

# Audit of Procurement of Court Reporting Services

## Report No. OIG-AMR-31-01-01

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INSPECTOR GENERAL

### NATIONAL LABOR RELATIONS BOARD

WASHINGTON, DC 20570

March 12, 2001

I hereby submit an *Audit of Procurement of Court Reporting Services*, Report No. OIG-AMR-31-01-01. This review was conducted to assess whether (1) the Agency contracted for court reporting services in conformance with the Federal Acquisition Regulations and other applicable guidance and (2) controls were in place to ensure that contractors provided services acceptable to the user and in accordance with contract specifications.

The Agency's FY 2000 appropriation was \$206 million, of which close to \$1.3 million was spent on court reporting services. A separate contract for court reporting services was awarded for each Regional Office (RO), Subregional Office, and the Anchorage Resident Office. Headquarters needs are provided through the Baltimore RO contract. Resident Office needs are provided through the related RO contract.

All contracts result from one solicitation which identified the required transcript format and delivery requirements. Format requirements include items such as page margins, print type, indenting, the organization and presentation of exhibits, and the indexing of witnesses and exhibits. The contractor is allowed 3, 5, or 10 days to deliver transcripts depending on the event being transcribed. Contractors' fees are reduced for late delivery of transcripts. The differences in the contracts awarded are primarily the price for services. One copy of the transcript is delivered to the field office which is responsible for monitoring the timeliness and quality of transcripts. ROs verify and monitor court reporting charges.

We judgmentally selected three Regions to review - Region 2 - Manhattan, Region 5 - Baltimore, and Region 28 - Phoenix. For each Region selected, we reviewed contract files maintained in the Procurement and Facilities Branch to determine whether the files included information required to demonstrate that the contractor selected had the ability to perform the requirements of the contract. We judgmentally selected transcripts in the three offices and reviewed them to determine whether they were prepared in conformance with contract specifications. We also selected one month of

invoices from each office and reviewed them to determine whether they were accurate, the correct amount was paid, and whether the payments were adequately supported.

Contractors inaccurately billed the Agency for court reporting services, the Agency made both overpayments and underpayments, and transcripts delivered and accepted were not prepared in conformance with contract specifications.

The Agency was overbilled \$2,030 by contractors for nine hearings, mostly related contractors not making appropriate price adjustments for late transcript delivery. The accuracy of charges for seven hearings in Manhattan totaling \$3,004 could not be verified because transcript reports were not date stamped.

The Agency overpaid four invoices for a total overpayment of \$1,037 and underpaid seven invoices for a total underpayment of \$734.89. We were unable to verify that payments made on two cancellations in Manhattan totaling \$200 were appropriate because office records did not include cancellation reports.

We found transcript format deficiencies concerning the certification of transcripts by court reporters, preparation and indexing of exhibits, indexing of witness testimony, and page margins and text placement in transcripts.

Recommendations addressing these findings can be found on page six of this report.

An exit conference was held on February 8, 2001, with the Division of Operations-Management Assistant General Counsel, Procurement and Facilities Branch Chief, and Contracts and Procurement Section Chief. They generally agreed with the findings and recommendations made in the report. Management's comments are presented in their entirety as an appendix to this report.

Jane E. Altenhofen  
Inspector General

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## BACKGROUND

The National Labor Relations Board (NLRB or Agency) administers the principal labor relations law of the United States, the National Labor Relations Act of 1935, as amended, which is generally applied to all enterprises engaged in interstate commerce, including the United States Postal Service, but excluding other governmental entities as well as the railroads and the airline industries. The Agency performs its mission by: (1) conducting secret ballot elections to determine if a group of employees wishes to be represented, for collective bargaining purposes, by a labor organization; (2) adjudicating representation issues if the parties cannot reach agreement; (3) investigating charges of unfair labor practices filed by the public with the Agency; (4) prosecuting, if the parties cannot settle and reach an agreement, those cases of unfair labor practices which the Agency determined to have merit; and (5) adjudicating those unfair labor practice cases which the Agency litigates.

In Fiscal Year (FY) 2000, the Agency employed about 1,947 people at Headquarters and in 32 Regional, 3 Subregional, and 16 Resident Offices (field offices). The Agency's FY 2000 appropriation was \$206 million, of which close to \$1.3 million was spent on court reporting services. Approximately 30,000 charges of unfair labor practices and 6,000 representation petitions are filed with the NLRB each year.

