



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

Indian Affairs Acquisitions Can Improve Administration and Oversight of Contract No. 140A1620C0007

This is a revised version of the report prepared for public release.



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INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

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Memorandum

To: Karen Francis
Director, Division of Internal Evaluation and Assessment
Bureau of Indian Affairs

From: Kathleen Sedney *Kathleen Sedney*
Assistant Inspector General for Audits, Inspections, and Evaluations

Subject: Final Audit Report – *Indian Affairs Acquisitions Can Improve Administration and Oversight of Contract No. 140A1620C0007*
Report No. 2022–CGD–010

This memorandum transmits our audit report on the time and materials contract, Contract No. 140A1620C0007, awarded by the Indian Affairs Central Office Acquisitions, in support of the Bureau of Indian Affairs Division of Water and Power, to Managed Business Solutions, LLC. We offered eight recommendations to help improve contract administration and oversight, as well as resolve identified monetary findings. In response to our draft report, Indian Affairs provided sufficient documentation to demonstrate implementation of four of our recommendations.

We will refer Recommendations 5 through 8 to the Office of Policy, Management and Budget for implementation tracking and to report to us on their status. In addition, we will notify Congress about our findings, and we will report semiannually, as required by law, on actions you have taken to implement the recommendations and on recommendations that have not been implemented. We will also post a public version of this report on our website.

If you have any questions about this report, please call me at 202–208–5745.

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Results in Brief

What We Audited

We audited a time-and-materials contract awarded by the Indian Affairs (IA) Central Office Acquisitions, in support of the Bureau of Indian Affairs Division of Water and Power (DWP), to Managed Business Solutions, LLC (MBS) to determine whether (1) the IA followed appropriate contract pre-award and post-award procedures and (2) the DWP conducted sufficient contract surveillance. Additionally, we determined whether costs claimed under the contract were allowable and whether MBS complied with applicable criteria.

What We Found

We found the IA appropriately awarded the contract as a competitive Indian small business economic enterprise set-aside and conducted adequate pre-award price analysis before awarding the contract. We also found, however, that the IA did not conduct an adequate price analysis when adding labor categories and rates to the contract, creating a risk that the IA may have paid and may continue to pay unreasonably high prices. Specifically, the IA paid \$441,820 for these unsupported labor categories during the first 27 months of the contract.¹ In addition, we estimate the IA will pay an additional \$134,845 for these labor categories for the remaining 9 months of option year 2 and could pay up to \$1,309,239 for option years 3 and 4 using the same unsupported labor categories.² We consider these potential payment amounts as funds that could be put to better use.

Furthermore, the DWP did not conduct appropriate contract oversight and monitoring. The DWP accepted incomplete monthly reports and did not thoroughly review labor hours or travel costs. The DWP employees responsible for overseeing the contract did not complete planned oversight activities to administer the contract. Additionally, the DWP had several vacancies, which resulted in an increased workload for the staff responsible for oversight. As a result of the lack of oversight, the DWP put the Government at an increased risk of reimbursing MBS for unallowable or unsupported costs. We identified \$564,730 in unallowable labor costs and \$10,630 in unallowable or unsupported travel costs.

Why This Matters

In total, we identified approximately \$2.5 million in questioned costs and funds that could be put to better use. Modifications increased the total contract ceiling price from \$30.6 million to \$44.0 million, so questioned costs will likely increase unless the IA takes action to remedy the deficiencies we identified. Further, conducting appropriate contract oversight and monitoring would help determine whether MBS is meeting contract performance standards and controlling

¹ This time period includes the contract base year, option year 1, and the first 3 months of option year 2.

² The remainder of option year 2 includes months 28 to 36; option years 3 and 4 include months 37 through 60.

costs, a particularly important consideration because time-and-materials contracts provide no positive profit incentive to the contractor to control costs or ensure labor efficiency.

What We Recommend

We make eight recommendations that, if implemented, will help the IA improve contract administration and oversight and potentially save money. The IA concurred with all eight recommendations. Based on the responses to our draft report, we consider Recommendations 1 through 4 implemented, and Recommendations 5 through 8 resolved.

Introduction

Objectives

We audited Contract No. 140A1620C0007 awarded by the Indian Affairs (IA) Central Office Acquisitions, in support of the Bureau of Indian Affairs (BIA) Division of Water and Power (DWP), to Managed Business Solutions, LLC (MBS). Our objectives were to determine whether the IA followed appropriate procedures to award the contract as an Indian small business economic enterprise (ISBEE) set-aside³ and performed adequate price analysis, and whether the DWP conducted sufficient contract surveillance. Additionally, we sought to determine whether costs MBS claimed under the contract were allowable and whether MBS complied with applicable laws, U.S. Department of the Interior (DOI) guidance, and contract terms and conditions.

See Appendix 1 for our audit scope and methodology.

Background

On August 1, 2020, an IA Central Office Acquisitions contracting officer awarded Contract No. 140A1620C0007, a 12-month time-and-materials⁴ contract to MBS with 4 option years⁵ and a ceiling price of \$30.6 million as an ISBEE set-aside.⁶ Subsequent contract modifications have increased the ceiling price to \$44 million. The purpose of the contract is to provide “technical assistance and administrative support services,” including strategic planning, acquisition support, irrigation services, database and systems administration, geospatial support, and other support services for the DWP. A contracting officer’s representative within the DWP is responsible for monitoring the contract.

