



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Training Contractor Not Promptly Paid Under Purchase Order EP07H001074

Report No. 12-P-0160

December 28, 2011



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Report Contributors:

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Abbreviations

| | |
|------|---|
| CFR | Code of Federal Regulations |
| EPA | U.S. Environmental Protection Agency |
| HPOD | Headquarters Procurement Operations Division |
| LSI | Laboratory for Scientific Interrogation, Inc. |
| OARM | Office of Administration and Resources Management |
| OIG | Office of Inspector General |

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At a Glance

Why We Did This Review

In July 2011, a U.S. Senator asked the U.S. Environmental Protection Agency (EPA) to look into a complaint that EPA had not paid for services provided in 2007 by Laboratory for Scientific Interrogation, Inc. (LSI), of Phoenix, Arizona.

Background

In March 2007, EPA issued purchase order EP07H001074 to LSI for training seminars for the Office of Inspector General (OIG). The price set in the purchase order was \$4,000. LSI presented a 1-day seminar to OIG staff on May 9, 2007, and a second 1-day seminar on May 10, 2007.

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2012/20111228-12-P-0160.pdf

Training Contractor Not Promptly Paid Under Purchase Order EP07H001074

What We Found

EPA did not pay LSI for services rendered in 2007 because EPA did not receive an invoice from LSI until after the July 2011 congressional inquiry. Contrary to regulation, the EPA contracting officer in the Office of Administration and Resources Management apparently did not provide LSI with a copy of the purchase order to provide training for the OIG. Because EPA procured the service through a purchase order, LSI did not have to sign and return it to EPA to indicate that it had accepted the contract terms. The Federal Acquisition Regulations state that performance of a purchase order is acceptance. The purchase order provided instructions for submitting an invoice. However, because LSI did not receive a copy of the purchase order, LSI did not properly submit its invoice and did not know who to contact when it was not promptly paid.

In June 2008, OIG staff realized that LSI had not submitted an invoice. However, no one in the OIG contacted LSI or the contracting officer to find out why LSI had not been paid for the services rendered.

After the congressional inquiry, the OIG obtained an invoice from LSI that exceeded the price in the purchase order. The difference of \$1,031.90 was the travel costs of the instructor who provided the training. EPA modified the purchase order in September 2011 so it could pay LSI for the claimed training and travel costs. However, we found no evidence that the travel was authorized by the government. In November 2011, EPA paid LSI \$5,031.90.

What We Recommend

We recommend that the Inspector General assure that invoices are obtained, reviewed, and paid within a reasonable period of time after receiving services. We also recommend that the Director, Headquarters Procurement Operations Division, Office of Administration and Resources Management, require that contracting officers properly document contract actions in contract files. These officials agreed with these recommendations, although corrective actions are not yet completed. We further recommend that the Director, Headquarters Procurement Operations Division, obtain adequate support to pay the travel costs. The Director disagreed that additional action was needed and offered an alternate justification to support paying the travel costs. We have accepted the alternate justification and consider that recommendation closed.



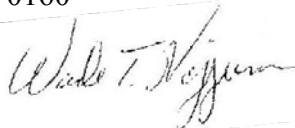
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

December 28, 2011

MEMORANDUM

SUBJECT: Training Contractor Not Promptly Paid Under Purchase Order EP07H001074
Report No. 12-P-0160

FROM: Wade T. Najjum 
Assistant Inspector General for Program Evaluation

TO: Arthur A. Elkins, Jr.
Inspector General

Thomas W. Dussault
Director, Headquarters Procurement Operations Division
Office of Acquisition Management
Office of Administration and Resources Management

This is our report on the subject review conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

Although this report contains recommendations, you are not required to respond to it. Your responses to the draft report identified corrective actions, including milestone dates, acceptable to us. Therefore, we are closing this report upon issuance. Those corrective actions not yet completed must be monitored through EPA's management audit tracking system.

However, if you submit a response to this report, it will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the

data for redaction or removal. We have no objections to the further release of this report to the public. We will post this report to our website at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Liz Grossman, Deputy Assistant Inspector General for Program Evaluation, at (202) 566-0838 or grossman.elizabeth@epa.gov; or Eric Lewis, Director, Special Reviews, at (202) 566-2664 or lewis.eric@epa.gov.

