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Triad Sues US Over Air Force Insourcing Decision

By Carolina Bolado

Law360, New York (January 14, 2011) -- Triad Logistics Services Corp. renewed its fight Friday against the U.S. Air Force, alleging the military department erred in its recalculation of the cost benefits of insourcing its vehicle maintenance work and should have had private companies bid for the job.

The Air Force's new cost analysis — prompted by Triad's first suit in November — still failed to take into account the full costs of military or U.S. Department of Defense personnel, Triad said in a complaint in the U.S. Court of Federal Claims.

"A properly done insourcing analysis would have resulted in a competitive solicitation being issued and award being made to a commercial contractor," Triad said in the complaint.

The Air Force agreed to redo the cost benefit analysis after admitting in December that it may have made mistakes in its initial report on the benefits of moving its vehicle maintenance work at Columbus Air Force Base in Mississippi in-house.

The new calculations, which adjust the cost benefit of insourcing for the government from \$869,449 to \$278,928, include the fringe benefit costs to the DOD but fail to account for fringe benefits that come out of the federal budget, such as unfunded civilian retirement, post-retirement health benefits and post-retirement life insurance costs, according to the complaint.

"USAF's decision to insource the scope of work was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, was not conducted according to any standard, and ignored or violated several of its own insourcing procedures," Triad said in the complaint.

Triad, a small Florida-based company owned by disabled veterans, had performed the work on the military base for four years before the Air Force announced plans to take on the task itself in June.

Triad sued in November, saying 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 such as transition programs imposed to effect smooth transitions.

The Air Force admitted it had misplaced one line item on the cost analysis and mistakenly omitted custodial services from the analyzed costs, according to court documents.

A judge dismissed the suit without prejudice in December and waived the filing fee in the event that Triad felt it needed to refile.

An attorney representing Triad declined to comment on the case, and representatives at the U.S. Department of Justice did not immediately respond to a request for comment Friday.

Triad is represented by Kinberg & Associates LLC.

The case is Triad Logistics Services Corp. v. U.S., case number 11-cv-00043, in the U.S. Court of Federal Claims.

--Additional reporting by Nick Brown
