



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

**MANAGEMENT ADVISORY
ISSUES IDENTIFIED DURING OUR
AUDIT OF BUREAU OF INDIAN
AFFAIRS CONTRACT No. AI6PC00003
WITH CHEROKEE NATION
TECHNOLOGIES**



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Memorandum

MAY 08 2017

To: Weldon “Bruce” Loudermilk
Director, Bureau of Indian Affairs

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

Subject: Management Advisory—Issues Identified During Our Audit of Bureau of Indian Affairs Contract No. A16PC00003 With Cherokee Nation Technologies Report No. 2016-FIN-072

We have completed an audit of costs claimed by Cherokee Nation Technologies (CNT) under Contract No. A16PC00003 with the Bureau of Indian Affairs (BIA). On November 13, 2015, BIA issued this \$5,448,858 contract to CNT, a certified Indian-owned small business under the Small Business Administration’s 8(a) Business Development Program, to provide IT support services to BIA. We examined whether BIA followed policies and procedures during the contract award process and whether it provided adequate oversight over CNT’s performance.

We found that while BIA did follow policies and procedures during the contract award process, it used the incorrect “authority for using other than full and open competition” citation when filling out the award document. We also found that BIA did not always provide adequate oversight of CNT. Specifically, BIA did not—

- review the résumé of an individual hired under the contract;
- initially approve CNT’s hiring of key personnel;
- oversee CNT’s compliance with the Federal Acquisition Regulation’s (FAR) “Limitations on Subcontracting” clause;
- respond to CNT’s request to share sensitive information with its subcontractor; and
- respond to an inquiry concerning an alleged preferential treatment of a subcontractor.

In this management advisory, we make five recommendations to BIA to resolve these issues.

BIA Used the Incorrect Citation in the Award Document

Due to a typographical error, BIA did not cite the correct “authority for using other than full and open competition” in Box 13 of the award document (Standard Form (SF) 26). The SF-26 cited 41 U.S.C. § 3304(a)(1), which gives the following reason for not using full and open competition: “[T]he property or services needed by the executive agency are available from only one responsible source and no other type of property or services will satisfy the needs of the

executive agency,” but it should have cited 41 U.S.C. § 3304(a)(5): “[A] statute expressly authorizes or requires that the procurement be made through another executive agency or from a specified source, or the agency’s need is for a brand-name commercial item for authorized resale.” The error created a contradiction between the SF-26 and the Fair and Reasonable Price Determination document, which uses FAR § 15.403-1(c)(3)(i) as justification not to obtain certified cost or pricing data on the basis of the contract meeting the commercial definition.

The BIA contracting officer (CO) admitted that he had made a mistake and stated that he would see what could be done to fix the SF-26.

BIA Did Not Always Provide Adequate Oversight of CNT

BIA Did Not Review the Résumé of an Individual Hired Under the Contract

BIA’s COR did not review the résumé of an individual whom CNT hired under the contract as a disaster recovery analyst, as required by the contract. When we reviewed the analyst’s original résumé, it did not mention any of the disaster recovery experience required by the contract; this fact was missed because BIA did not review the résumé before the analyst was hired. This could have led to an unqualified person filling the position, although we learned that BIA did require the analyst to complete multiple training courses related to disaster recovery.

After we notified CNT officials of the deficient résumé, they provided an updated résumé detailing disaster recovery experience that had been omitted from the original résumé, as well as the training courses the analyst had completed. The CO reviewed the revised résumé and determined that the analyst was adequately qualified for the position. The CO also met with the contracting officer representative (COR) and other BIA functional leads to review the requirements of the hiring process. Therefore, no recommendation is necessary to address this finding.

BIA’s CO Did Not Initially Approve CNT’s Hiring of Key Personnel

The CO did not provide written approval before CNT hired key personnel, in this instance a new project manager, as required by the contract. The purpose of this requirement is to ensure that all key personnel working on the contract are qualified.

Instead, because of an oversight, the COR approved the hire but did not inform CNT that CO approval was necessary. After we mentioned this noncompliance, CNT requested and received approval for the hire from the CO.

BIA Did Not Properly Oversee CNT’s Compliance With the FAR

BIA did not properly assess the extent of work performed by CNT and its subcontractor to ascertain compliance with the FAR’s “Limitations on Subcontracting” clause (FAR § 52.219-14 (c)(1)). BIA should have confirmed that CNT performed at least 50 percent of the contract’s labor cost, as required by the FAR clause. The CO, however, did not ensure that the subcontracting percentage worksheet was completed, as required by the Department of the

Interior Acquisition Policy Release (DIAPR) 2011-06, to assess CNT's compliance with the subcontracting limitation.

BIA Did Not Respond to CNT's Request 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 chief information officer (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 has attempted several times to obtain this approval from the CIO, but the CIO has not responded to CNT's requests.

BIA Did Not Respond to Alleged Preferential Treatment of a Subcontractor

CNT officials believe BIA pressured them into hiring a subcontractor that BIA had worked with before. 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. We referred the matter to the BIA Director for further review. We attempted to follow up with BIA, but as of the date of this report, we have not received a response.

Conclusion and Recommendations

We identified six issues related to our audit of BIA's contract with CNT. Since the matter of the hiring of the disaster recovery analyst was resolved, we recommend that BIA:

1. Correct the typographical error in the award document;
2. Develop and implement appropriate policies and procedures that will ensure COs approve any hiring of key personnel when required by the contract;
3. Develop and implement appropriate policies and procedures for COs to prepare and document the subcontracting percentage worksheet provided in DIAPR 2011-06;
4. Respond to the request by CNT to share sensitive information with its subcontractor;
and
5. Respond to our referral concerning the alleged preferential treatment of the subcontractor.

Please provide us with your written response to this management advisory within 30 days. The response should provide information on actions taken or planned to address the recommendations, as well as target dates and title(s) of the official(s) responsible for implementation. Please send your response to aie_reports@doioig.gov.

The information in this management advisory will be included in our semiannual report to Congress and posted on our website. Please contact me at 202-208-5745 if you have any questions.

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