

ETA Response to Draft Report

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



MAR 31 2011

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General

FROM: JANE OATES *Jane Oates*
Assistant Secretary
Employment and Training Administration

SUBJECT: OIG Performance Audit of Los Angeles Job Corps Center Contract
Cost Draft Report No. 26-11-001-03-370

This memorandum responds to the subject draft audit report, dated March 25, 2011, Performance Audit of Los Angeles Job Corps Center (LAJCC) Cost. We appreciate the opportunity to provide input to this draft audit report as well as to the recent discussions prior to its issuance. We note for the record that the foundation of the draft report is relative to the award of the subcontracts by the LAJCC prime contractor, the Young Women's Christian Association of Greater Los Angeles (YWCA). While the prime contractor has a responsibility to comply with the terms and conditions of the Federal Acquisition Regulation (FAR), the YWCA is the awarding contracting entity throughout the report.

We also wish to note for the record that the subcontracts and subcontracting activities of this vendor were conducted during a period in which the Office of the Assistant Secretary for Administration and Management (OASAM) had oversight responsibility for the Office of Job Corps' (Job Corps) procurement activities. The Employment and Training Administration (ETA)'s Office of Contracts Management (OCM) assumed this oversight responsibility effective October 24, 2010.

Our responses to the draft report's recommendations follow:

OIG Recommendation 1. Update and revise center SOPs pertaining to procurement. Revisions need to include the required documentation and evaluator signatures and the specific steps to ensure all subcontracts and expenditures between \$3,000 and \$25,000 are advertised, evaluated, awarded, and costs supported as required by the FAR.

Response: Management accepts this recommendation.

During the fourth quarter of FY 2011, the Office of Contracts Management (OCM) will collaborate with Job Corps to update Chapter 5.6 of the Policy and Requirement Handbook as it pertains to subcontracting responsibilities and procedures. Further, OCM is currently updating the Job Corps Center Model Request for Proposal, the Job Corps Procurement Compendium and OCM Procurement Policy to determine if revisions or new policy guidance is needed regarding

the administration of cost reimbursable contracts and their associated subcontracts. The policies will ensure adherence to FAR 44.202 and 44.303, with emphasis on cost and price analysis to ensure fair and reasonable pricing, price competition, market research, subcontractor responsibility, and flow down clauses.

We consider this recommendation resolved.

OIG Recommendation 2. Repay questioned costs totaling \$2.5 million.

Response: Management accepts this recommendation.

The OIG computed questioned costs based on the following findings. Our remarks are included with each finding below.

Instances of FAR non-compliance resulting in questioned costs			
FAR Non-compliance	Sub-contracts over \$25,000 / amount of questioned costs	Expenditures over \$3,000 / amount of questioned costs	Note
Inadequate support for not selecting lowest bidder	5 of 11 (45%) / \$2,344,738*	Sample: 0 of 95 (0%)	a.
Improper Advertising	1 of 11 (9%) / \$40,258	Sample: 0 of 95 (0%)	b.
Improper use of GSA approved vendor list	1 of 11 (9%) / \$37,600	Sample: 7 of 95 (6.3%) / \$28,787	b.
Inadequate sole source justification	0 of 11 (0%)	Sample: 8 of 95 (9.5%) / \$44,077	b.
Totals (\$2,495,460)	7 of 11 (64%) / \$2,422,596	Sample: 15 of 95 (15.8%) / \$72,864	b.

(a) We agree with the OIG’s finding and will instruct the contractor to provide additional information as to the reasons the lowest qualified bidders were not selected. After reviewing the contractor’s information, we will initiate proceedings to obtain the return excess funds of \$2.3 million, as needed.

(b) We agree with the OIG that the contractor did not properly advertise, solicit, or award subcontracts. We will instruct the contractor to provide (if any) supportable, verifiable information as to increased costs paid by contractor as a result of not following the FAR. We will then initiate proceedings to reclaim the excess funds paid by the contractor while recognizing the value of goods and services received. We anticipate that the cost recovery will be less than the \$150,722 questioned by the OIG (\$40,258 + \$37,600 + \$28,787 + \$44,077).

We consider this recommendation resolved.

OIG Recommendation 3. Provide training as needed to ensure procurement staff is proficient on FAR requirements.

Response: Management accepts this recommendation.

During the third quarter of FY 2011, the Head of the Contracting Activity will issue a memorandum to all ETA contracting officers highlighting their responsibility to hold prime contractors accountable for managing its subcontracts, in accordance with the FAR 44.202. It will provide guidance on awarding and monitoring the subcontracts. In addition, OCM management will add to the regular training regimen for contracting officers, providing guidance and conducting training on the proper oversight and monitoring of contractors' purchasing systems.

