



Office of Audits
Office of Inspector General
U.S. General Services Administration

Assessment of a Hotline Complaint: PBS Southeast Sunbelt Region Job Order Construction Contracts

Memorandum Number A230067-1
April 19, 2024



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TO: JEFFREY SMITH
REGIONAL COMMISSIONER
PUBLIC BUILDINGS SERVICE (4P)

FROM: NICHOLAS PAINTER
REGIONAL INSPECTOR GENERAL FOR AUDITING
SOUTHEAST SUNBELT REGION AUDIT OFFICE (JA-4)

SUBJECT: Assessment of a Hotline Complaint:
PBS Southeast Sunbelt Region Job Order Construction Contracts
Memorandum Number A230067-1

The purpose of this memorandum is to notify you of deficiencies in the pricing for the PBS Southeast Sunbelt Region's (PBS Region 4's) Job Order Construction (JOC) contracts. Specifically, we found that deficiencies in PBS Region 4's price analyses resulted in JOC contracts with either inflated or unsustainably low pricing. Flawed JOC contract pricing was also inappropriately used as the basis for project cost estimates.

Background

Indefinite delivery, indefinite quantity (IDIQ) contracts are used when the government is unable to determine the exact quantities of supplies or services that it will purchase during the contract performance period. By having IDIQ contracts in place, the government can streamline the contracting process by placing task orders as specific needs arise.

In October 2021, PBS Region 4 awarded 12 JOC IDIQ contracts covering a wide range of construction, repair and alteration, and tenant finish services for multiple geographic areas. The JOC contracts were awarded for a period of up to 5 years, including a 1-year base period and four 1-year option periods. Using these contracts, PBS contracting officers can award small construction task orders (under \$250,000) with previously negotiated pricing.

PBS Region 4 awarded the JOC contracts using a "best value" approach, where technical factors are weighed in comparison to proposed pricing. Under this approach, the contracting officer weighs technical factors and price to select the proposal that offers the greatest value to the

government.¹ Because technical factors may be considered more important than pricing under the best value approach, the contract may not be awarded to the lowest priced offeror. Nonetheless, in accordance with Federal Acquisition Regulation (FAR) 15.404-1, *Proposal analysis techniques*, the contracting officer must demonstrate that the pricing for the selected proposal is reasonable and realistic.

Pricing for the JOC IDIQ contracts was based on “bid factors” for the base and option periods of the contracts. For each contract, PBS Region 4 negotiated pricing using “total evaluated price,” which is the sum of the bid factors for base and option periods. *Table 1* below lists each contract’s base and option year bid factors and total evaluated price.

Table 1 – Awarded JOC Contract Bid Factors

Contract Number	Geographic Area	Bid Factor					Total Evaluated Price
		Base Period	Option 1	Option 2	Option 3	Option 4	
47PE1921D0025	Alabama	1.36	1.36	1.36	1.36	1.36	6.80
47PE1921D0027	Florida – Middle	.97	1.02	1.07	1.09	1.10	5.25
47PE1921D0026	Florida – North	.98	1.03	1.08	1.10	1.10	5.29
47PE1921D0028	Florida – South	1.15	1.18	1.20	1.22	1.25	6.00
47PE1921D0031	Georgia – Atlanta Federal Center (AFC) Building Complex	1.65	1.65	1.65	1.65	1.65	8.25
47PE1921D0030	Georgia – Middle and South	.97	1.02	1.07	1.09	1.10	5.25
47PE1921D0029	Georgia – Northern	.95	.95	.95	.95	.95	4.75
47PE1921D0032	Kentucky	1.65	1.65	1.65	1.65	1.65	8.25
47PE1921D0033	Mississippi	1.65	1.65	1.65	1.65	1.65	8.25
47PE1921D0034	North Carolina	1.65	1.65	1.65	1.65	1.65	8.25
47PE1921D0035	South Carolina	1.65	1.65	1.65	1.65	1.65	8.25
47PE1921D0036	Tennessee	.86	.87	.87	.87	.86	4.33

JOC Task Order Price Using Bid Factors

At the task order level, pricing is determined by multiplying the bid factor by the estimated project cost from the *RSMMeans Estimating Handbook* (RSMMeans Book). The RSMMeans Book is a

¹ Federal Acquisition Regulation 15.101-1, *Tradeoff process*.

construction cost estimation guide.² Its project cost estimates include the costs for labor, materials, and equipment, as well as overhead and a 10 percent profit. For JOC contract pricing, the RSMMeans Book estimated project cost does not adjust for differences in cost due to location. Instead, PBS Region 4 instructed offerors to incorporate cost adjustments for location into the proposed bid factor.

The bid factor is a multiplier that, in combination with the RSMMeans Book project cost estimate, determines the price for the task order project. If the bid factor is:

- Equal to 1.00 – The price equals the RSMMeans Book project cost estimate.
- Greater than 1.00 – The price is higher than the RSMMeans Book project cost estimate.
- Less than 1.00 – The price is lower than the RSMMeans Book project cost estimate.