A separate contract for court reporting services is awarded for each Regional Office (RO), Subregional Office, and the Anchorage Resident office. Headquarters needs are provided through the Baltimore RO contract. Resident Office needs are provided through the related RO contract. All contracts result from one solicitation which identified the required transcript format and delivery requirements. Format requirements include items such as page margins, print type, indenting, the organization and presentation of exhibits, and the indexing of witnesses and exhibits. The contractor is allowed 3, 5, or 10 days to deliver transcripts depending on the event being transcribed. Contractors' fees are reduced for late delivery of transcripts. The differences in the contracts awarded are primarily the price for services.

One copy of the transcript is delivered to the field office which is responsible for monitoring the timeliness and quality

of transcripts. ROs verify and monitor court reporting charges.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

This audit was conducted to assess whether (1) the Agency contracted for court reporting services in conformance with the Federal Acquisition Regulations and other applicable guidance and (2) controls were in place to ensure that contractors provided services acceptable to the user and in accordance with contract specifications. Our audit covered contracts for court reporting services for the period October 1, 1998 through September 30, 2000.

We judgmentally selected three Regions to review - Region 2 - Manhattan, Region 5 - Baltimore, and Region 28 - Phoenix. In doing so we considered factors such as transcript volume and input from management officials. Of close to \$1.3 million obligated for court reporting services in FY 2000, \$203,064 was for the three ROs reviewed - \$82,832 in Manhattan, \$88,518 in Baltimore and \$31,714 in Phoenix.

For each RO selected, we reviewed contract files maintained in the Procurement and Facilities Branch to determine whether they included questionnaires and representations identified in the solicitation which are collected, in large measure, to demonstrate that the contractor selected has the ability to perform the requirements of the contract.

We judgmentally selected 28 transcripts in the three offices visited - 11 in Phoenix, 9 in Manhattan, and 8 in Baltimore - and reviewed them to determine whether they were prepared in conformance with contract specifications.

In each office visited we selected invoices for one month and reviewed them to determine whether they were accurate, the correct amount was paid, and whether the payments were supported by documentation including the Transcript Report (Form NLRB 5383), Proceeding and Transcript Deficiency Report (Form 5353), Report of Cancellation or Postponement (Form NLRB 5385), and Report of Overtime at Scheduled Hearing (Form NLRB 5384). Our testing included the billing and payment for 40 transcripts - 11 in Phoenix, 18 in Manhattan, and 11 in Baltimore - totaling over \$29,000 and 13 charges related to canceled hearings or settlements after the hearing occurred for which transcripts would not be needed - 8 in Phoenix and 5 in Manhattan - for \$900.

This audit was performed in accordance with generally accepted government auditing standards during the period September through November 2000.

## **FINDINGS**

### **CONTRACT AWARD**

Federal regulations require that the Agency determine that the prospective contractor is responsible before awarding the contract. The Solicitation sets forth how the Agency determines that the offeror is qualified and what documents the contractor is to furnish for the Agency to make a determination. The Solicitation requires that the offeror with the apparent low bid furnish evidence of financial responsibility by submitting to the contracting officer the information requested by the Financial Responsibility Questionnaire (Attachment V of the Solicitation) and evidence of business responsibility by submitting the Business Responsibility Questionnaire (Attachment VI of the Solicitation). The apparent low bidder is also to submit a Certificate of Independent Price Determination, Offeror Representations and Certifications - Commercial Items, Type of Business Organizations, and Place of Performance.

Procurement files contained either the required financial and business responsibility questionnaires and evidence of their review or a certificate of competency from the Small Business Administration for three contracts reviewed. Procurement files also contained all other required submissions listed above.

### **CONTRACT ADMINISTRATION**

Contractors inaccurately billed the Agency for court reporting services, the Agency made both overpayments and underpayments for reporting services, and transcripts delivered and accepted were not prepared in conformance with contract specifications. Disparate administration of monitoring procedures by field office personnel contributed to the problems found.

Officials from both the Procurement and Facilities Branch and the Division of Operations-Management stated that the Solicitation contains the uniform procedures for monitoring court reporting contracts. We found that field office personnel did not use the Solicitation to monitor the contracts and one office, Manhattan, claimed to not have a copy of the Solicitation. Baltimore developed written procedures for monitoring invoices and the format of transcripts, Phoenix uses a clerical manual issued by the Division of Operations-Management, and Manhattan claimed to have no written procedures to monitor invoices and transcript format. Sound controls over court reporting should include the uniform administration of procedures to monitor the acceptance of and payment for court reporting services including determining whether deliverables meet contract specifications and the amounts charged are accurate.