We consider this recommendation resolved.

OIG Recommendation 4. Develop procedures for providing and documenting supervisory oversight of center procurement.

Response: Management accepts this recommendation.

During the third quarter of FY 2011, OCM will issue guidance to Job Corps National and Regional Program Offices and all OCM staff to ensure appropriate supervisory oversight is conducted and closely monitored. The guidance will include tools to assist contracting officers, contract specialists and COTRs/PMs in conducting procurement oversight reviews during monitoring trips and contract compliance assessments.

We consider this recommendation resolved.

OIG Recommendation 5. Strengthen procedures to ensure LAJCC complies with the FAR when awarding subcontracts and purchase orders and claiming related cost. This should include reviewing LAJCC procurement activities for FAR compliance during on-site center assessments.

Response: Management accepts this recommendation.

The San Francisco Regional Office of Job Corps will conduct financial reviews during center compliance assessments and monitoring trips, including reviewing of subcontracts for FAR compliance. In addition, OCM will ensure the current approval on the contractors purchasing system issued to the YWCA is immediately withdrawn. This will require the OCM Regional Contracting Officer to review and approve all other than fixed price subcontracts above the simplified acquisition threshold prior to the prime contractor executing these subcontracts.

We consider this recommendation resolved.

OIG Recommendation 6. Review of future LAJCC sub-contracts for FAR compliance prior to approval.

Response: Management accepts this recommendation.

The OCM San Francisco Region Contracting Officer will withdraw the approval of the contractor's purchasing system in accordance with FAR 44.305. The Contracting Officer shall inform the contractor in writing, specify the deficiencies that must be corrected to qualify the system for approval, and request the contractor to furnish within 15 days a plan for accomplishing the necessary actions. The Contracting Officer will review the corrective action plan. This will require all cost reimbursement, time and materials, labor hour or firm fixed price subcontracts above the simplified acquisition threshold to be submitted to the cognizant Contracting Officer for review and approval prior to subcontract execution, in accordance with FAR 52-244-2.

We consider this recommendation resolved.

Based on the foregoing responses, we anticipate that the audit report's recommendations will be resolved and can be closed upon completion of the corrective actions. If you have questions concerning this document, please contact Linda K. Heartley, in the Office of Contracts Management at (202) 693-3404.

Cc: T. Michael Kerr, ASAM
Edward C. Hugler, OASAM
Edna Primrose, Job Corps
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YWCA Greater Los Angeles Response to Draft Report



LOS ANGELES JOB CORPS CENTER

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Operated by the YWCA Greater Los Angeles
For the U. S. Department of Labor, Employment and Training Administration



March 29, 2011

Response to OIG Discussion Draft Date Issued March 25, 2011

Office of Inspector General
U.S. Department of Labor
200 Constitution Avenue, N.W.
Room S-5506
Washington, D.C. 20210

Re: Los Angeles Job Corps Center, Draft Assistant Inspector General's
Report, Report Number 26-11-001-03-370

We have reviewed the discussion draft Assistant Inspector General's Report dated March 25, 2011 (the "Report") regarding its audit of the Los Angeles Job Corps Center ("LAJCC"). Our comments to the Report, set forth below, are organized as follows:

- Overview
- Exhibit 1 Contracts
 - Sodexo
 - Ayonna Taylor
 - Marie E. Mazzone, DDS
 - Joseph Grillo, Ph.D.
 - Jabez Building Services
- Other Contracts Proposed to be Disallowed
 - Dr. Beverly Lynn Vaughan
 - Above the Standard Procurement Group
 - Sole Source / Non-GSA
- Compliance Program

Overview

The Report examined the 11 contracts awarded, or for which options were exercised, between October 1, 2009 and September 30, 2010, and sampled 95 expenditures over \$3,000 during the same period. Recognizing that the audit focused on technical compliance with the Federal Acquisition Regulations (“FAR”), we want to emphasize, and encourage the Report to reflect, that LAJCC substantially complied with the FAR. Where LAJCC fell short is in adequately documenting its compliance with the FAR.

As we will illustrate below, despite shortcomings in procedural documentation, procedures were in fact followed and the result was the selection of vendors and contractors that represented the best value to LAJCC and the government. LAJCC acknowledges, that despite FAR training to date, which has consisted of one three-day training in June, 2010 (which included FAR training among other procurement procedures), LAJCC is not adequately trained in Federal procurement/acquisitions and Job Corps guidelines.

