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INSPECTORS GENERAL

Concerns About Advisory and Assistance Service Contracts

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Madam Chairman, Senator Glenn, and Members of the Subcommittee:

I am pleased to be here today to discuss the results of a survey GAO conducted at the request of the Subcommittee concerning contracts for advisory and assistance services that were awarded by the 27 Presidentially appointed Inspectors General (IG) during fiscal years 1995, 1996, and 1997 (as of June 30, 1997). I will also discuss the results of the Subcommittee's request that we examine in detail the award of two advisory and assistance contracts by the Department of the Treasury Office of Inspector General (OIG). Those were a sole-source management study contract awarded to Sato & Associates and a consulting services contract awarded to KLS, using other than full and open competition.

I am accompanied this morning by the Deputy Director of our Office of Special Investigations, Don Wheeler, and the Associate Director for Audit Oversight and Liaison from our Accounting and Information Management Division, Ted Barreaux.

The Competition in Contracting Act of 1984 and the Federal Acquisition Regulations require full and open competition for government contracts except in a limited number of situations. One exception to using full and open competition is when the agency's need is of such unusual and compelling urgency that the government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits proposals. Even when an unusual and compelling urgency exists, the agency is required to request offers from as many potential sources as is practicable under the circumstances. This means that an agency may limit a procurement to one firm only when the agency reasonably believes that only that firm can perform the work in the available time. Further, for each noncompetitive procurement action, the agency is required to prepare a complete and sufficient statement identifying the specific legal exception to competition requirements relied upon by the agency and justifying the noncompetitive award.

Advisory and Assistance Service Contracts Awarded by IGs

Twenty-six of the 27 Presidentially appointed IGs responded to our survey of the extent to which they procured advisory and assistance services, describing the types of services procured and the types of contracts used in acquiring the services, and indicating whether the services were noncompetitively procured. Advisory and assistance services are provided under contract by nongovernmental sources to support or improve an organization's policy development, decision-making, management and

administration, program management and administration, and research and development activities.

Nineteen of the 26 IGs procured advisory and assistance services during the 3-year period, awarding 208 contracts, task orders, or purchase orders, most of which were for audit and/or investigative work. These awards were initially valued at approximately $29 million to 80 different contractors. Of the 208 contract actions, about 84 percent (176) were competitively awarded. For the remaining 32, we examined the written justifications required to use other than full and open competition. The written justifications were adequate for 18 actions and for 14 actions awarded by five different IGs, the justifications were not adequate.

Except for the two Treasury IG contracts that I will discuss in a moment, and that the Subcommittee had already asked us to examine, time did not permit a determination of whether there actually was an acceptable justification for the 14 noncompetitive acquisitions. In the case of the two Treasury IG contracts, which were the highest priced of the 14 inadequately justified noncompetitive acquisitions and among the highest priced of all of the 208 IG acquisitions, there were no adequate justifications for using other than full and open competition in their award.

Sato & Associates Contract

Shortly after her confirmation as Treasury IG, Ms. Valerie Lau contacted Frank S. Sato—a former IG at both the Department of Transportation and the Veterans Administration—to request that he perform a management review of her office. She told the Treasury Procurement Services Division (PSD) that she wanted Mr. Sato to perform the management review. In response to this request, on January 9, 1995, PSD awarded a $88,566 sole-source management study contract to Sato & Associates on the basis of unusual and compelling urgency. The contract also contained an option to assist in implementing recommendations made in the contract's final report. A subsequent modification to the contract exercised that option and raised the total estimated contract cost to $113,326. The actual amount billed by Mr. Sato was $90,776.

In explaining why the sole-source award to Mr. Sato was justified, Ms. Lau explained that her need to limit competition was urgent and compelling because, among other reasons, the study would assist her as a new appointee to quickly make reassignments in her senior executive ranks. She said the study would also help her to marshal the resources needed to

conduct financial audits required by the Government Management Reform Act of 1994 and the Chief Financial Officer Act of 1990.

Although Ms. Lau's stated reasons provide some support for her position, the facts do not establish that her ability to perform her duties would have been seriously impaired had the procurement been delayed by a few months in order to obtain full and open competition. Even assuming that a limited competition was warranted, it is clear that the agency violated the applicable statute and regulation by failing to request offers from as many potential sources as was practical under the circumstances.

Ms. Lau was aware that at least three other former IGs had performed similar management reviews of OIGs. We interviewed two of these former IGs. Both stated that they could have met Ms. Lau's urgent time frame to perform the contract. In fact, they were hired by Mr. Sato to work on the Treasury OIG contract, performing as consultants. We are aware of no reason why it was impractical for the agency to have requested offers from at least the three other known sources for the work.