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Purpose

We reviewed the circumstances surrounding purchase order EP07H001074 to determine whether the U.S. Environmental Protection Agency (EPA) promptly and properly paid Laboratory for Scientific Interrogation, Inc. (LSI), of Phoenix, Arizona, for services performed for the Office of Inspector General (OIG) in May 2007. A congressional inquiry to the EPA Associate Administrator for Congressional and Intergovernmental Relations in July 2011, based on a constituent's complaint, brought this matter to the attention of the Inspector General, and the Inspector General requested OIG staff to review the matter.

Background

When the OIG requires the purchase of goods or services, it must submit a properly approved procurement request that describes the requirements and provides the needed funds to acquire the goods or services. A contracting officer signs the resulting contract, in this case a purchase order, which obligates the government. The contracting officer appoints a project officer to help monitor the procurement. The project officer must be identified on the purchase order.

During discussions between staff from LSI and the EPA OIG about a conference the OIG Office of Investigations was planning for May 2007, LSI offered to conduct a 1-day seminar on advanced interviewing techniques. The OIG Office of Investigations and OIG Office of Audit each submitted a procurement request in the amount of \$2,000 for a 1-day seminar. The two requests were combined into one purchase order. In March 2007, an EPA contracting officer signed purchase order EP07H001074 for LSI to train OIG staff on interviewing techniques on May 9–10, 2007. The price set in the purchase order was \$4,000. Among other things, the purchase order (1) provided instructions for submitting an invoice, (2) established the amount that would be paid for the training, and (3) identified who to contact at EPA with questions about the agreement.

LSI provided its 1-day seminar twice. On May 9, 2007, LSI presented the seminar to the OIG Office of Investigations in Shepherdstown, West Virginia. On May 10, 2007, LSI presented the seminar to the OIG Office of Audit in Arlington, Virginia.

The contracting officer for this contract was from the Headquarters Procurement Operations Division (HPOD), Office of Acquisition Management, Office of Administration and Resources Management (OARM). The project officer was from the OIG Office of Investigations. The original project officer retired and was replaced in May 2007. The original contracting officer has also been replaced.

Scope and Methodology

We performed our review from September through December 2011. We conducted our work in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives. We assessed internal controls only with regard to the subject contract.

As part of the review, we interviewed the current OIG project officer; the current and former OARM contracting officers; staff in the EPA finance center in Research Triangle Park, North Carolina; and LSI's office manager. We obtained and reviewed pertinent documents from those interviewed. We also obtained information from EPA's accounting system related to purchase order EP07H001074, and reviewed applicable policies, procedures, and regulations.

Results of Review

Before July 2011, EPA had not paid LSI for the May 2007 seminars LSI provided the OIG. The contracting officer apparently had not ensured that LSI received a copy of purchase order EP07H001074; he said he did not have contact information for the firm. Without the purchase order, LSI did not properly submit its invoice and did not know who to contact when it was not promptly paid. LSI also claimed reimbursement for costs that exceeded the amount of the purchase order by \$1,031.90. When OIG staff became aware in 2008 that LSI had not been paid, it did not take corrective action.

EPA Apparently Did Not Send LSI the Purchase Order

Contrary to Federal Acquisition Regulations, the EPA contracting officer apparently did not provide LSI with a copy of the purchase order. The Code of Federal Regulations (CFR), in 48 CFR Section 4.201, requires contracting officers to distribute copies of contracts or modifications within 10 working days after execution. This required distribution includes sending one signed copy of the contract to the contractor. In addition, 48 CFR Section 4.801 states that the documentation in the contract files shall be sufficient to complete a history of the transaction for the purpose of:

- Providing a complete background as a basis for informed decisions in each step of the acquisition process
- Supporting actions taken
- Providing information for reviews and investigations
- Providing essential facts in the event of litigation and congressional interest

Sending the contract to the contractor is particularly important for purchase orders like EP07H001074 to ensure that the government and contractor reached a mutual understanding regarding the terms of the contract. According to 48 CFR 2.101, the contractor may accept a purchase order without signing it by performing the services. In this case, LSI conducted the training seminars.

The contracting officer who signed the purchase order had no proof that he sent LSI a copy of the purchase order. According to him, he usually distributed such documents via e-mail. He recalled that he had difficulty contacting LSI at the time. However, LSI's address was on the purchase order and the procurement request supporting the purchase order, and in the background information on LSI that was in the contracting officer's file. In addition, two of these three documents also had a telephone number for LSI. Thus, the contracting officer had sufficient information to distribute the purchase order to LSI.