As discussed more fully in the last section of this letter, increased compliance training predates the commencement of the OIG audit in November, 2010 and is ongoing. This includes increased focus on implementing policies and procedures to ensure full compliance with the FAR, along with extensive training for all personnel involved in the procurement process.

Below, each of the 11 contracts examined by the OIG are reviewed. The basis for our review stems from adherence to the FAR. Specifically, we note the following FAR as critical in evaluating compliance:

1. Adherence to FAR 15.205: All solicitations were thorough, concise and in accordance with FAR 15.205 – Issuing Solicitations (Issued, Handled and Submitted);
2. Adherence to FAR 5.003: All solicitations - with the exception of the solicitation for Above the Standard and Dr. Beverly Lynn Vaughn - were displayed through the Government Point of Entry (“GPE”) as required by the FAR 5.003 – Government Point of Entry (FedBizOpps);
3. Adherence to FAR Subpart 15.2: Overall, the proposal process outlined by the FAR 15.2 was adhered to: LAJCC followed the criteria for evaluating bids, created the FedBizOpps content and placed the advertisement, distributed the RFP/Scope of Work, evaluated the bids and made the awards; however, we recognize that LAJCC lacked stronger procedural documentation, and, as discussed further below, LAJCC has taken steps to address this issue.
4. Adherence to FAR 15.303(b)(1): FAR 15.303(b)(1) states that the Applicant shall: “Establish an evaluation team, tailored for the particular acquisition, that includes appropriate contracting, legal, logistics, technical, and other expertise to

ensure a comprehensive evaluation of offers.” For each solicitation, an evaluation team was established by the LAJCC Contract Manager and each response was evaluated substantially in accordance with the request for proposals. The names of the members of the various evaluation teams are set forth below; on a going-forward basis, LAJCC will mandate a form to be completed by the evaluation team, stating the names and capacities of each member of the team and their role in the evaluation process.

5. Adherence to FAR 14.404-2: FAR 14.404-2 states that: “[a]ny bid that fails to conform to the essential requirements of the invitation for bids shall be rejected”. All non-conforming bids that failed to respond in accordance with the requirements as stated in the advertisement posted on FedBizOpps (e.g.: insurance certificates, training experience, professional liability insurance, controlled substance registration certificate, malpractice insurance, California state license) were rejected as provided under FAR 14.404-2; nor was LAJCC required to review any submission considered incomplete.

6. Adherence to FAR Definition of Best Value; FAR 15.302 and FAR 15.308: In those instances where the lowest bidder did not receive the award, there were other factors to support LAJCC’s determination that the higher bid represented the greatest overall benefit and the **best value** for the government. Most importantly, FAR 15.302 states “The objective of source selection is to select the proposal that represents the **best value**”. Under the FAR Definitions, “**Best value**” means the expected outcome of an acquisition that, in the Government’s estimation, provides the greatest **overall benefit** in response to the requirement.” Also of importance is FAR 15.308, which provides that “although the rationale for the selection should be documented, that documentation need not quantify the tradeoffs that lead to the decision.”

7. Adherence to Program Assessment Guide (PAG) Appendix C-1: According to the Job Corps’ Program Assessment Guide, each contract was reviewed and approved by the Job Corps Regional Office. Specifically, in accordance with PAG Appendix C-1, Procurement Review Guide dated August, 2008, Consent to Subcontract is required as follows:

- Cost Reimbursement – Required for any dollar amount;
- Consultants - Required for any dollar amount;
- Labor Hour – Anything above \$25,000 is required;
- Time and Material – anything above \$25,000 required;
- Fixed Price Supply or Service – anything above \$100,000 required;
- Health Professional Services – any dollar amount required;
- Other subcontracts – as specified by the contracting officer – any dollar amount required.

LAJCC adhered to the above guidelines in submission of subcontracts to the San Francisco Regional Job Corps office. Attached hereto are the criteria LAJCC utilizes and sends to the San Francisco’s Job Corps Region Contracting Officer (Attachment 1).

The following discussion addresses the OIG's assertion that the contracts identified in Exhibit 1 (pp. 15 – 16) have inadequate support for not awarding the contract to the lowest bidder.

Exhibit 1 Contracts

Sodexho

In the OIG Report, page 5, the OIG questions the adequacy of the support for LAJCC's decision to not select the lowest bidder. However, as the FAR clearly states (see FAR Sections 15.302 and FAR 15.308), the analysis for selection is not based solely on the lowest bidder; in fact, the overriding criteria is best value. As will be evidenced below, had LAJCC made its selection solely on lowest bid, LAJCC would not have provided the best value for its students or the federal government.