The BIA DWP Organization

The mission of the BIA DWP is to ensure sound management of irrigation, dam, and power facilities the BIA owns or operates. The DWP is responsible for the management, operation, maintenance, rehabilitation, asset management, and operations-and-maintenance billing and collection for BIA-owned irrigation and power projects. Under the Safety of Dams Program, the DWP is also responsible for maintaining and rehabilitating dams on Indian lands. In addition, the DWP provides policy, oversight, advisory, and technical support to BIA regions, agencies, and projects related to water resources, irrigation, power, and dam safety.

³ Federal Acquisition Regulation (FAR) § 19.501 states that the purpose of a small business set-aside is to award certain acquisitions exclusively to small businesses.

⁴ According to FAR § 16.601, payments to contractors under time-and-material contracts are based on the number of labor hours billed at a fixed hourly rate—which includes wages, overhead, general and administrative expenses, and profit—and the cost of materials, if applicable.

⁵ An option year is a contractual clause permitting an extension in the time for which services may be required.

⁶ Department of the Interior Acquisition Regulation § 1480.503 states that acquisitions of commercial services must be set aside exclusively for ISBEEs.

Time-and-Materials Contracts

As noted previously, under time-and-materials contracts, payments to contractors are based on the number of labor hours billed at a fixed hourly rate—which includes wages, overhead, general and administrative expenses, and profit—and the cost of materials, if applicable.

Time-and-materials contracts do not provide the contractor with incentive to control costs or ensure labor efficiency. Because of this, time-and-materials contracts may be used only when it is not possible at the time of placing the contract to estimate accurately the extent or duration of the work or to anticipate costs with any reasonable degree of confidence.⁷ The Government assumes the cost risk, benefiting if the actual cost is lower than expected but “losing” if the contractor does not complete the work within the expected cost. Time-and-materials contracts are considered riskier than other types of contracts because contractors bill the Government by the hour and could conceivably work less efficiently in order to charge more hours.

Because of these risks, the relevant Federal Acquisition Regulation (FAR) section (§ 16.601) requires appropriate Government surveillance of contractor performance under time-and-materials contracts to give reasonable assurance that contractors use efficient methods and effective cost controls. In accordance with Federal regulations, the contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation that adequately demonstrates that costs claimed actually have been incurred, are allocable to the contract, and comply with applicable cost principles.⁸ The contracting officer may disallow all or part of claimed costs that are inadequately supported.

⁷ FAR § 16.601.

⁸ FAR § 31.201.

Results of Audit

We found that the IA appropriately awarded the contract as a competitive ISBEE set-aside and conducted adequate pre-award price analysis before awarding the contract. However, we also found that the IA did not conduct an adequate price analysis when adding labor categories and rates to the contract. The price analysis was inadequate because 5 of the 13 labor categories added were higher than the statistical market range without a supported justification. As a result, the IA may have paid unreasonably high prices and may continue to do so for the remaining years of the contract. The IA paid \$441,820 for these unsupported labor categories during the first 27 months of the contract.⁹ In addition, we estimate that the IA will pay an additional \$134,845 for the remaining 9 months of option year 2¹⁰ and could pay up to \$1,309,239 for option years 3 and 4 using the same unsupported labor categories.¹¹ We consider these potential payment amounts as funds that could be put to better use.

We also found that the DWP did not conduct appropriate contract oversight and monitoring. Specifically, the DWP accepted incomplete monthly reports and did not thoroughly review labor hours or travel costs charged to the contract. These deficiencies occurred because DWP staff did not complete planned oversight activities to administer the contract. Additionally, the DWP had several vacancies, which resulted in an increased workload for the staff responsible for oversight. As a result of this lack of oversight, the DWP staff did not evaluate the accuracy of invoice charges to determine what work MBS performed, and the IA paid \$564,730 in unallowable labor costs and \$10,630 in unallowable and unsupported travel costs.

The Contracting Officer Did Not Perform Adequate Price Analysis for Added Labor Categories

Federal regulations require contracting officers to purchase supplies and services from responsible sources at fair and reasonable prices.¹² When the IA initially awarded the contract, the contracting officer adequately determined that the MBS-proposed labor rates were reasonably priced. To do so, the contracting officer used the U.S. General Services Administration Contract Awarded Labor Category (GSA CALC) Tool to search hourly labor

⁹ As of February 2023, the IA had paid invoices for the first 27 months of the contract, which included the contract base year, option year 1, and the first 3 months of option year 2. We fully reviewed and validated invoices for the first 15 months. We obtained the next 12 invoices prior to the issuance of this report to identify how much money the IA paid for the unsupported labor categories in total.

¹⁰ This time period includes months 28 to 36. To estimate the value of these labor categories for the remaining 9 months of option year 2, we estimated that the average monthly invoice charge for the first 3 months of the year would continue for the remaining 9 months.

¹¹ Option years 3 and 4 include months 37 through 60. To estimate the value for these labor categories for option years 3 and 4, we used the portion of the ceiling price that was attributable to these labor categories.

¹² FAR § 15.402.

rates¹³ on multiple Government contracts and find similar labor categories¹⁴ and prices. The GSA CALC Tool provides the overall range of labor rates for the selected labor category and also calculates a range of one standard deviation from the average rate.¹⁵ This range represents the statistical market range. The proposed labor rates in the base contract were within (or less than) the statistical market range listed in the GSA CALC Tool.