According to the LSI office manager, LSI did not receive purchase order EP07H001074. She said that LSI sometimes does not receive a purchase order, but usually there is no problem in processing the payment even if it does not have a purchase order. In those cases, LSI references the contact person's letter or e-mail in the invoice. However, we believe that performing work without the purchase order can lead to misunderstandings about the services to be performed or the amount to be paid, which happened in this case.

EPA Did Not Receive an Invoice From LSI

According to the LSI office manager, LSI promptly sent an invoice after conducting the seminars. She believed that LSI sent the invoices to OIG staff in the Office of Investigations with whom LSI had discussed conducting the training. However, the initial invoice cannot be found, and both Office of Investigations staff members involved had retired before the training was conducted. We believe that the EPA finance center would have processed a properly submitted invoice before July 2011 had an invoice been received. Neither the contracting officer in OARM nor the project officer in the OIG had a record of receiving an invoice from LSI for the May 2007 seminars. Without an invoice, the government will not pay a contractor. Consequently, LSI was not paid.

OIG Lacked Controls to Ensure Contractor Was Paid

While reviewing its outstanding obligations in 2008, the OIG funds control officer realized that LSI had not submitted an invoice. However, neither he nor the OIG project officer contacted LSI or the OARM contracting officer about the matter. EPA's current policy on reviewing such obligations states that it is the responsibility of EPA staff to make certain the contractor submits an invoice in a timely manner. Although the policy does not provide a time frame, we believe an invoice should be received within 2 months after the service has been provided.

The EPA policy also requires each organization, such as the OIG, to have an up-to-date internal standard operating procedure (e.g., narrative and flow chart) that documents its review process. This policy went into effect on October 1, 2010. The OIG has written standard operating procedures that went into effect in 2009, after the outstanding obligations review in 2008.

Based on the 2008 outstanding obligations review, on June 25, 2008, the \$4,000 for the purchase order was incorrectly deobligated in the accounting system. In response to an invoice for \$5,031.90 (the original \$4,000 plus \$1,031.90 for travel costs) from LSI dated July 27, 2011, the OIG arranged to have \$4,000 returned to the purchase order. The contracting officer restored the funding by signing a modification to purchase order EP07H001074 on August 15, 2011. On September 28, 2011, the contracting officer signed an additional modification to pay the entire \$5,031.90. EPA paid LSI \$5,031.90 in November 2011.

Purchase Order Did Not Reflect LSI's Price Quote

LSI's \$5,031.90 invoice dated July 27, 2011, exceeded the amount of the purchase order by \$1,031.90. The difference was because LSI claimed the travel costs of the instructor who performed the training. LSI provided e-mails dated before the procurement requests were initiated that showed that LSI had proposed to the OIG Office of Investigations that the price for the 1-day seminar was \$2,000 plus the actual travel costs of the instructor. The procurement requests the OIG submitted to the contracting officer contained two seminars for \$4,000 with no travel costs.

After receiving LSI's July 27, 2011, invoice, the current OIG project officer, acting on advice from the OARM contracting officer, arranged to have \$1,031.90 added to the purchase order so that EPA could pay LSI the claimed travel costs. Because these costs were outside the scope of the original purchase order, the OIG Assistant Inspector General for Investigations concluded that the change must be approved by an EPA acquisition supervisor at a higher level than the contracting officer (i.e., be ratified). The contracting officer determined that it was in the government's best interest to pay LSI the travel costs because, based on information from the OIG Office of Investigations, the contracting officer believed that an OIG staff member had agreed to pay LSI travel costs through an e-mail exchange with LSI. A service center manager in the Program Contract Service Center, HPOD, approved the determination and finding. The contracting officer signed the amendment on September 28, 2011.

We did not find evidence that an OIG staff member who arranged for the training obligated the government to pay LSI travel costs. In an e-mail dated January 31, 2007, the OIG staff member informed LSI that he wanted the seminar and that the project officer would "get the contract vehicle moving." On February 2, 2007, LSI sent the OIG staff member an offer that identified the price of the 1-day seminar as \$2,000 plus instructor's expenses of transportation and per diem.

However, LSI did not show us any response from the OIG staff member showing acceptance. The other e-mails LSI provided us did not address price. Therefore, we found no evidence that the travel was authorized by the government.

Conclusion

The EPA contracting office and the OIG failed to follow pertinent procedures. The contracting officer's contract file had no proof that the contract was ever distributed to LSI. During its 2008 review of outstanding obligations, the OIG failed to address why the contract obligation remained outstanding over a year after the services were performed, and why it deobligated the funds without contacting either LSI or the contracting officer. Further, LSI performed the requested services without actually seeing the contract requirements. As a result, LSI was not paid \$4,000 in a timely fashion for services rendered, and erroneously believed it was owed another \$1,031.90 for travel costs that were not authorized by the original contract.

