



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001**

April 24, 2015

MEMORANDUM TO: Cynthia A. Carpenter, Director
Office of Administration

FROM: Catherine Haney, Director */RA Scott W. Moore for/*
Office of Nuclear Material Safety
and Safeguards

SUBJECT: REQUESTED RATIFICATION STATEMENT OF FACTS

The information below addresses the request for relevant information concerning the unauthorized commitment and a complete written statement of facts regarding Purchase Order (PO) NRC-HQ-13-P-02-0082 for maintenance of the off-the-shelf, "Safer HAZMAT Responder" (Safer) software package, software program updates and enhancements, including major upgrades and new releases, and providing up to 40 hours per year of technical support to the U.S. Nuclear Regulatory Commission (NRC) staff as necessary. This information is provided in response to a memorandum from Sandra Harrell, Office of Administration (ADM), to me, dated March 27, 2015, providing instructions for requesting ratifications of an unauthorized procurement.

- (1) A statement regarding the nature of the unauthorized procurement action and the individuals involved, including all managers who knew of the action and allowed it to take place.

RESPONSE: PO NRC-HQ-13-P-02-0082 was awarded on September 16, 2013, for one 12-month base period and two 12-month option periods. The PO expired on September 15, 2014. No action was taken before the expiration of the base year to extend the period of performance and no procurement actions took place after the expiration of the PO. The contractor made no attempt to revoke the software licenses provided under this PO. The Office of Nuclear Material Safety and Safeguards (NMSS) and the Office of Nuclear Security and Incident Response (NSIR), not being aware of the expiration, did not request a stoppage of work until March 12, 2015. The Safer software is utilized by NRC for certain emergency response events, exercises, and training. No events, exercises, or training occurred between September 15, 2014, and March 12, 2015, that would have utilized the software, so the software was dormant, although presumably available. Furthermore, no technical support was request by NMSS or NSIR during this period; however, the contractor initiated installation of a second license for the software at the NRC Headquarters Operations Center in late September 2014.

The Contracting Officer Representative (COR) from NMSS, Michael G. Raddatz, believed that PO NRC-HQ-13-P-02-0082 was issued with a base period of performance of 3 years. On October 29, 2014, in anticipation of the PO's annual invoice for continued Safer software

CONTACT: James R. Downs, NMSS/FCSE
301-415-7744

licensing, maintenance, and technical support, the COR initiated Requisition (REQ) NMSS-15-0034 in the NRC's Strategic Acquisition System (STAQS), to obligate \$31,620 of incremental funding. The requisition was released to the ADM Acquisition Management Division (AMD) for action on December 18, 2014. During the review of the REQ, a Contract Specialist (CS) noted that funds could not be added as the first option year under the PO had not been exercised. The COR, still not realizing the PO had expired, edited the REQ and resent it to the CS. The COR pursued no further follow-up action because he believed the funding was obligated as requested.

On February 9, 2015, the COR went on extended sick leave and an alternate COR, James R. Downs, was asked to oversee the PO until the COR's expected return in June 2015. On February 10, 2015 the alternate COR was made aware of an unpaid invoice from the contractor, dated November 18, 2014. After obtaining some background information from STAQS, the alternate COR contacted a Senior CS for guidance. The invoice was disapproved on March 3, 2015, due to a lack of funds. Also on March 3, 2015, the Senior CS notified the alternate COR that a request for ratification was needed and to expect a memorandum outlining the instructions.

NMSS management was not aware of the issues involving the PO until the invoice was disapproved. On March 12, 2015, NMSS management requested that the NRC Headquarters Operations Center and Region II discontinue use of Safer until further notice.

- (2) A discussion of the program requirements and an explanation of how the unauthorized procurement action occurred, and why it was considered valid and necessary to meet program requirements.

RESPONSE: Safer is an important emergency response tool used by the NRC Headquarters Operations Center and Region II during certain events, exercises, and training. It is an NRC program requirement that a systematic approach be followed during the NRC's event response. Safer assists in meeting the NRC's program requirement by providing rapid updates that allow quick visualization of the event. The Safer software is designed to work with a variety of meteorological and gas sensor data sources, including live weather and live gas sensor data, allowing it to provide an array of useful event response support information. Analysis tools can be used to determine chemical concentrations, dosage, and building infiltration. When the event is over, be it an exercise or actual event, Safer can provide critical information for meeting additional NRC program requirements, such as post-event analysis, regulatory reporting, or legal purposes. A break in service would be detrimental to the effectiveness and efficiency of the NRC's event response.