The criteria utilized by LAJCC in its selection of food vendor is based on the criteria set forth in its Request for Proposals for the Food Service Operation Contract ("RFP") dated March 16, 2006 (Attachment 2 - note - this document was not previously attached). In the RFP, LAJCC set forth eight (8) Evaluation Categories (page 3), including the following: (1) Technical proposal; (2) Past performance and experience with client similar in size; (3) Staff qualifications; (4) Cost justification; (5) Financial resource adequacy; (6) Health and safety plan (OSHA compliance and safety training); (7) Satisfactory record of integrity; and (8) Business ethics.

LAJCC's advertisement for the food service concession and the criteria for evaluating proposals were, as required under FAR 15.303, prepared by an evaluation panel consisting of: (1) John Fraley, Administrative Services Director; (2) Maurice White, Director of Social Development; and (3) Maristelly Polanco, Contracts Specialist (the "Food Service Team"). John Fraley was the source selection authority, in accordance with FAR 15.303. Attached hereto as Attachment 3 are two affidavits, one from Mr. Maurice White, and the other from Maristelly Polanco, each stating that they were part of the evaluation team for the food vendor services selection contract.

The content for the food service contract was advertised on the FedBizOpps website. A Pre-Bid Conference was held on March 16, 2006, in which six (6) companies participated. Ultimately, five (5) proposals were received. Each of these proposals was evaluated based on the eight (8) categories stated in the solicitation (the RFP) at paragraph D.1 by the Food Service Team. Two of the five (5) proposals were rejected, based on FAR 14.404(f), which states that "Any bid may be rejected if the contracting officer determines in writing that it is unreasonable as to price. Unreasonableness of price includes not only the total price of the bid, but the prices for individual line items as well." As stated in the Bid Abstract, A&G Enterprises and Acors Food Inc. were eliminated due to unreasonably high cost.

Of the remaining three bidders, they were each evaluated based on the RFP criteria stated above. Attachment 4 is the original hand-scoring conducted by the team and compiled by Mr. Fraley **on April 1, 2006**. The first 7 scores are the culmination of

the 8 RFP criteria. The last two categories – “satisfactory record of integrity and business ethics were combined into one category based on similarities in attributes.”

Please note that what the OIG Report originally looked to in discrediting LAJCC's evaluation system (Bid Abstract) was NOT the RFP criteria, but rather generalized factors that while bearing some resemblance to the criteria were not the ultimate scoring tools used by the evaluation team.

Using precisely correlated scoring criteria, Sodexo scored highest of the three lowest bidders with a total number of points of 80, P&A scored 65, Selrico scored a 78. Adhering to the RFP criteria, numbers 8 and “extra” were outside the scope of the RFP and thus *not part of the ultimate scoring and decision-making*. These other criteria, while of interest to the LAJCC, were extraneous, and not part of the selection criteria. For example, they decided to give points to Healthy Menu/transition plan as well as small business. Similar to relying on the Bid Abstract, these internal discussions and evaluations, while illustrative of the thought process of the evaluation team, did not ultimately determine the successful bidder.

The Bid Abstract was an after-the-fact document, for internal and discussion purposes, and was NOT the determining methodology employed by the evaluation team. Based on the eight (8) criteria contained in the RFP, Sodexo received the highest point count; the team's procedures were in accordance with FAR 15.303 – the points were based on the factors specified in the solicitation. The numbers clearly and justifiably support LAJCC's contract award to Sodexo. We respectfully request the OIG look to these RFP-based evaluation sheets and not the less informative Bid Abstract.

Beyond the unequivocal numerical analysis, some of the overarching reasons behind the selection also included the following: two of the five proposals were eliminated due to high cost; of the remaining three, the proposals of Selrico Services, Inc. and P&A Food Systems, Inc., did not address all of the requirements set forth in the solicitation. The lowest bidder's (Selrico) bid was, based on the evaluation team's experience, too low to provide the quality and service required. Selrico's bid was approximately \$211,000 below the second highest bid, P&A Food Systems, Inc., and more than \$400,000 below Sodexo's bid. In addition, as required in the RFP for the Food Service Operation Contract, pages 2 and 4 (item 13) “low fat entrees shall be available at every meal”. Selrico did not comply with this requirement as evidenced by the direct correspondence dated July 7, 2006 from John Fraley, [Attachment 5](#) where it addresses the lack of “healthy choice” alternative meal choices. In the judgment of the evaluation team, P&A Food Systems did not have the requisite experience to serve 3 meals a day, 7 days a week for approximately 400 persons, and otherwise to perform the contract.