However, when adding labor categories, the contracting officer did not conduct adequate price analysis. Specifically, in modification 1, the IA contracting officer added labor categories and rates to the contract that had not been identified as necessary at the time of the initial award. Included in the labor categories added by modification 1 were five high-dollar subject matter expert (SME) categories that were outside of the statistical market range. Figure 1 shows the difference between the proposed labor rate and the upper limit of the statistical market range.

Figure 1: Modification 1 Labor Categories Exceeding GSA CALC Tool Rates

Contract Labor Category	Contract Hourly Rate	GSA CALC Tool Comparison Category	GSA CALC Tool Statistical Market Range	Difference Between Contract and GSA CALC Tool Rates*
Engineer SME III	\$255.68	Engineer SME	\$89-\$235	\$20.68
Engineer SME IV	\$296.59	Engineer SME	\$89-\$235	\$61.59
Engineer SME V	\$347.73	Engineer SME	\$89-\$235	\$112.73
Physical Scientist SME IV	\$296.59	SME†	\$108-\$262	\$34.59
Physical Scientist SME V	\$347.73	SME	\$108-\$262	\$85.73

* To calculate this difference, we compared the contract hourly rate to the upper value in the CSA CALC Tool statistical market range.

† The GSA CALC Tool did not include any results for "Physical Scientist," so the contracting officer compared the proposed "Physical Scientist SME" rates to the GSA CALC Tool results for the general "SME" category.

Source: IA.

The contracting officer prepared a memorandum that stated that the rates were reasonable "based on historical contract labor prices" without providing any additional detail. When we asked the

¹³ Labor rates are the agreed-upon prices in the contract paid for each labor category.

¹⁴ Labor categories are positions included in the scope of the contract based on employee qualifications. The contractor must provide evidence the assigned staff meet the requirements for the category assigned.

¹⁵ A standard deviation is a quantity calculated to indicate the extent of deviation for a group as a whole.

contracting officer if [REDACTED] could provide the specific historical prices referenced in the memo, [REDACTED] replied that [REDACTED] had not actually finished the memo before awarding the modification, which [REDACTED] acknowledged as an oversight on [REDACTED] part. [REDACTED] stated that the labor rates were reasonable because they still fell within the overall GSA range (rather than the statistical market range of \$108–\$262 per hour, as shown above) for the general “SME” category, which was \$14–\$675 per hour. This overall GSA range was an unreasonably wide range that was insufficient to use for a price analysis and not the same methodology used during the pre-award price analysis. Thus, the contracting officer did not provide required evidence that these five rates were reasonably priced.

The IA paid \$441,820 for labor charges in these five labor categories during the first 27 months of the contract.¹⁶ We question the \$441,820 in labor costs that the IA incurred as unsupported. In addition, we estimate the IA will pay an additional \$134,845 for these labor categories for the remaining 9 months of option year 2, which we consider as funds that could be put to better use.¹⁷ Until the IA conducts a cost analysis, it cannot determine whether these costs were reasonable or by how much they exceeded a reasonable rate.

Since the initial award in August 2020, the contract has been modified nine times, adding \$13.4 million to the contract ceiling price. The IA increased the contract ceiling price because it anticipated requiring additional support from MBS due to a significant number of Government employee vacancies. Figure 2 illustrates the price increases to the contract.

Figure 2: Price Increases to Contract No. 140A1620C0007

Contract Year	Period of Performance	Original Ceiling Price (\$)	Modified Ceiling Price* (\$)	Price Increase (\$)
Base	8/01/2020–7/31/2021	5,278,242	7,352,211†	2,073,969
Option 1	8/01/2021–7/31/2022	5,406,422	8,248,159†	2,841,737
Option 2	8/01/2022–7/31/2023	5,537,850	7,935,247	2,397,397
Option 3	8/01/2023–7/31/2024	5,672,618	8,665,722	2,993,104
Option 4	8/01/2024–7/31/2025	5,810,728	8,882,365	3,071,637
Option‡	Not established	2,905,364	2,905,364	–
Total		\$30,611,224	\$43,989,068	\$13,377,844

* The ceiling prices for option years 2, 3, and 4 were increased after the period of our audit review; therefore, this report does not discuss these increases in detail.

† Although the ceiling price was increased to \$7,352,211 for the base year and \$8,248,159 for option year 1, MBS ultimately only invoiced the IA for \$5,010,237 during the base year and \$5,899,258 for option year 1.

‡ This option was for contract extensions not to exceed 6 months total. It was not associated with a specific contract year.

Source: IA.

¹⁶ As noted, this time period includes the contract base year, option year 1, and the first 3 months of option year 2.

¹⁷ As noted, this time period includes months 28 to 36.

The same unsupported pricing that modification 1 incorporated into the contract was used to support price increases made to the contract. The ceiling price for option years 3 and 4 includes a total of \$1,309,239 for the five unsupported labor categories.¹⁸ If the prices for these labor categories had been limited, for example, to the top of the statistical market range, this total would have been \$182,077 less (i.e., \$1,127,162). Because the IA has not conducted an additional price analysis on these labor categories to determine the reasonable rate, we consider the \$1,444,084 added to the price of the contract for these unsupported labor categories as funds that could be put to better use.

Recommendations

We recommend that the IA:

1. Retroactively conduct a price analysis on the engineer and physical scientist SME categories added in modification 1 to determine if the rates are reasonably priced, and if they are not, take appropriate corrective actions.
2. Resolve the \$441,820 of questioned costs related to invoice charges between August 2020 and October 2022 for the engineer and physical scientist SME categories added in modification 1.
3. Resolve the \$1,444,084 of funds that could be put to better use related to future charges for the engineer and physical scientist SME categories added in modification 1, which includes an estimated \$134,845 for option year 2 and up to \$1,309,239 for option years 3 and 4.

