



U.S SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

June 30, 2015

The Honorable Rob Portman  
Chairman  
Permanent Subcommittee on Investigations  
United States Senate  
Washington, DC 20510

RE: Subcommittee request concerning use of contractor employees in contract management and oversight positions

Dear Mr. Chairman:

At the request of the Subcommittee on Investigations, the U.S. Small Business Administration (SBA or Agency) has gathered documents and information pertaining to the Agency's use of contractors in contract management and oversight roles. The SBA has a single award Basic Ordering Agreement (BOA) instrument that primarily provides administrative support to our acquisition office. The BOA was awarded to POGO Inc (POGO) and the primary duties of the contractor personnel have been to query applicable data, conduct analyses of data and present findings and recommendations to a contracting officer or supervisory contracting officer.

SBA has attached documents in response to your request and has included below a general description of those documents.

- 1. A list of all positions, including descriptions and pay scale, for which contract employees are used in any phase of the contracting process, including pre--award, award, management, and closeout;**

Response: A list of contractor positions, position descriptions, and pay scales are provided in Attachment A. GS equivalents were used to assist potential contractors in identifying and providing the required expertise in support of this effort.

- 2. Documents sufficient to show the qualifications, including experience and education, required for each of the positions listed in (1);**

Response: Attachment B contains an excerpt from the Agency's Performance Work Statement for the subject Basic Ordering Agreement (BOA), which shows the qualifications required for contractor personnel.

- 3. A list of all contracts which provide the positions listed in (1), including contract number, contractor name and DUNS number, a brief description of the work performed under the contract, the timeframe to perform the work, the total value of the contracts, and amount obligated to date;**

Response: SBA has entered Basic Ordering Agreement (BOA) No..SBAHQ-12-A-0027, which was awarded to POGO Inc (POGO). POGO has the following DUNS Number: 608672114. POGO is a Woman-Owned Small Business that was also a HUBZone certified small business at the time of offer and award of the BOA. The Performance Work Statement for this BOA contains the following description of work: "*Services - The Contractor shall provide the services of Procurement Analysts and Contract Specialist support in the primary categories of: a) conduct of the annual independent verification and validation regarding SBA's procurement data entered into the Federal Procurement Data System-Next Generation (FPDS-NG), b) assess and document potential Agency policy and procedure regarding the acquisition function; c) Reviews, Research and Data Management regarding acquisition effort; d) pre-award effort; e) post-award administration; f) contract closeout; and g) general acquisition assistance for a variety of supply, and service projects.*" The BOA was awarded on August 23, 2012 and has a maximum potential period of performance of five years. The amount obligated to date under this BOA is \$3,075,250.27.

- 4. Documents sufficient to show whether any analysis was conducted as to whether the contract positions listed in (1) are inherently governmental, the date of such analysis, and title of the official who approved the analysis;**

Response: SBA's need for contract assistance support arose in close proximity to the Federal Register publication of OFPP's Policy Letter 11-01, Performance of Inherently Governmental and Critical Functions (Policy Letter). SBA's Senior Procurement Executive, William F. Cody, performed the inherently governmental analysis in accordance with the Policy Letter and prepared the appropriate review and approval letter for the Agency Designee. At the time that the solicitation was due to be advertised, the Agency Designee position was vacant. As a result, the Senior Procurement Executive, who possessed in-depth knowledge of the Policy Letter and of the actual requirement, acknowledged on the requisition form that this was not a procurement of inherently governmental functions and authorized the contracting officer to move forward with the solicitation. The original analysis

and the acknowledgement by the Senior Procurement Executive are provided in Attachments C and D respectively.

**5. Documents sufficient to show any policies developed to address potential conflicts of interest related to the use of contract employees in contract award and management;**

Response: Attached please find a copy of Chapter 2 from SBA's Standard Operating Procedures for the acquisition office (Attachment E), which contains guidance on how contracting personnel should handle conflicts of interest.

**6. Documents sufficient to show any policies developed to address the protection of proprietary information relating to the use of contract employees in contract award and management;**

Response: While contractor personnel have access to non-public information, Attachment F is a copy of the clause that SBA's contracts contain regarding contractor protection of sensitive and personally identifiable information (PII).

**7. An example copy of any government or third-party non-disclosure agreements that contractor employees are required to sign when they are involved in any phase of contract award and management;**

Response: A sample non-disclosure agreement and personal conflict of interest form is provided in Attachment G.

**8. Documents sufficient to show any policies developed to address legal privileges and exceptions for disclosure under, but not limited to, the Freedom of Information Act, congressional requests, bid protests and other laws, with respect to the use of contract employees in contract award and management; and**

Response: Attached please find SBA's Standard Operating Procedures for Privacy Act Procedures (Attachment H) and a copy of the contract clause that SBA includes in its contracts to address contractor protection of sensitive and personally identifiable information. In addition, SBA has regulations at 13 C.F.R. section 102 to address Privacy Act responses.

**9. Information sufficient to show the number, type, and position description for Federal employees, such as contracting officers, employed in the acquisition office.**

Response: A list of all federal contracting officers and supervisory contracting officers is provided in Attachment I. Position descriptions are provided in Attachment J.

The Honorable Rob Portman  
Page 4

We appreciate the opportunity to respond to your questions. If you or your staff have additional questions, please contact Mark Tiner, SBA Deputy Assistant Administrator for Congressional and Legislative Affairs, at (202) 205-6335. A similar response is being sent to Senator McCaskill.

Sincerely,

Tami L. Perriello  
Associate Administrator for Performance  
Management & CFO  
Small Business Administration

Attachments