Recommendations

We recommend that the Inspector General:

1. Require funds control officers to promptly inform the OIG Chief of Staff when outstanding obligation or other reviews identify contractors that have not been paid for services rendered.
2. Require project officers to contact the contracting officer and the contractor when no invoice is provided within 2 months after services are received.

We recommend that the Director, Headquarters Procurement Operations Division, Office of Acquisition Management, Office of Administration and Resources Management:

3. Require contracting officers to properly document distribution of contract and modification actions in the contract file.
4. Obtain adequate support to pay the travel costs.

Agency Comments and OIG Evaluation

In response to the draft report, the Inspector General stated that he agreed with the findings and recommendations 1 and 2, and will ensure that corrective actions are completed as required. Time frames were provided for the corrective actions. The Inspector General's response is in appendix A. Since we agree with the corrective actions and timeframes, no response to the final report is needed from the Inspector General.

The Director, HPOD, also provided a response to the draft report, which is included in appendix B. He agreed with recommendation 3, identified the corrective action he plans to take, and said that the action would be completed by January 31, 2012. However, he disagreed that additional action was needed regarding the travel costs. He offered an alternate justification as the basis for determining that it was in the best interest of the government to pay LSI the travel costs. The alternate justification was that not including the travel in the original purchase order may have been an oversight by the OIG that would have been corrected had all parties received a copy of the order when it was issued. We accept that justification based on the evidence already provided, and consider recommendation 4 closed. Thus, no response to the final report is needed from the Director.

Status of Recommendations and Potential Monetary Benefits

| RECOMMENDATIONS | | | | | | POTENTIAL MONETARY BENEFITS (in \$000s) | |
|-----------------|-------------|---|---------------------|---|-------------------------------|--|---------------------|
| Rec. No. | Page No. | Subject | Status ¹ | Action Official | Planned Completion Date | Claimed Amount | Agreed-To Amount |
| 1 | 5 | Require funds control officers to promptly inform the OIG Chief of Staff when outstanding obligation or other reviews identify contractors that have not been paid for services rendered. | O | Inspector General | 06/30/12 | | |
| 2 | 5 | Require project officers to contact the contracting officer and the contractor when no invoice is provided within 2 months after services are received. | O | Inspector General | 06/30/12 | | |
| 3 | 5 | Require contracting officers to properly document distribution of contract and modification actions in the contract file. | O | Director, Headquarters Procurement Operations Division, Office of Administration and Resources Management | 01/31/2012 | | |
| 4 | 5 | Obtain adequate support to pay the travel costs. | C | Director, Headquarters Procurement Operations Division, Office of Administration and Resources Management | 12/15/2011 | | |

¹ O = recommendation is open with agreed-to corrective actions pending
 C = recommendation is closed with all agreed-to actions completed
 U = recommendation is unresolved with resolution efforts in progress

Response From Inspector General

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

December 22, 2011

MEMORANDUM

SUBJECT: Draft Report:
Training Contractor Not Promptly Paid Under Purchase Order EP07H001074
Project No. OPE-FY11-0025

TO: Wade T. Najjum
Assistant Inspector General for Program Evaluation

This memorandum responds to the recommendations included in the above-referenced report and includes corrective action plans. We are in general agreement with the findings and recommendations and we will ensure all corrective actions are completed as required.

Recommendations and Responses:

Recommendation 1: Require funds control officers to inform the OIG Chief of Staff when outstanding obligations or other reviews identify contractors that have not been paid for services rendered.

Response: The Office of Inspector General (OIG) concurs with the above recommendation. Funds control officers conduct reviews of unliquidated obligations annually in accordance with Agency policy and the Office of Management and Budget Circular A-123, as part of that review, a report will be sent to the Assistant Inspectors General, Counsel, and Chief of Staff outlining those obligations that need to be deobligated or remain open. Beginning this fiscal year, Office of the Chief of Staff (OCOS) will conduct this review semiannually. In instances where we find unliquidated balances, the OIG funds control officer will initiate communication with the project officer to facilitate necessary action.

Recommendation 2: Require project officers to contact the contracting officer and the contractor when no invoice is provided within 2 months after services are received.

