricing discussions and negotiations. Since the contract pricing was not determined fair and reasonable, all of the BPA orders awarded after the option were awarded with a flawed fair and reasonable pricing determination. Finally, far outweighing the potential administrative costs of customer agencies having to replace BPAs is the government funds at risk of overpaying for BCG services as a result of the lack of a price reasonableness determination. Considering that BCG had over $215 million in schedule sales during the 1-year period ending June 30, 2020, a $100 million increase from the prior 1-year period, we estimate that GSA's action could lead to overpayments on over $860 million in sales before BCG's contract expires in July 2024.

In sum, FAS's recent award of the option and extension for BCG's schedule contract without determining fair and reasonable pricing violated the Federal Acquisition Regulation, General Services Administration Acquisition Regulation, and FAS policies and places the government at risk of

[3] This waiver request came to you and was forwarded to Julie Dunne, FAS Commissioner, to coordinate a response to the customer agency.

overpaying for BCG's services. [4] Since BCG has demonstrated that it is unwilling or unable to provide the cost buildup information the contracting officer needs to make a fair and reasonable pricing determination, GSA should immediately cancel BCG's schedule contract.

If you have any questions or wish to discuss this memorandum further, please call me at (202) 501-0450. If your staff needs any additional information, they may also contact Barbara E. Bouldin, Deputy Assistant Inspector General for Acquisition Audits, at (202) 273-7371.

[4] The failure to establish price reasonableness violates, among other things, FAR 15.403-3(c)(1), *Requiring data other than certified cost or pricing data*; GSAR 517.207, *Exercise of Options*; and FAS Policy and Procedure 2017-02, Updated Procedures for Exercising the Option to Extend the Term of a Federal Supply Schedule Contract.