The DWP Did Not Conduct Appropriate Contract Oversight and Monitoring

The DWP did not conduct appropriate contract oversight and monitoring of the contract. Specifically, the DWP accepted incomplete monthly reports and did not thoroughly review labor hours or travel costs charged to the contract. These oversight deficiencies occurred because DWP staff did not complete planned oversight activities to administer the contract. Additionally, the DWP had several vacancies, which resulted in an increased workload for the staff responsible for oversight. As a result, DWP staff did not evaluate the accuracy of invoice charges to determine what work MBS performed, and the IA paid \$564,730 of unallowable labor costs and \$10,630 in unallowable and unsupported travel costs.

¹⁸ As noted, this time period includes months 37 to 60.

Acceptance of Incomplete or Monthly Reports and Insufficient Labor Hour Review

The DWP accepted 15 monthly reports even though MBS did not include information required by the contract. As noted previously, time-and-materials contracts provide no positive profit incentive to the contractor for cost control or labor efficiency; therefore, the Government must provide surveillance of contractor performance to give reasonable assurance that efficient methods and effective cost controls are being used.¹⁹ The DWP explained that, to address the risk associated with the time-and-materials contract, it had an oversight plan through which it would review monthly reports required by the contract along with labor hour invoices and charges for travel and other direct costs.

Specifically, the contract requires MBS to provide a written monthly report that includes: a narrative of all work performed for each employee; a financial summary of the contract; projected future requirements; an analysis of performance against projections; a breakdown of labor charges, travel costs, and other direct costs; and a report of MBS staff training accomplishments.

We examined the first 15 months of the contract and determined that each monthly report was incomplete and missing employee narratives for work performed. In total, 65 narratives were omitted for MBS employees that charged a total of \$564,730 of labor costs to the contract. Given the contractual requirements, we consider the \$564,730 of labor costs charged to the contract without a narrative to be unallowable. Additionally, the 15 monthly reports were missing the financial summary of the contract, projected future requirements, and an analysis of performance against projections. Figure 3 illustrates the labor costs associated with the missing narratives from monthly reports MBS submitted.

¹⁹ FAR § 16.601(c)(1).

Figure 3: Labor Costs Missing from Monthly Reports on Contract No. 140A1620C0007

Monthly Report Element	Employees with a Narrative	Associated Labor Cost (\$)	Employees Without a Narrative	Associated Labor Cost (\$)	Total Employees	Total Labor Invoiced (\$)
Aug 2020	24	335,523	1	12,549	25	348,071
Sep 2020	26	359,116	1	18,166	27	377,282
Oct 2020	26	374,534	1	20,078	27	394,612
Nov 2020	26	334,453	2	18,667	28	353,120
Dec 2020	28	403,931	2	21,408	30	425,338
Jan 2021	29	378,501	3	23,322	32	401,823
Feb 2021	31	385,425	2	17,744	33	403,169
Mar 2021	32	479,109	3	27,272	35	506,381
Apr 2021	32	437,927	2	21,772	34	459,699
May 2021	32	378,953	5	30,556	37	409,509
Jun 2021	30	405,461	4	22,670	34	428,131
Jul 2021	30	400,767	6	32,704	36	433,471
Aug 2021	25	393,834	13	125,271	38	519,105
Sep 2021	31	428,470	9	76,636	40	505,106
Oct 2021	28	380,473	11	95,915	39	476,388
Total	430	\$5,876,475	65	\$564,730	495	\$6,441,205

Source: IA.

The DWP’s acceptance of these incomplete monthly reports prevented it from evaluating the accuracy of invoice charges and determining what work MBS performed. That is, the DWP did not perform appropriate Government surveillance, as required by the FAR.²⁰ This increases the probability that the IA could pay for unsupported or unallowable charges. While our testing of MBS’s general ledger and a sample of timesheets found no evidence of overstated hours, without adequately reviewing invoiced labor hours each month along with the complete monthly reports required by the contract, the IA has no assurance that the Government’s interests are protected.

Insufficient Review of Invoices for Travel Costs

In addition to accepting incomplete monthly reports and insufficiently reviewing labor hours, the contracting officer’s representative and other DWP employees responsible for overseeing the contract did not thoroughly review invoices for travel costs.

²⁰ We note that one DWP official acknowledged that [REDACTED] labor hour review had been insufficient.

We found that the IA paid \$10,630 in unallowable and unsupported travel costs that MBS invoiced. Costs are allowable only when they comply with the terms of the contract.²¹ The “Travel and Per Diem” section of the base contract states that travel and per diem required for the performance of the contract “shall be invoiced on an actual cost basis. All travel (to include local travel) shall be in accordance with the Federal Travel Regulation, and the contractor agrees to use the most economical method of travel available.” Notwithstanding these requirements, the IA paid the following unallowable and unsupported travel costs:

- \$3,857 of unallowable costs. This included \$3,321 that were reported in the August 2020 invoice, which were unallowable because the costs were incurred in July 2020, before the contract period of performance began on August 1, 2020. It also included \$369 for airfare costs related to a vacation an employee took between work trips. The DWP should have required documentation showing what the cost would have been for the employee to fly home between the two work trips and reimbursed MBS only for that amount. Lastly, it included \$167 in low-dollar, unallowable travel expenses: unallowable seat upgrades, per diem reimbursement using the wrong fiscal year rates, per diem for an incorrect location, incorrect mileage reimbursement, and an over-reimbursement due to a typo on a travel voucher.
- \$6,773 of unsupported costs for an employee’s use of a privately owned vehicle during temporary duty travel. The costs were considered unsupported because an estimate of mileage was used instead of actual mileage driven.