The integrity of the program and the delivery of a Job Corps Policy Requirement Handbook (PRH) mandated requirement 6.7 (Food Services) would be at risk if an unqualified, inexperienced contractor were to be awarded the work. The priority to fulfill

the objectives of serving the trainees by awarding the best value contractor was the goal of the Food Service Team. LAJCC's past experience with Sodexo, Sodexo's overall score on the 8 evaluating criteria and Sodexo's prominence in the Job Corps program nationwide, convinced the evaluation team that the contract should be renewed with Sodexo. As an added precaution, the Food Service Team also checked to determine if Sodexo was on the "Excluded Parties List System", and its references were checked through the Chamber of Commerce, California Consumer Insurance, and the State Licensing Board. Accordingly, while LAJCC's procedures could have been better documented, LAJCC was in substantial compliance with the FAR.

Ms. Ayonna Taylor

In response to the findings made in Exhibit 1 to the Report, in fact there was an evaluation team for the consideration of this position (FAR 15.303). All resumes received in response to the dental solicitation were received by Maristelly Polanco and sent to Cheryl Bowman. Affidavits from each of these women, part of the evaluation team, are attached hereto as Attachment 6. The dentist/applicants were evaluated by a panel consisting of: Cheryl Bowman, Health and Wellness Administrator; Mr. John Fraley, Administrative Services Director; and Maristelly Polanco, Contracts Specialist. Ms. Taylor was working with LAJCC at the time of the solicitation, and her consistent past performance was a positive factor. The panel selected Dr. Taylor and sent the recommendations to John Fraley, Administrative Services Director. Maristelly Polanco verified Dr. Taylor's California license, malpractice insurance, and completed the subcontract.

The Report, at pp. 15 and 16, states that the requirement for professional liability insurance was not listed as an evaluation factor. In fact, the advertisement placed in FedBizOps, at paragraph 1.c) clearly states that the bidder *must provide Professional Liability Insurance* and Controlled Substance Registration Certificate. The insurance and certificate were highlighted as factors for submission. The lowest bidder did not provide the insurance and thus was rejected. Bids which did not conform to the advertisement and RFP were rejected, in line with FAR 14.404-2: "Any bid that fails to conform to the essential requirements of the invitation for bids shall be rejected." FAR 15.302 states "The objective of source selection is to select the proposal that represents the **best value**". FAR 15.308, which provides that "although the rationale for the selection should be documented, that documentation need not quantify the tradeoffs that lead to the decision." Based on these 3 FAR's, the decision is not based on lowest cost, but rather on best value to the students and the federal government.

Marie E. Mazzone, DDS.

All resumes received in response to the dental solicitation were received by Maristelly Polanco and sent to Cheryl Bowman. Affidavits from each of these women, part of the evaluation team, are attached hereto as Attachment 7. The dentist/applicants were evaluated by a panel consisting of Cheryl Bowman, Administrative Nurse and Maristelly Polanco. Dr. Mazzone was working with LAJCC at

the time of the solicitation, and her past performance was a positive factor. The panel selected Dr. Marie Mazzone and sent the recommendations to John Fraley, Administrative Services Director. Maristelly Polanco verified Dr. Mazzone's California license, malpractice insurance, and completed the subcontract.

The Report, at page 16, states that the requirement for professional liability insurance was not listed as an evaluation factor. In fact, the solicitation notice placed in FedBizOps (#LAJCC-04-2006), at paragraph 1.c) clearly states that the bidder must provide Professional Liability Insurance and Controlled Substance Registration Certificate. Both of the other two bidders failed to provide the required insurance certificate and as such were rejected. Bids which did not conform to the advertisement and RFP were rejected in line with FAR 14.404-2: "Any bid that fails to conform to the essential requirements of the invitation for bids shall be rejected."

In the revised OIG report, page 16, the OIG claims that the auditors researched the California Dental Board and found that Shawn Summers, DDS; had a dentist license since 1991. However, this was *never in dispute* – rather, it was the fact that Dr. Summers did not provide a certificate of insurance as required by the solicitation and the FedBizOpps solicitation. **This** was the grounds for rejection, not the fact that they didn't have a license.

