

Insourcing Case Study: Using FOIA to Learn About Insourcing Decisions

by Kevin Frankovich, President, CGR Associates, Inc.

Despite Secretary Gates' acknowledged lack of results, insourcing efforts continue at the Defense Department. As they do so, more examples are coming to light that demonstrate how poorly the department's insourcing analyses is being conducted. One of the most egregious examples involves a small business performing visual information services at Keesler Air Force Base in Biloxi, Miss.

The contractor involved, K-MAR Industries, Inc. (KMI) of D'Iberville, Mississippi, was notified in August 2010 of the Air Force's intention to insource KMI's contract. The company submitted a Freedom of Information Act (FOIA) request seeking information on the Air Force's analysis.

The documents KMI obtained show that the Air Force's insourcing analysis was flawed. First, the in-house staffing was inconsistent with the contract's scope of work. Positions such as the video teleconferencing technician, electronics technician, general clerk and maintenance machinist were not included in the government's cost analysis despite being required by the contract. As a result, the government claimed the cost of in-house performance would be 3.05 percent less than the cost of contractor performance.

KMI proposed a new fixed-price based on "the same relaxed standards that the government envisions for its in-house operation" that was 11 percent less than the government's proposed cost.

In addition to the issues associated with the failure to price equivalent positions, other factors affect the outcome of the Air Force's insourcing analyses.



These factors include projected in-house cost growth that is greater than the actual experience of the contract and a failure to include in the in-house cost calculation the cost of contractor furnished equipment. Additionally, many common costs, such as reimbursable parts and travel, were included in the contractor's cost but only a fraction were counted in the in-house calculation. Had all of these costs been properly accounted for, contractor performance would save the government almost 17 percent, according to KMI.

Second, KMI attacks compliance with and the usefulness of DoD's January 2010 costing methodology memo, Directive-Type Memorandum (DTM) 09-007. The DTM is DoD-issued guidance to estimate and compare the cost of government civilian, military, and contractor support.

KMI argues that:

- the Air Force did not use the appropriate Civilian Personnel Fringe Benefit rate as dictated by the DTM but used one that is nearly 7 percent less;

- the Air Force cost analysis deviates from the DTM procedures without approval; and
- even if a deviation from the DTM was approved, the methodology used fails to account for the full cost of agency performance.

Shortly after receiving a response to its FOIA request and conducting its extensive analysis, KMI filed suit in Federal District Court to block the Air Force from insourcing its contract. The Air Force later decided to withdraw its insourcing decision and will re-compete the contract.

The lesson for all contractors in this case study is the importance of using the FOIA process to gain information when a contract is being insourced. Without the information it gained from the FOIA, KMI would not have had the facts it needed to challenge the Air Force action.



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