BIA DWP Understaffing Contributed to Contract Oversight Issues

We found that significant understaffing contributed to the deficiencies with monitoring and oversight. As stated previously, the IA increased the ceiling price of the contract, citing 16 Federal employee vacancies within the DWP as the justification for increasing estimated contract hours. The contracting officer’s representative stated that the high number of vacancies increased [REDACTED] workload, as there were more contract employees to oversee and fewer Federal employees who could assist with oversight.

Given the issues we have identified above with oversight and monitoring, the IA should determine what staffing levels are needed to appropriately provide contract oversight. DWP leadership informed us that DWP hired two additional Federal employees in March 2022, and that contract oversight responsibilities had been redistributed since we completed our testing. Despite these steps, in August 2022, the DWP was operating with 26 total vacancies out of the DWP’s 48 positions—54 percent. In February 2023, the DWP acting director informed us that the DWP had identified several Federal vacancies that it targeted to fill during FY 2023. The DWP acting director also informed us that the DWP submitted this draft proposal to BIA leadership in September 2022 but that the BIA has not yet approved it. The DWP would benefit from a comprehensive workforce analysis that includes an assessment of both staffing and contractor oversight needs.

²¹ FAR § 31.201–2(a)(4).

The DWP's missed opportunities to conduct planned oversight and monitoring activities led to the inadequate review of monthly reports, which in turn, increased the risk that the IA could pay for unallowable and unsupported costs. The IA still has an opportunity to realize significant benefits from implementing and conducting monitoring and oversight efforts. Given that over 2 years remain on the contract, these efforts would still help the IA improve contract oversight for a significant period of time by clarifying controls and oversight responsibilities.

Recommendations
<p>We recommend that the IA:</p> <ol style="list-style-type: none">4. Resolve the \$564,730 of unallowable labor costs charged to the contract.5. Implement a process to ensure contract No. 140A1620C0007 is administered with monitoring and oversight practices sufficient to protect the Government's interest.6. Resolve the \$3,857 of questioned costs that we identified for travel costs outside the period of contract performance (\$3,321) and other unallowable travel costs (\$536).7. Resolve the unsupported claim of \$6,773 for reimbursement of estimated privately owned vehicle mileage.8. Conduct a workforce analysis of DWP vacancies to determine whether additional staff are required to provide monitoring and oversight of contractor performance.

Conclusion and Recommendations

Conclusion

We found that, although the IA appropriately awarded the contract as a competitive ISBEE set-aside and conducted adequate pre-award price analysis before awarding the contract, the contracting officer added contract labor categories without performing an adequate price analysis, creating a risk that the IA may have paid and may continue to pay unreasonably high prices.

In addition, the DWP did not conduct appropriate contract oversight and monitoring. The contracting officer's representative and other DWP employees responsible for overseeing the contract did not thoroughly review invoices for accuracy and accepted monthly reports that did not include essential information required by the contract. DWP staff did not complete planned oversight activities to administer the contract, and the DWP had several vacancies in oversight positions. This lack of oversight created a risk that the IA could pay for unallowable or unsupported costs, and we identified \$564,730 in unallowable labor costs and \$10,630 in unallowable and unsupported travel costs that the IA paid to MBS.

We make eight recommendations that, if implemented, will help the IA improve oversight of the time-and-materials contract, comply with Federal regulations, and potentially save money. By implementing our recommendations, the IA will have better assurance that it pays only for accurate and allowable costs.

Recommendations Summary

We provided a draft of this report to the IA for review. The IA concurred with all eight recommendations. We consider Recommendations 1 through 4 implemented, and Recommendations 5 through 8 resolved. Below, we summarize the IA's response to our recommendations, as well as our comments on their responses. See Appendix 3 for the full text of the IA's response; Appendix 4 lists the status of each recommendation.

We recommend that the IA:

1. Retroactively conduct a price analysis on the engineer and physical scientist SME categories added in modification 1 to determine if the rates are reasonably priced, and if they are not, take appropriate actions to correct.

IA Response: The IA concurred with our finding and recommendation. The IA stated that the "contracting officer completed a labor categories pricing analysis, reviewed prior pricing from similar scoped contracts, and ultimately determined that the labor pricing added in modification 1 is fair and reasonable." In addition, the IA provided documentation that it stated showed that the modification 1 labor rates were similar to the SME labor rates for another dam safety contract.

OIG Comment: We verified that the contract used for comparison was a competitively awarded contract for dam safety services. We confirmed that the contract had a similar scope to Contract 140A1620C0007 given the nature of services at issue. We also confirmed that there were 11 bids and, accordingly, that there were competitively priced labor rates. We consider Recommendation 1 implemented.

2. Resolve the \$441,820 of questioned costs related to invoice charges between August 2020 and October 2022 for the engineer and physical scientist SME categories added in modification 1.

IA Response: The IA stated that “since pricing for modification 1 has been determined fair and reasonable, Recommendation 2 is not applicable.”

OIG Comment: Based on the IA’s response and our review of documentation provided in response to Recommendation 1, we consider Recommendation 2 implemented.