Also, FAR 15.302 states "The objective of source selection is to select the proposal that represents the *best value*". FAR 15.308, which provides that "although the rationale for the selection should be documented, that documentation need "not" quantify the tradeoffs that lead to the decision." Based on these three FAR's, the decision is not based on lowest cost, but rather on best value to the students and the federal government.

Joseph Grillo, Ph.D.

The proposals received from psychologists were evaluated by a panel consisting of Cheryl Bowman, Health and Wellness Administrator, and Dr. Merilee Oakes, Mental Health Consultant. Affidavits from each of these women, part of the evaluation team, are attached hereto as Attachment 8. The evaluation team interviewed four of the applicants responding to the solicitation and selected Dr. Grillo based on his experience and references, and forwarded their recommendation to John Fraley, Administrative Services Director. Maristelly Polanco verified his California license, malpractice insurance, and completed the subcontract. As with the two professionals discussed above, the advertised solicitation placed in FedBizOps (#01HW-2008) clearly states that the psychologist must have professional liability insurance, and for that reason the lowest bidder was not selected.

The next lowest bid was Dr. Grillo, so this decision conforms with the FAR and solicitation requirements. Bids which did not conform to the advertisement and RFP were rejected, in line with FAR 14.404-2: "Any bid that fails to conform to the essential requirements of the invitation for bids shall be rejected." FAR 15.302 states "The

objective of source selection is to select the proposal that represents the **best value**". FAR 15.308, which provides that "although the rationale for the selection should be documented, that documentation need not quantify the tradeoffs that lead to the decision." Based on these 3 FAR's, the decision is not based on lowest cost, but rather on best value to the students and the federal government.

Jabez Building Services

The evaluation factors for this contract were completed by a panel consisting of (1) John Fraley, Administrative Services Director, (2) Maurice White, Director of Social Development and (3) Maristelly Polanco, Contracts Specialist. This panel can be evidenced by the attached Janitorial Proposal Evaluation Score Cards, of which there are three, initialed by each of the members of the panel (Attachment 9). This contract, like all the others, was advertised in FedBizOps. Those companies responding to the advertisement and request for proposals were interviewed by the evaluation team, and their proposals were evaluated based on the categories stated in the solicitation. The evaluation team considered contract price, past experience, warranty, references, vendor history, delivery, product quality, hours of operation, customer service, invoicing terms and Scope of Work Specifications. The Report stated on page 16 that eight evaluation factors were listed in the Bid Abstract, yet a total score by bidder was listed with no individual breakdown of points by factor. However, Attachment 9 clearly illustrates a breakdown in accordance with the RFP by factor, disavowing this statement in the Report. The Report addresses Come Land Maintenance, the lowest bidder, was eliminated due to past performance and not rated or scored. LAJCC determined that Come Land Maintenance, the incumbent, was negligent in performing their contractual duties (past performance). Staff acknowledges that better documentation could have occurred and training has been initiated to correct this problem. There were seven proposals submitted ranging from \$248,700 to \$547,859; of the seven, four were rejected for failure to meet the RFP requirements; of the three remaining, Jabez's proposal was the lowest bidder. The evaluation team determined that Jabez represented the best value for LAJCC. We respectfully request that the disallowed amount of \$9,417 be stricken.

Other Contracts Proposed to be Disallowed

Dr. Beverly Lynn Vaughan

While this contract was not advertised in FedBizOps, Dr. Vaughn was recommended to LAJCC by the U.S. Department of Labor, San Francisco Job Corps Region (the office that oversees LAJCC). Dr. Vaughan has worked with the National Office of Job Corps to assist with designing and developing a curriculum for Health Occupations Training that aligns with the career technical education and academic standards of the LAJCC program. At the time of the award, Dr. Vaughan was working with the National Office of Job Corps in a variety of strategies to transform the Job Corps Program. The original contract with Dr. Vaughan was a single source. The project was in progress at the end of the LAJCC's contract year 4, which simply

continued through contract year 5 utilizing Dr. Vaughan's services as recommended by the Regional Office. Critically, the OIG should know that Dr. Vaughan was never paid the claimed disallowed cost of \$40,258 – she had family issues and requested to reduce her hours to 20 – 25 days, resulting in a new figure of \$20,247.50. LAJCC respectfully requests that no disallowance be made as staff was not properly trained in advertising techniques; should a disallowance nonetheless be applied, the maximum figure should not exceed \$20,247.50.

Above the Standard Procurement Group

The contract for Above the Standard Procurement Group was not advertised in FedBizOps; however, LAJCC obtained three bids for this contract and selected the lowest bidder, which was almost \$50 per hour lower than the other two bids. The LAJCC staff acknowledges that FAR 14.408-1(b) was not correctly adhered to and we respectfully request that this amount not be disallowed and in its stead training be recommended.