The COR requested a 3 year, base period of performance for PO NRC-HQ-13-P-02-0082 and inadvertently assumed the PO was issued as such. The PO was actually awarded for one 12-month base period and two 12-month option periods. No action was taken before the expiration of the base year to extend the period of performance and no procurement actions took place after the expiration of the PO. The contractor made no attempt to revoke the software licenses provided under this PO. NMSS, not being aware of the expiration, did not request a stoppage of work until March 12, 2015.

- (3) Explain whether or not competition was sought. Provide an explanation of the initial selection of the proposed contractor (i.e., market research or sole source justification) include names, addresses, phone numbers, and provide quotes received from any other sources that were considered.

RESPONSE: Market research from the origination of PO NRC-HQ-13-P-02-0082 is not available to NMSS. There was no competition sought after the expiration of the PO.

- (4) A statement of any approvals or clearances received for the unauthorized procurement action, including a listing of who told the contractor to proceed and on what date the contractor was so notified.

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- (5) A description of the work performed or products furnished, date inspected and accepted, including the date work started for services.

RESPONSE: Work began on PO NRC-HQ-13-P-02-0082 on September 16, 2013, for maintenance of the Safer software, updates and enhancements, including major upgrades and new releases, and providing up to 40 hours per year of technical support to the NRC staff as necessary.

The Safer software is utilized by the NRC for certain emergency response events, exercises, and training. None of these took place that would have utilized the software from when the PO expired on September 15, 2014, through March 12, 2015; so although the software was presumably available, it was dormant. Furthermore, no technical support was request by NMSS or NSIR during this period; however, the contractor initiated installation of a second license for the software at the NRC Headquarters Operations Center in late September 2014.

- (6) The estimated or agreed to purchase price and the estimated or agreed to completion date and the date when they were agreed to (include how price or cost reasonableness was evaluated and who agreed to it).

RESPONSE: The cost for the first option year was previously agreed upon at \$31,620.

- (7) A copy of the most current invoice, if any.

RESPONSE: The most current invoice is enclosed.

- (8) A description of what has been done to prevent recurrence, including any disciplinary action taken against parties involved.

RESPONSE: Going forward, a monthly forum for the NMSS CORs will be established to provide an opportunity to discuss issues with their peers and contracting subject matter experts, as needed, and provide training on the information available in STAQS and NEAT. The Deputy Director for Operations, Acquisition Management Division, Office of Administration has agreed to support this forum.

No disciplinary actions have been taken against the involved parties as there is no evidence of intent to defraud the government.

- (9) A description of any attempts made to involve properly authorized procurement personnel before any commitment was made to the contractor (include any factors which prevented such involvement).

RESPONSE: Properly authorized procurement personnel were engaged throughout the process that began on October 29, 2014, when the COR submitted REQ NMSS-15-0034 to obligate \$31,620 for incremental funding of the PO. The requisition was released to AMD for action on December 18, 2014. During the review of the REQ, a CS noted that funds could not be added as the first option year under the PO was not exercised. The COR, still not realizing the PO had expired, edited the REQ and resent it to the CS. The COR pursued no further follow-up action because he believed the funding was obligated as requested.

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- (10) Provide a statement addressing whether or not funds were available at the time of commitment and whether or not they are still available to date.

RESPONSE: Funds were available at the time STAQS REQ NMSS-15-0034 was requested. Those funds remain available to obligate to the PO.

- (11) Any other pertinent information regarding the unauthorized procurement action or the ratification request.

RESPONSE: No other pertinent information is available.

If you have any questions, please contact James Downs at 301-415-7744, or via e-mail to James.Downs@nrc.gov.