3. Resolve the \$1,444,084 of funds that could be put to better use related to future charges for the engineer and physical scientist SME categories added in modification 1, which includes an estimated \$134,845 for option year 2 and up to \$1,309,239 for option years 3 and 4.

IA Response: The IA stated that “since pricing for modification 1 has been determined fair and reasonable, Recommendation 3 is not applicable.”

OIG Comment: Based on the IA’s response and our review of documentation provided in response to Recommendation 1, we consider Recommendation 3 implemented.

4. Resolve the \$564,730 of unallowable labor costs charged to the contract.

IA Response: The IA stated that the “COR has identified the missing narratives supporting the costs and the missing narratives have been collected and organized by month to match.” The IA provided the narratives.

OIG Comment: The IA provided us with the narratives supporting the invoiced labor costs. We reviewed the narratives and determined they were adequate to support the questioned costs. Based on the IA’s response, we consider Recommendation 4 implemented.

5. Implement a process to ensure contract No. 140A1620C0007 is administered with monitoring and oversight practices sufficient to protect the Government’s interest.

IA Response: The IA concurred with the recommendation and stated that “the IA contracting officer will assist with invoice validation for the next 6 months or until proper inspection and acceptance of invoices and monthly reports are adequate.” The IA also stated that it would conduct a review to identify similar contracts that may also require corrective actions. The IA added that it would hold training sessions for contracting staff

to discuss contract administration and oversight requirements for time-and-materials, labor hour, and cost contracts. It stated that contracting officer representative contract management and oversight was “identified as a priority area for FY23” and that “IA acquisitions selected COR management and files improvement as an [Office of Chief Financial Office] Operation Plan initiative.” The target completion date is September 30, 2023.

OIG Comment: Based on the IA’s response, we consider Recommendation 5 resolved. We will consider this recommendation implemented when the IA provides documentation demonstrating that it has implemented a process that ensures monitoring and oversight practices have been sufficiently implemented for contract No. 140A1620C0007.

6. Resolve the \$3,857 of questioned costs that we identified for travel costs outside the period of contract performance (\$3,321) and other unallowable travel costs (\$536).

IA Response: The IA stated that the contracting officer’s representative “has reviewed the documentation and discussed this issue with MBS” and that “MBS will provide a credit for the unallowable cost.” The target completion date is June 1, 2023.

OIG Comment: Based on the IA’s response, we consider Recommendation 6 resolved. We will consider this recommendation implemented when the IA provides documentation demonstrating that MBS provided the credit on an invoice.

7. Resolve the unsupported claim of \$6,773 for reimbursement of estimated privately owned vehicle mileage.

IA Response: The IA stated that “[o]nce this issue was identified, the MBS employee has been tracking mileage daily.” The IA added that “once the actual mileage is reconciled, MBS will provide a credit to the next invoice for the difference.” The target completion date is June 1, 2023.

OIG Comment: Based on the IA’s response, we consider Recommendation 7 resolved. We will consider this recommendation implemented when the IA provides documentation demonstrating that MBS provided the credit on an invoice.

8. Conduct a workforce analysis of DWP vacancies to determine whether additional staff are required to provide monitoring and oversight of contractor performance.

IA Response: The IA stated that “the DWP had identified several Federal vacancies that it targeted to fill during FY 2023 and is currently working with IA’s Human Resources to fill the positions.” The target completion date is September 30, 2023.

OIG Comment: Based on the IA’s response, we consider Recommendation 8 resolved. We will consider this implemented when the IA provides documentation demonstrating

that it made a determination whether additional staff are required to provide monitoring and oversight of contractor performance.

Appendix 1: Scope and Methodology

Scope

Our audit covered the costs claimed during the period from August 1, 2020, through October 31, 2021, for Contract No. 140A1620C0007 between the Indian Affairs (IA) Central Office Acquisitions and Managed Business Solutions, LLC (MBS).

Methodology

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We reviewed contract files for the pre-award process, such as Solicitation No. 140A1620R0012, a technical and management evaluation packet, a final past performance evaluation, an award summary, and a document titled, “Determination and Findings for Time-and-Materials Contract Authority.” We also reviewed the base contract and modifications 1 through 5 to determine the reasonableness of price increases.

We reviewed all 12 resumes for key contractor personnel to determine whether the employees met the required qualifications, such as a level of expertise, education, and work experience. We also reviewed all monthly reports and invoices for the first 15 months of the contract, totaling \$6,555,891; their supporting documents (travel authorizations and receipts); and invoice detail spreadsheets showing a list of contractor employee names, labor categories, labor rates, and the number of hours worked. Additionally, we reviewed the MBS general ledger and a statistical sample of MBS employee timesheets to determine whether the labor hours on the timesheets reconciled to the corresponding invoice. Prior to the issuance of this report, we obtained invoices for an additional 12 months of the contract for the purpose of reporting the total amount charged to date for the unsupported labor categories addressed in the first finding.

We performed testing of internal controls significant within the context of our audit objectives. During the planning and performance of our audit, we identified aspects of the following internal controls to be significant to the audit objectives:

- Identify, analyze, and respond to risks.
- Design control activities.
- Perform monitoring activities.

We tested the operation and reliability of internal control over activities related to our audit objectives. Our tests and procedures included:

- Interviewing the IA contracting officer, the Bureau of Indian Affairs Division of Water and Power (DWP) contracting officer's representative, other contract oversight officials, and MBS officials.
- Reviewing contract pre-award documentation, Contract No. 140A1620C0007 and its modifications, MBS invoices, monthly reports and supporting documentation, the general ledger, and a sample of MBS employee timesheets.