While Sato & Associates was conducting the Treasury management review, the firm submitted an unsolicited proposal for $91,012 to provide similar work to the Department of the Interior OIG. The Department of the Interior conducted a full and open competition. In June 1995, Interior awarded a management study contract to Sato & Associates for approximately $62,000 less than the firm's unsolicited proposal. The proposals, objectives, and final reports submitted by the contractor were substantially the same for both jobs. For example, the final report for Treasury included 30 recommendations and the Interior report had 26 recommendations. Eighteen of the recommendations in both reports were substantially the same. The final cost to Interior was $28,920. This suggests that the price of Sato & Associates' sole-source contract for the Treasury OIG effort, $90,776, was artificially high.

KLS Contract

Regarding the second contract that you asked us to examine, Ms. Lau told us that in the spring of 1995, she asked the Office of Personnel Management (OPM) to conduct a workplace effectiveness study of her office. She planned to contract with OPM for an implementation plan to address problems identified in the initial study. However, in April 1995, OPM concluded that it was unable to do any follow-on work because of reorganization and downsizing. Instead, in July 1995, OPM provided

Treasury with a list of 12 consultants who were capable of doing the follow-on work.

OIG staff added two names to the OPM list; Ms. Lau selected 4 from the list of 14 consultants, added two names herself, and instructed her special assistant to invite bids from at least the six individuals she had identified. One consultant was unavailable and another could not provide a preliminary proposal by August 30, 1995. OIG staff met with each of the remaining four consultants to describe the agency's needs and request written proposals. Following receipt of the proposals and oral presentations by the offerors, two OIG officials selected Kathie M. Libby, doing business as KLS, a consultant from OPM's list, as the successful contractor. Ms. Lau concurred with the selection.

On September 12, 1995, PSD awarded a time-and-materials, consulting services contract to Kathie M. Libby, doing business (with two other consultants) as KLS. The original term of the contract was for 1 year with an estimated cost of $85,850. Among other tasks, the contract called for KLS to review and analyze the OPM survey data and to provide advice and assistance in the development and implementation of change management plans and models.

The contract was awarded on the basis of unusual and compelling urgency. The justification for the urgency stated, "It is imperative that the services begin no later than September 11, 1995, in order to have the consultants provide a briefing to managers attending the September 14, 1995, OIG managers conference." This determination reflected Ms. Lau's desire to convey to her managers that she intended to correct problems identified in the OPM study because similar management studies had been conducted in the past, but there had been no follow-through on the studies' recommendations.

We conclude that the OIG's justification for limiting the competition was not reasonable. The primary reason advanced by Ms. Lau for the urgency determination was the need to have the consultant provide a briefing at an OIG management conference. While KLS consultants did attend the conference, they did not receive a copy of OPM's preliminary results until the conference. They were present for the limited purpose of introducing themselves to the OIG staff and informing the staff that KLS would work with them to implement the OPM study recommendations.

We believe that Ms. Lau's ability (1) to convey to her managers that the problems identified in the OPM study would be addressed and (2) to correct those problems would not have been seriously impaired had the announcement of the actual consultant been delayed a few months in order to obtain full and open competition. Ms. Lau could still have informed the conference participants that she intended to hire such a consultant expeditiously, and the actual expeditious hiring of the consultant would have demonstrated to her employees that she was serious in her intention to pursue the OPM recommendations.

In addition to the legal improprieties in the contract awarded, we also identified a pattern of careless management in the procurement process and in oversight of performance under the contract. We found that the agency engaged in poor procurement planning in that it failed to fully understand its needs and clearly articulate those needs to the contractor. Furthermore, OIG did not prepare a written solicitation, including a statement of work. Instead, OIG relied upon oral communications and failed to effectively communicate with consultants from whom it solicited proposals.

In this regard, Ms. Libby explained to us that the agency had not specifically identified to her its needs and that she had misunderstood the work to be performed as explained in her initial telephone conversation with OIG. Her proposal was based on her belief that OIG already had management task forces or employee groups studying what changes were needed to address the issues raised in the OPM study and that KLS was to serve only in an advisory capacity to those working groups. Soon after conducting her initial briefings, she learned that this was not the case and that the work that needed to be done was different from what she believed when she presented her proposal. This resulted in five modifications that increased the contract's total price to $345,050 and extended the period of performance for 1 year.

The largest modification made to the KLS contract—issues concerning the revision of the performance appraisal system—was outside the scope of the original contract, and OIG should have obtained this additional work through a separate, competitive procurement. Had OIG properly prepared for the procurement, it could have determined whether revision of the performance appraisal system should have been included in the scope of the original contract or procured separately—thus eliminating this modification.

Finally, we identified management deficiencies in oversight of the work performed under contract. In several instances, KLS performed and billed for work that was not included in the contract statement of work. Furthermore, the OIG official responsible for authorizing payment performed under the contract told us that she did not verify that any work had been performed under the contract prior to authorizing payment. She also told us that she did not determine whether documentation for hotel and transportation costs claimed by KLS had been received even though she authorized payment for these travel expenses.

Madam Chairman, that completes my prepared statement. We would be happy to respond to any questions you or other members of the Subcommittee may have at this time.

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