Above the Standard was contracted by the YWCA to conduct a corporate assessment from April 26 – April 30, 2010, of which a final invoice was submitted and paid on May 1, 2010. The LAJCC requested that Above the Standard provide technical training, of which a proposal was submitted on May 12, 2010 to LAJCC; the proposal was accepted at the end of May, 2010 and work commenced June, 2010. The LAJCC contract is completely separate from the YWCA; there was absolutely no overlap between the scopes of work for the two contracts.

Sole Source / Non-GSA

Below we address only those sole source/GSA issues for which we feel the LAJCC met the FAR criteria. They are as follows:

1. Tre Elevator. The Report claims that TRE Elevator Company, a non-GSA contractor, was listed with two other GSA contractors (FAR 14.408-1(b) and 14.2040). In fact, there were THREE other GSA contractors considered (see Attachment 10) and one non-GSA contractor. LAJCC selected TRE elevator, the non-GSA contractor, because staff felt that this contractor was able to respond to emergency calls within a reasonable time period. The age and condition of the elevators and the heavy usage of them calls for frequent emergency repairs. Staff determined that the safety of trainees and staff is paramount and Tre Elevator's close proximity to LAJCC, combined with being the least expensive of the 4 quotes, justified the decision. LAJCC acknowledges that staff was not fully trained on FAR 14.408-1(b) and acknowledges that further training on this FAR is required. However, analogous to FAR Section FAR 6.303-2, LAJCC felt that a different choice could have resulted in serious injury to the trainees and staff. In total, the disputed disallowed costs for Tre Elevator are: \$8,697, \$4,202, \$3,302, \$3,302, \$3,106, for a total of \$22,609, and LAJCC respectfully requests these costs not be disallowed. In its stead, LAJCC offers a milestone training plan that

has already commenced to address training issues related to FAR and documentation to prevent a recurrence of this kind.

2. Quest Diagnostic: The Report claims on Page 7 that there is inadequate justification for sole source with LAJCC justification based on Quest's proximity to LAJCC. What was not elaborated on and critical to LAJCC and its trainees is that LAJCC's medical clinic is in close proximity to the Quest's laboratory testing. Because trainees lack funding and means of transportation, proximity for testing and medical care is a compelling criteria, as set forth in FAR 6.303-2 (an unusual and compelling urgency can preclude full and open competition). Staff acknowledges that while the compelling nature of the selection was apparent, the connection between the urgency and the FAR was not well-documented. The amounts of disallowed costs for the selection of Quest Diagnostic are \$8,077.36, \$5,100.01, \$5,004.30, \$3,408.76, for a total of \$21,590.43.
3. Mims Management: On page 8 of the Report, it is stated that Mims Management was listed with two other GSA contractors. Here, LAJCC acknowledges that staff was not adequately trained in this specific FAR requirement (14.408-1(b)). LAJCC respectfully requests that this cost of \$3,150 not be disallowed. In its stead, LAJCC offers a milestone training plan that has already commenced to address training issues related to FAR and documentation to prevent a recurrence of this kind.
4. Franklin Young: On page 18 of the Report, it is stated that Franklin Young was listed with two other GSA contractors. Here, LAJCC acknowledges that staff was not adequately trained in this specific FAR requirement (14.408-1(b)). LAJCC respectfully requests that this cost of \$3,028.44 not be disallowed. In its stead, LAJCC offers a milestone training plan that has already commenced to address training issues related to FAR and documentation to prevent a recurrence of this kind.

Compliance Program

The YWCA GLA and LAJCC staff, based on information received from the Corporate Assessment conducted from April 26 through April 30, 2010, commenced training and milestone improvement processes in procurement to address past issues. Participants included the Administrative Manager, Purchasing Agent, Contract Specialist, Accounting and Property staff. The following are milestones in the compliance program that have been accomplished or are currently in progress:

- **Procurement and Property Training** was conducted at LAJCC's 1031 S. Hill Street location on the following dates: June 29 through July 1, 2010; July 6 through July 9, 2010, and July 12 through July 16, 2010. The procurement training facilitator, Ted Landgraf, conducted the training. Mr. Landgraf has also conducted similar procurement evaluations and training for the national and regional offices of Job Corps. The purpose of the training was to provide

information and tools needed to ensure best procurement practices, including systems and steps for conducting internal procurement audits.

