



## **Air Force Admits Errors in Decision to Insource Work**

By Nick Brown

Law360, New York (December 10, 2010) -- The U.S. Air Force has admitted it may have made mistakes in calculating the cost benefits of insourcing its vehicle maintenance work, sparking a federal judge to remand a challenge from the contractor that lost out on the job.

The Air Force will have 10 days to recalculate and resubmit a cost analysis for work initially performed by plaintiff Triad Logistics Services Corp. before it was moved in-house in June, according to an order filed Thursday by Judge Marian Blank Horn of the U.S. Court of Federal Claims.

Judge Horn dismissed the suit without prejudice, and waived the filing fee in the event Triad has to refile.

Triad, a small Florida-based company owned by disabled veterans, had performed the work in question — vehicle maintenance at Columbus Air Force Base in Mississippi — for four years before the Air Force announced plans to take on the task itself.

The company sued Nov. 29 after the U.S. Government Accountability Office dismissed a bid protest, asserting a laundry list of procedural mistakes related to the Air Force's cost comparison of retaining Triad versus shifting the work in-house.

Government agencies are statutorily required to offer complete justifications for personnel switches, but the Air Force left out data on indirect costs, analyses on incentives and health benefits, and miscellaneous costs like transition programs imposed to effect smooth transitions, Triad contended.

In a remand motion lodged Thursday, attorneys for the U.S. Department of Justice said they were notified by the Air Force that it may have made two errors, one of which was significant.

"Specifically, the Air Force informed us that one line item should have been placed on a different line of the cost analysis, and the failure to place the cost on the correct line resulted in additional cost," the government said.

The Air Force also mistakenly omitted custodial services from the analyzed costs, which also resulted in additional costs, according to the motion.

The federal government requested a remand, saying the Air Force would recalculate.

An attorney for the plaintiff said he was pleased the Air Force caught the errors, but wished it had happened before litigation.

"It's not unusual for the government to acknowledge there may have been some irregularities, but it is somewhat unusual that the Air Force didn't pick this up at the bid protest, and are only picking it up now," Kinberg & Associates LLC's Edward Jay Kinberg said Friday.

The GAO threw out Triad's bid protest on Nov. 24, saying the allegedly violated statutes were merely internal agency guidance, not binding regulation.

The company said it obtained the disputed cost comparison through a Freedom of Information Act request.

The DOJ declined to comment on the matter.

The plaintiff is represented by Kinberg & Associates LLC.

The case is Triad Logistics Services Corp. v. USA, case number 1:10-cv-815, in the U.S. Court of Federal Claims.