For example, if PBS Region 4 elects to use a JOC contract for a project with an RSMMeans Book project cost estimate of \$10,000 and the bid factor for the geographic area is 1.36, the task order pricing would be calculated as follows:

RSMMeans Book Project Cost Estimate	\$10,000
<u>Bid Factor</u>	<u>x 1.36</u>
Project Price for the Task Order	\$13,600

As of August 14, 2023, PBS Region 4 awarded 57 task orders totaling approximately \$4.3 million against the JOC contracts.

Hotline Complaint

On April 24, 2023, we received a hotline complaint expressing concerns that PBS Region 4 awarded a JOC contract with an unreasonable bid factor. The complainant also asserted that PBS project managers were being directed by PBS Region 4 Acquisition Management Division personnel to add the bid factor to their independent government estimates (IGEs), resulting in higher prices.

Based on our preliminary review of contract documentation and interviews with the complainant and PBS Region 4 Acquisition Management Division personnel, we determined that the complaint had merit and warranted additional review. Accordingly, we reviewed the proposed pricing for all 12 JOC contracts to determine if PBS Region 4 awarded and administered the contracts in accordance with the FAR.

² The solicitation stated that the pricing for the JOC contract will be based upon the *2021 Facilities Construction Cost with RSMMeans Data Book*. Thereafter, the calendar year version of the RSMMeans Book that is current on the date that each JOC contract option is exercised shall be utilized.

Finding – Deficiencies in PBS Region 4’s JOC contract price analyses and creation of project cost estimates resulted in flawed pricing.

PBS Region 4’s price analyses for its JOC contracts resulted in flawed pricing. We also found that, in some cases, inflated JOC contract pricing was inappropriately used as the basis for task order IGEs.

Price Analysis Deficiencies Resulted in Flawed JOC Contract Pricing

The contracting officer’s price analyses for the JOC contracts resulted in flawed pricing. As a result, we found that some JOC contracts were awarded with significantly inflated pricing, while others were awarded with pricing that was unsustainably low.

FAR 15.404-1 requires contracting officers to evaluate the reasonableness of the offered prices. However, the price analysis for the JOC contracts was inconsequential. To perform the price analysis, the contracting officer compared proposed pricing for each geographic area to the “overall range of prices” for proposals received for all geographic areas (see **Attachment 1**). As long as the total evaluated price fell between the lowest price offered of 4.25 and the highest price offered of 9.71, the contracting officer determined the offered price to be reasonable. In effect, all proposed pricing was reasonable because all proposed pricing was between the lowest bid and the highest bid.

This analysis was flawed and resulted in significantly inflated pricing for some contracts and unsustainably low prices for others. For example, the contracting officer determined that the selected contractor’s total evaluated price for the Georgia – AFC Building Complex of 8.25 was reasonable, because it fell within the overall range of prices for all geographic areas (4.25–9.71). However, the selected contractor offered the highest proposed price for the specific Georgia – AFC Building Complex geographic area—over 14 percent higher than the next highest proposal and nearly 42 percent higher than the average proposed price.

The contracting officer’s approach also resulted in significantly inflated pricing for other JOC contracts. As shown in **Attachment 1**, the awarded pricing for three other JOC contracts was at least 22 percent higher than the average proposed pricing for their respective geographic areas.

In other cases, the contracting officer’s price analysis led to awarded pricing that was unsustainably low. FAR 15.404-1(d), *Cost realism analysis*, provides an analysis technique used to determine whether proposed pricing is sufficient for the work to be performed. As previously described, the contracting officer considered whether proposed pricing fell within the overall range of prices offered for all geographic areas. However, the contracting officer did not conduct an analysis to determine if offered pricing that fell on the low end of the range was realistic.

As shown in *Table 1*, we found that the awarded base year pricing for five JOC contracts was below the RSMean Book project cost estimate. Further, as shown in **Attachment 1**, the

awarded total evaluated price for the same five JOC contracts was at least 17 percent lower than the average proposed pricing for the respective geographic area. Due to the unsustainably low pricing, a contractor asked to withdraw from all three of its contracts (the Florida – Middle, Florida – North, and Georgia – Middle and South JOC contracts). In response, GSA allowed the base year of the contracts to lapse and did not exercise the options to extend the contracts.

Inflated Bid Factors Were Used in Project Cost Estimates

In some cases, PBS Region 4 personnel used the inflated bid factors described above to develop cost estimates for JOC eligible projects. This resulted in inflated cost estimates for the projects that favored the JOC contracts at the expense of other delivery methods that could have offered lower pricing.

An IGE is the government’s best estimate of a contract’s potential cost and is a key means of determining whether pricing is fair and reasonable. When preparing IGEs, it is important to conduct a careful, unbiased assessment of anticipated project costs that takes local market conditions into account.