Enclosure:
Invoice dated Nov 18, 2014 (copy)

cc: J. McMillian, OIG

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DISTRIBUTION:

FCSE, r/f RidsNmss,FCSE SBumpass, ADM/AMD SHarrell, ADM/AMD
JPulaski, ADM/AMD J. Corbett, ADM/AMD CSchum, NMSS/PBPA **ML15077A417**

OFFICE	FCSE/ECB	FCSE/ECB	FCSE/ECB	FCSE	NMSS/PBPA	NMSS/PBPA	NMSS
NAME	JDowns	DMiller	BSmith	MBailey	CPoland	CSchum	CHaney
DATE	03/19/15	03/20/15	03/20/15	03/23/15	03/24/15	04/22/15	04/24/15

OFFICIAL RECORD COPY

Copy of the most recent invoice

Enclosure

Invoice

Invoice Number: 5396

Sold To:
U.S. DEPARTMENT OF INTERIOR/NBC
DEPT. OF INTERIOR/NBC
FSB-D2770, 7301 W. MANSFIELD A
DENVER, CO 80235-2230

Ship to:
U.S. NUCLEAR REGULATORY COMMISSION
DEPT. OF INTERIOR/NBC
FSB-D2770, 7301 W. MANSFIELD A
DENVER, CO 80235-2230

Page:
1

Customer ID	Customer PO	Shipping Method	Payment Terms
NRC101	NRC-HQ-13-P-02-0082	Best Way	Net 30 Days
Sales Order	Invoice Date:	Ship Date	Due Date
44068	Nov 18, 2014		12/18/14

Quantity	Item	Description	Unit Price	Extension -
1.00	SPT-HR1	1 YEAR SUPPORT FOR HAZMAT RESPONDER FOR PRIMARY LICENSE	9,900.00	9,900.00
2.00	SPT-HZR2	ANNUAL SUPPORT FOR HAZMAT RESPONDER INCLUDING 2 CLIENT LICENSES	1,500.00	3,000.00
1.00	SPT-INTWSUB	WEATHERBUG PROFESSIONAL ANNUAL SUBSCRIPTION FOR PRIMARY LICENSE	500.00	500.00
1.00	SPT-INTWSUB	WEATHERBUG PROFESSIONAL ANNUAL SUBSCRIPTION FOR CLIENT 1 LICENSE	500.00	500.00
1.00	SPT-INTWSUB	WEATHERBUG PROFESSIONAL ANNUAL SUBSCRIPTION FOR CLIENT 2 LICENSE	500.00	500.00
1.00	SRV 617	SAFER HAZMAT RESPONDER TRAINING (ONE 8 HOUR SESSION - INCLUDES TRAVEL EXPENSES AND TRAINING MATERIALS)	10,220.00	10,220.00
1.00	SRV 641	ENGINEERING SERVICES: PROVIDE UP TO FORTY (40) HOURS OF DIRECT TECHNICAL	7,000.00	7,000.00

REMIT TO ADDRESS:
SAFER SYSTEMS, L.L.C.
ATTN: ACCOUNTS RECEIVABLE
4165 E. THOUSAND OAK BLVD, SUITE 145
WESTLAKE VILLAGE, CA 91362 USA

BANKING INFORMATION (NEW)
Comerica Bank
2900 North Loop West, 9th Floor
Houston, TX 77092
Routing #111000753
Account # 1881-70532-9
SWIFT# MNBDUS33

Subtotal
Sales Tax
Freight
INVOICE TOTAL

Continued
Continued
Continued

LATE PAYMENT CHARGE - Terms are net 30 days from date of invoice. Payments are delinquent 30 days from date of invoice. A 1.5% per month service charge (18% per year) will be billed on delinquent payment or unpaid balance. Supplier (SAFER) reserves the right to change the credit terms at anytime when, in supplier's opinion, customer's financial condition or previous payment record so warrant. NO RETURNS WILL BE ACCEPTED WITHOUT PRIOR AUTHORIZATION.

F.E.I.N - 20-0123690

Invoice

Invoice Number: 5396

Sold To:
U.S. DEPARTMENT OF INTERIOR/NBC
DEPT. OF INTERIOR/NBC
FSB-D2770, 7301 W. MANSFIELD A
DENVER, CO 80235-2230

Ship to:
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Sales Order	Invoice Date:	Ship Date	Due Date	
44068	Nov 18, 2014		12/18/14	
Quantity	Item	Description	Unit Price	Extension -
		SUPPORT FOR YEAR 2 (OPTION YEAR 1) TO USERS AS NECESSARY. TRAINING IS TO BE MUTUALLY SCHEDULED BETWEEN SAFER ENGINEER AND NRC.		

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4165 E. THOUSAND OAK BLVD, SUITE 145
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Comerica Bank
2900 North Loop West, 9th Floor
Houston, TX 77092
Routing #111000753
Account # 1881-70532-9
SWIFT# MNBDUS33

Subtotal US\$ 31,620.00
Sales Tax
Freight
INVOICE TOTAL US\$ 31,620.00

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