Response: The OIG concurs with the above recommendation. The OIG will implement a timeframe of 30 days for project officers to notify the contracting officer and contractor when no

invoice is received after services are rendered. The OIG OCOS is revising the OCOS acquisition policies and procedures to reflect this change. We expect to complete this revision by second quarter 2012.

Should you have any questions regarding this response, please contact my Chief of Staff, Aracely Nunez-Mattocks, at (202) 566-0840.

/s/
Arthur A. Elkins, Jr.

Response From Director, HPOD



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

OFFICE OF
ACQUISITION
MANAGEMENT

December 15, 2011

MEMORANDUM

SUBJECT: Response to the Draft Report “Training Contractor Not Promptly Paid Under Purchase Order EP07H001074” Project No. OPE-FY11-0025

FROM: Thomas W. Dussault, Director
Headquarters Procurement Operations Division
Office of Acquisition Management
Office of Administration and Resources Management

TO: Wade T. Najjum
Assistant Inspector General for Program Evaluation

CC: Christine Baughman

In accordance with EPA Manual 2750, this memorandum provides my response to the subject report dated December 7, 2011. Overall, I agree with the factual accuracy of the report. There are two minor revisions that I recommend:

1. On page three in the first sentence, you state that Federal Acquisition Regulation (FAR) 4.803 provides a list of required documents for the contracting file, if applicable. For this particular procurement, under the simplified acquisition threshold, there is no requirement for a contract award synopsis in accordance with FAR 5.301(a) since the action is below \$25,000.00. Therefore, there is no requirement for an award notice in the file. I recommend you remove the reference to Title 48 CFR Section 4.803.
2. On page four, the last sentence of the fourth paragraph should be revised to read “The contracting officer signed the *modification*...” in lieu of “The contracting officer signed the *amendment*...” since amendments are expressly used for changes in solicitations and

work assignments, while modifications are used for changes to contracts and task/delivery/purchase orders

Regarding your recommendations for the Headquarters Procurement Operations Division (HPOD), I concur in part as noted below.

Recommendation #3 – Require contracting officers to properly document distribution of contract and modification actions in the file.

I will send a written notice to all HPOD employees to remind them to continue to use electronic means to distribute signed contract documents in portable document format (PDF). Distribution shall be to the contractor, the program office customer, and the appropriate section of the Research Triangle Park Finance Center (RTP-FC).

Since the occurrence of this particular isolated event in FY07, safeguards have been instituted via the transition to the EPA Acquisition System (EAS). Any contract action that is released in the EAS automatically sends a notice to RTP-FC. If a signed document is not distributed, RTP-FC contacts the contracting officer requesting a signed copy of the action. This reminder should be sufficient to remind the contracting officer to ensure appropriate distribution was made to all parties.

In the spirit of moving to a paperless contracting environment, the requirement to print e-mails not only uses finite physical filing space, but increases our environmental impact. HPOD processes thousands of actions each fiscal year and the need to print electronic records would be unduly burdensome and resource intensive. I will encourage my staff to maintain electronic archives of file distribution should the need arise to prove document distribution. In the future, EAS may be used to include document distribution electronically as its capabilities evolve, lessening our environmental footprint and furthering our support of the Agency's mission.

In this isolated incident, the contractor should not have proceeded with performance without a written order, nor should the program office have participated in training without a copy of a signed order.

A notice to HPOD employees will be issued by January 31, 2012 to address the importance of accurate and complete document distribution.

Recommendation #4 – Obtain adequate support to pay travel costs

Since this incident was brought to the attention of the current cognizant contracting officer sufficient documentation was provided to support the fact that the Government derived a direct benefit from the services provided by the training contractor. While neither the initial purchase request nor the resultant purchase order included reference to travel costs, the Government was put on notice via the contractor's correspondence that travel costs were a separate line item prior

to order issuance. A determination and findings was reviewed, approved, and executed to ratify travel costs. Since then, the contractor has been paid for their services in full.

This was an isolated incident and not systemic. Contracting officers and contract specialists review quotes for conformance to programmatic requirements as a responsibility of their position and prepare file documentation to support award decisions as a basic function of their position. The fact that the requisitioner did not identify travel costs on the initial procurement request may have been an administrative error that would have been corrected had all parties received a copy of the order when it was issued.

We look forward to strengthening the acquisition process and ensuring effective and efficient contracting processes. If you have any questions regarding my response, please feel free to contact me at (202) 564-4705 or via e-mail at dussault.thomas@epa.gov.

Distribution

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