We found deficiencies in internal control resulting in our finding related to the DWP's inadequate contract oversight. The internal control deficiencies we found are discussed in the "Results of Audit" section of this report.

We relied on computer-generated data MBS provided. Specifically, we used the general ledger to determine if the labor hours on the MBS invoices were consistent with MBS internal records. We conducted limited data reliability testing of the general ledger by comparing it to a statistical sample of MBS employee timesheets. We found no discrepancies between the timesheets and the general ledger. We determined that the data we used as a basis for our findings and conclusion were sufficiently reliable for the purposes of this audit.

Our universe consisted of MBS invoices from August 2020 to October 2021 and included 495 individual labor charges. In this context, "labor charge" means an individual who charged labor hours to the contract during a given month. We selected a statistical sample of 60 individual labor charges, which represented a 90-percent confidence interval, to compare to the employees' timesheets for the corresponding month. We found no discrepancies between the timesheets and the invoiced labor charges for any of the labor charges in the sample.

Appendix 2: Monetary Impact

Description	Questioned Costs (\$)		Funds To Be Put To Better Use (\$)
	Unallowable	Unsupported	
Labor costs	564,730	441,820	1,444,084
Out-of-period expenses	3,321	-	-
POV mileage	-	6,773	-
Travel costs	536	-	-
Totals	\$568,587	\$448,593	\$1,444,084

Appendix 3: Response to Draft Report

The Indian Affairs' response to our draft report follows on page 21.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

April 17, 2023

Memorandum

To: Kathleen Sedney
Assistant Inspector General for Audits, Inspections and Evaluations

From: Jason Freihage, Deputy Assistant Secretary - Management
Office of the Assistant Secretary for Indian Affairs

JASON
FREIHAGE

Digitally signed by JASON
FREIHAGE
Date: 2023.05.01 15:56:22
-04'00'

Subject: Management Response to Recommendations in Draft Report (No. 2022-CGD-010)
Indian Affairs Acquisitions Can Improve Administration and Oversight of Contract
No. 140A1620C0007

Indian Affairs (IA) appreciates the conclusion that “IA appropriately awarded the contract as a competitive Indian small business economic enterprise set-aside and conducted adequate pre-award price analysis before awarding the contract,” and the opportunity to comment on the U.S. Department of the Interior Office of Inspector General (OIG) Draft Audit Report – Indian Affairs Acquisitions Can Improve Administration and Oversight of Contract No. 140A1620C0007.

This memorandum transmits the IA management’s response to each of the audit recommendations, plans for corrective actions and documentation of corrective actions taken thus far. IA management is committed to improving our contract administration and oversight and ensuring the compliance with applicable laws, federal regulations, IA guidance, and contract terms and conditions. Our responses are listed below:

Recommendation 1: (CONCUR) Retroactively conduct a price analysis on the engineer and physical scientist SME categories added in modification 1 to determine if the rates are reasonably priced, and if they are not, take appropriate corrective actions.

Actions Taken: On April 6, 2023, the Indian Affairs (IA) Contracting Officer completed a labor categories pricing analysis, reviewed prior pricing from similar scoped contracts, and ultimately determined that the labor pricing added in modification 1 is fair and reasonable. Attachment A is the determination of fair and reasonable pricing that has been included in the contract file.

Responsible Party: Office of Chief Financial Officer

Target Date: Completed April 6, 2023

Recommendation 2: (CONCUR) Resolve the \$441,820 of questioned costs related to invoice charges between August 2020 and October 2022 for the engineer and physical scientist SME categories added in modification 1.

Actions Taken: Since pricing for modification 1 has been determined fair and reasonable, recommendation 2 is not applicable due to the \$441,820 in question are the labor charges for the five labor categories that were not properly documented.

Responsible Party: Office of Chief Financial Officer

Target Date: Completed April 6, 2023

Recommendation 3: (CONCUR) Resolve the \$1,444,084 of funds that could be put to better use related to future charges for the engineer and physical scientist SME categories added in modification 1, which includes an estimated \$134,845 for option year 2 and up to \$1,309,239 for option years 3 and 4.

Actions Taken: Since pricing for modification 1 has been determined fair and reasonable, recommendation 3 is not applicable due to the \$441,820 in question are the labor charges for the five labor categories that were not properly documented to be fair and reasonable.

Responsible Party: Office of Chief Financial Officer

Target Date: Completed April 6, 2023

Recommendation 4 CONCUR) Resolve the \$564,730 of unallowable labor costs charged to the contract.

Actions Taken: The COR has identified the missing narratives supporting the costs and the missing narratives have been collected and organized by month to match (see attachment B).

Responsible Party: Office of Chief Financial Officer

Target Date: Completed March 29, 2023

Recommendation 5: (CONCUR) Implement a process to ensure contract No. 140A1620C0007 is administered with monitoring and oversight practices sufficient to protect the Government's interest.

Actions Planned/Taken: To resolve recommendations for this contract, the IA Contracting Officer will assist with invoice validation for the next six months or until proper inspection and acceptance of invoices and monthly reports are adequate.

For current and future contracts of similar size and scope, IA Acquisitions will conduct a review of its inventory to identify similar contracts to conduct reviews and identify issues as the ones identified in this report and take any necessary corrective actions if any are identified.