- The Procurement Training Agenda consisted of the following:
 - Contractor Purchasing System Review (CPSR) - Significance of the CPSR was addressed;
 - Other training areas covered as they relate to the CPSR included the importance of managerial oversight of the procurement process at the corporate and individual contract levels, use of price competition to ensure responsible expenditure of governmental funds, actions to provide fair and open opportunities for small business concerns, and compliance with cost accounting standards in awarding contracts.
 - Self Assessing - The process and benefits of conducting internal procurement assessments was discussed. As a result, LAJCC conducted its first internal assessment in September 2010. A total of twenty-four procurement files were reviewed and areas of concern were noted. LAJCC's Purchasing Agent responded to all concerns with corrective action going forward.
 - Pertinent Flow-down Clauses (government regulations a vendor or contractor must comply with to conduct business with a government funded facility), were reviewed.
 - An overview of Program Assessment Guide (PAG) Section 5.6 addressing Procurement and Property Management and the Procurement Review Guide found in Appendix C-1 of the PAG.
 - Components of a "good" procurement file were discussed along with a review of Instruction 07-31, which outlines Green procurement practice of purchasing environmentally preferable products and services.
 - General Services Administration (GSA), a government supply source, was discussed and can be used when conventional methods of securing cost effective vendors are challenging.
 - A variety of tools, including procurement related checklists, were provided to outline the components of a Blanket Purchase Agreement (BPA) file and a subcontractor file.
 - A Purchasing File Documentation Checklist was provided to assist in the review of purchases that are \$3,000 and less, \$3,001 to \$25,000, \$25,001 to \$100,000, and \$100,001 to \$499,999, and \$500,000 or more.
 - Fund Out Clauses in BPA structures were discussed to ensure contractors understand that agreements are subject to the availability of funds and that unavailability of funds may automatically terminate an agreement with no liability.
 - The importance of annual vendor evaluations was addressed. The pros and cons of continuing a procurement relationship rest on the outcomes of the evaluations. Important to note is that each vendor must be rated utilizing the same evaluation criteria.
 - After implementing the recommended corrective actions noted in the Corporate Office Annual Review (COAR), the Administrative Manager

contacted the Regional Office Contracting Officer requesting reassessment of CPSR; temporary approval was granted on August 17, 2010 and full approval was granted on October 27, 2010.

- With guidance and approval from the Regional Office Contract Specialist, the Administrative Manager developed an At-a-Glance FAR Flow-down Clauses document for all LAJCC Vendors, which was implemented by August 19, 2010. The FAR Flow-down clauses document is faxed each time an order is placed, and is attached to all check requisitions.
- The phrase "FAR Clauses Apply" appears on all Purchase Orders as of August 20, 2010.
- LAJCC's Purchase Request form was redesigned to reduce the possibility of blank entries, and implemented on September 20, 2010.
- Monthly collaborative meetings among the Procurement, Finance and Property departments were implemented to ensure procurement best practices and ongoing compliance with the FAR. An agenda is developed for each meeting and minutes are kept and action items are recorded.
- On March 14, 2011, LAJCC hired a Procurement Manager with an extensive background in government contracts, government purchases, contracts and materials management to manage the entire procurement process and ensure compliance with FAR.
- LAJCC's procurement-related SOPs are currently under revision.

This Compliance Program is an ongoing program at LAJCC to ensure improved compliance with FAR, PRH and SOP guidelines.

LAJCC respectfully requests that the Report not only reflect the revised facts stated herein, but that the overall tone of the Report be immediately revised to reflect the fact that LAJCC did not flagrantly violate the FAR or any other mandated guidelines; on the contrary, LAJCC is committed to providing the best services for its trainees, staff and local community. Producing improved methods of documenting adherence to procedures and creating milestones for understanding all aspects of FAR, PRH and all SOPS is part of that process.


LAJCC also respectfully requests, given the above explanation of their solicitation and evaluation processes, that the disallowed costs be eliminated and in its stead, a commitment is entered into by LAJCC to continue its work to improve documentation by its staff so as to avoid future audit findings that reflect anything other than LAJCC's long-standing commitment to service to the community.

Lastly, given the brief window LAJCC had to respond to this audit Report, LAJCC respectfully continues to request the further opportunity to gather evidence to forward to the OIG to help allay concerns and refute the questioned amount of disallowed costs.

[Signature Page Follows]

IN WITNESS WHEREOF, the following response is submitted as of the date first stated above.

LOS ANGELES JOB CORPS

By: 
Name: Jacquelyn Honore
Title: Center Director