Although, as described above, the bid factors for some JOC contracts were inflated, PBS Region 4 incorporated them into their IGEs for JOC-eligible projects. We reviewed 10 JOC contract task orders and found that PBS Region 4 estimators incorporated the respective JOC bid factors into four IGEs.

For example, we reviewed IGEs for two South Carolina task orders, and noted the following:

- **Flooring Repair: Columbia, South Carolina** – The project estimator incorporated the South Carolina JOC contract bid factor (1.65) into their IGE, resulting in a cost estimate of \$180,895, including the bid factor markup of \$61,442.
- **Playground Privacy Security Screening: Columbia, South Carolina** – The project estimator incorporated the South Carolina JOC contract bid factor (1.65) into their IGE, resulting in a cost estimate of \$99,493, including the bid factor markup of \$39,194.

However, as shown in **Attachment 1**, the South Carolina JOC contract was awarded with inflated pricing, 22.6 percent higher than the average of the total evaluated prices proposed for the region. As a result, the annual bid factor price of 1.65 is also inflated. According to one estimator in PBS Region 4, the South Carolina JOC contract bid factor doubled the estimated project cost for a task order.

PBS Region 4 officials we interviewed told us that they were instructed to include the bid factor pricing in the IGEs. For example, two PBS Region 4 cost estimators were provided direction and training materials from the PBS Region 4 Acquisition Management and Architecture and Engineering Divisions, which directed estimators to include JOC contract pricing in IGEs.

Additionally, a PBS Region 4 Acquisition Branch Chief wrote in an email to a Supervisory Construction Control Representative that the use of JOC contracts was the Acquisition Management Division's first priority for any construction under the Simplified Acquisition Threshold.³ The Acquisition Branch Chief also wrote that any purchase requests that did not include the JOC pricing would be rejected.

By training and requiring its cost estimators to include JOC contract pricing in IGEs, PBS Region 4 created biased estimates that favored the use of JOC contracts over other potentially less costly delivery methods.

Conclusion

In sum, deficiencies in PBS Region 4's price analyses resulted in JOC contracts with either inflated or unsustainably low pricing. Flawed JOC contract pricing also was used inappropriately as the basis for project cost estimates.

During our assessment, PBS Region 4 officials told us that PBS did not exercise the options for 6 of the 12 JOC contracts, and that PBS has begun acquisition planning for a follow-on contract for the remaining six JOC contracts. These officials added that the estimated award date for the follow-on contract is no earlier than January 2025. They also stated that they intend to keep the remaining JOC contracts in place until the follow-on contract is awarded.

When placing task orders against the remaining JOC contracts and against the follow-on contract, PBS Region 4 should ensure that IGEs are prepared independently, and that they accurately reflect market conditions for the respective geographic areas. Also, when procuring the follow-on contract, PBS Region 4 should ensure that proposal evaluations are conducted in accordance with applicable FAR and solicitation requirements.

Compliance Statement

This memorandum complies with the Council of Inspectors General on Integrity and Efficiency's Quality Standards for Federal Offices of Inspector General.

Audit Team

This assignment was managed out of the Southeast Sunbelt Region Audit Office and conducted by the individuals listed below:

Nicholas Painter	Regional Inspector General for Auditing
Jay Fisher	Audit Manager
Lucas Mann	Auditor-In-Charge
Renee Davis	Auditor

³ The Simplified Acquisition Threshold is currently \$250,000.

Attachment 1 – Comparison of Awarded JOC Contract Pricing to Average Pricing Proposed

Contract Number	Geographic Area	Awarded Total Evaluated Price (TEP)	TEP Range Proposed for Geographic Area	Average TEP Proposed for Geographic Area	Awarded vs. Average TEP Percent Difference
47PE1921D0025	Alabama	6.80	5.33 – 8.25	6.36	7.0%
47PE1921D0027	Florida – Middle	5.25	5.25 – 8.25	6.47	-18.9%
47PE1921D0026	Florida – North	5.29	4.75 – 8.25	6.40	-17.3%
47PE1921D0028	Florida – South	6.00	4.75 – 8.25	5.97	.5%
47PE1921D0031	Georgia – AFC Building Complex	8.25	4.25 – 8.25	5.82	41.9%
47PE1921D0030	Georgia – Middle and South	5.25	5.25 – 8.25	6.35	-17.3%
47PE1921D0029	Georgia – Northern	4.75	4.75 – 8.25	5.80	-18.1%
47PE1921D0032	Kentucky	8.25	5.97 – 8.25	7.11	16.0%
47PE1921D0033	Mississippi	8.25	5.60 – 8.25	6.62	24.6%
47PE1921D0034	North Carolina	8.25	5.33 – 8.25	6.47	27.5%
47PE1921D0035	South Carolina	8.25	5.29 – 9.71	6.73	22.6%
47PE1921D0036	Tennessee	4.33	4.33 – 8.25	6.12	-29.3%

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