Additionally, training sessions for contracting staff will be conducted to discuss the additional contract administration and oversight required for T&M/LH/Cost contracts.

Contracting Officer Representative (COR) contract management and oversight was identified as a priority area for FY23 due to Acquisition Management Reviews (AMR) and feedback from the IA's annual survey. To address the feedback and AMR results, IA acquisitions selected COR management and files improvement as an FY23 OCFO Operation Plan initiative: *Enhance*

Indian Affairs' Contracting Officer Representative competencies and contract management performance by improving COR operational and fiduciary oversight capabilities. This includes: enhancing the COR Academy by updating SharePoint Site features, providing COR specific training and certification opportunities, and conducting COR File reviews for compliance and completeness.

COR training and SharePoint enhancements are ongoing and COR file reviews have started as of February 2023 through the following actions:

- Policy Memo - A policy memo requiring COR e-files was signed by the IA HCA and distributed on 2/09/2023 describing the requirements for maintaining COR files, documenting their oversight actions as well as IA Acquisition Policy staff's initiative to conduct COR file reviews.
- Training - The policy was presented to the IA Workforce at the HCA All Hands on 02/22/2023 and formal training was provided via MS Teams to the full IA Workforce and IA CORs on 3/08/2023.
- File Reviews - Ten percent of eligible awards (those requiring appointment of a COR) will be reviewed for required documentation of COR oversight duties in FY23Q3 and FY23Q4 for the following actions:
 - FY22 and earlier
 - Still active as of 3/30/2023
 - Other than FFP (T&M/LH/Cost)
 - Construction and A/E

Responsible Party: Office of Chief Financial Officer

Target Date: September 30, 2023

Recommendation 6: (CONCUR) Resolve the \$3,857 of questioned costs that we identified for travel costs outside the period of contract performance (\$3,321) and other unallowable travel costs (\$536).

Actions Planned/Taken: The COR has reviewed the documentation and discussed this issue with MBS. MBS will provide a credit for the unallowable cost by a reduction of the next invoices billing amount.

Responsible Party: Office of Chief Financial Officer

Target Date: June 1, 2023

Recommendation 7: (CONCUR) Resolve the unsupported claim of \$6,773 for reimbursement of estimated privately owned vehicle mileage.

Actions Planned/Taken: The referenced costs were unsupported because the contractor used a standard estimated daily travel distance and did not track daily mileage. Once this issue was identified, the MBS employee has been tracking mileage daily. The average actual daily mileage is less than the standard estimated daily estimates and once the actual mileage is reconciled, MBS will provide a credit to the next invoice for the difference.

Responsible Party: Office of Chief Financial Officer

Target Date: June 1, 2023

Recommendation 8: (CONCUR) Conduct a workforce analysis of DWP vacancies to determine whether additional staff are required to provide monitoring and oversight of contractor performance.

Actions Planned/Taken: The DWP was operating with 26 total vacancies out of the DWP's 48 positions - 54 percent. In February 2023, the DWP acting director the OIG that the DPW had identified several Federal vacancies that it targeted to fill during FY 2023 and is currently working with IA's Human Resources to fill the positions.

Responsible Party: Division of Water and Power

Target Date: September 30, 2023

List of Attachments:

Attachment A: Pricing Fair and Reasonable Determination

Attachment B: Missing Monthly Reports

Appendix 4: Status of Recommendations

Recommendation	Status	Action Required
<p>2022-CGD-010-01 We recommend that the IA retroactively conduct a price analysis on the engineer and physical scientist SME categories added in modification 1 to determine if the rates are reasonably priced, and if they are not, take appropriate actions to correct.</p>	Implemented	No action is required.
<p>2022-CGD-010-02 We recommend that the IA resolve the \$441,820 of questioned costs related to invoice charges between August 2020 and October 2022 for the engineer and physical scientist SME categories added in modification 1.</p>	Implemented	No action is required.
<p>2022-CGD-010-03 We recommend that the IA resolve the \$1,444,084 of funds that could be put to better use related to future charges for the engineer and physical scientist SME categories added in modification 1, which includes an estimated \$134,845 for option year 2 and up to \$1,309,239 for option years 3 and 4.</p>	Implemented	No action is required.
<p>2022-CGD-010-04 We recommend that the IA resolve the \$564,730 of unallowable labor costs charged to the contract.</p>	Implemented	No action is required.
<p>2022-CGD-010-05 We recommend that the IA implement a process to ensure contract No. 140A1620C0007 is administered with monitoring and oversight practices sufficient to protect the Government's interest.</p>	Resolved	We will refer the recommendation to the Office of Policy, Management and Budget (PMB) to track implementation.
<p>2022-CGD-010-06 We recommend that the IA resolve the \$3,857 of questioned costs that we identified for travel costs outside the period of contract performance (\$3,321) and other unallowable travel costs (\$536).</p>	Resolved	We will refer the recommendation to the PMB to track implementation.

Recommendation	Status	Action Required
<p>2022-CGD-010-07 We recommend that the IA resolve the unsupported claim of \$6,773 for reimbursement of estimated privately owned vehicle mileage.</p>	Resolved	We will refer the recommendation to the PMB to track implementation.
<p>2022-CGD-010-08 We recommend that the IA conduct a workforce analysis of DWP vacancies to determine whether additional staff are required to provide monitoring and oversight of contractor performance.</p>	Resolved	We will refer the recommendation to the PMB to track implementation.



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