## **TRANSCRIPT FORMAT**

Transcript format requirements are identified in NLRB Solicitation 99-SB-00020 dated July 17, 1998, and include items such as the title page, page margins, indenting, number of lines per page, line numbering, the indexing of witnesses and exhibits, the organization and presentation of exhibits, and the certification of the transcript testimony by the court reporter. The adherence to contract specifications is necessary to ensure that user needs are met and that the Agency is obtaining the product they are paying for at the appropriate price.

Form NLRB-5353, Proceedings and Transcript Deficiency Report, is to be completed and signed by the appropriate Agency official in the event of a late appearance by the reporter at a scheduled proceeding or a significant deficiency in the quality of the reporting service including the transcript. The completed form is to be sent to the Chief, Contracts and Procurement Section. Although deficiencies were discovered in each RO visited, a review of files in the Contracts and Procurement Section showed that none of the offices prepared and submitted the report.

## **Court Reporter Certification**

Each volume of transcripts is to contain a certification made by the court reporter. The language and form the certification shall take is included in the contract. Each volume of transcripts reviewed contained a court reporter certification, but none contained the required language. Three certifications in Baltimore were not signed by the court reporter.

## **Exhibits**

Exhibits are to be numbered, tabbed, and organized into a series of consecutive numbers based on the party submitting the exhibit. Also, each exhibit is to be authenticated by the reporter using a stamp that is filled out to collect information deemed necessary to identify and catalog the exhibit.

Seven transcripts - one in Manhattan and six in Baltimore - contained exhibits that had not been stamped. Eleven transcripts - four in Manhattan and seven in Baltimore - contained transcripts that were not tabbed.

## **Exhibit Index**

Exhibits shall be indexed in three columns, double spaced and grouped by party. The first column contains the numbers of the exhibits preceded by the letter identifying the party submitting the exhibit, the second column contains the pages at which the exhibits are marked for identification, and the third contains the page numbers at which the exhibits are received into evidence.

Fourteen transcripts contained exhibit indexes that were not in conformance with the contract criteria. Twelve - seven in Phoenix and five in Baltimore - were not double spaced, one in Manhattan did not include the page number where the exhibits are referenced in the transcript text, and another in Manhattan did not have exhibits numbered correctly.

### **Witness Index**

Witnesses shall be indexed in five columns and double spaced. The columns are to consist of full names of witnesses and the page numbers containing direct examination, cross-examination, redirect examination, and further cross-examination of the witnesses.

Five witness indexes - three in Baltimore and two in Manhattan - were not prepared as described above. Three in Baltimore were not double spaced. One in Manhattan did not contain the five columns of information identified above or the full names of witnesses. Another case in Manhattan did not identify the page on which the witnesses' testimony appeared.

### **Margins and Text Placement**

Margins are to be set as follows: top at 1 inch, bottom at 1.6 inches, left at 1.7 inches, and right at .4 inches. Testimony is to be identified using the letter "Q" to identify a question, "A" to identify an answer, or the name of the speaker. Positioning of the "Q", "A", or speaker name is to appear as close to the left as possible. Typing is to begin as close to the left margin as possible, and each line is to be numbered.

Right margins were not in accordance with the contract for nine transcripts reviewed - eight in Baltimore and one in Manhattan, and left margins were not in accordance with specifications in four transcripts reviewed - three in Baltimore and one in Manhattan. None of the eight transcripts reviewed in Baltimore had the text lined up as close to the left as possible. Two transcripts - both in Manhattan - did not contain line numbers. The result of setting page margins less than contract specifications is that the contractor may utilize more pages when preparing transcripts causing the Agency to expend additional resources for transcripts.

### **BILLING**

The Agency was overbilled \$2,030 by contractors for nine hearings - one in Phoenix for \$15, two in Manhattan totaling \$787, and six in Baltimore totaling \$1,228. Overbillings were most frequently related to the contractor not making appropriate price adjustments for late transcript delivery. Invoices for two cancellations in Manhattan could not be verified because the Report of Cancellation or Postponement, Form 5385, was not available for review. The accuracy of charges for seven hearings in Manhattan totaling \$3,004 could not be verified because transcript reports were not date stamped.

### **PAYMENTS**

The Agency overpaid four invoices for a total overpayment of \$1,037 - one for \$15 in Phoenix, two totaling \$787 in Manhattan, and one for \$235 in Baltimore - and underpaid seven invoices - all in Baltimore - for a total underpayment of \$734.89. We were unable to verify that payments made on two cancellations in Manhattan totaling \$200 were appropriate because office records did not include cancellation reports.

## **RECOMMENDATIONS**

We recommend that the Associate General Counsel, Division of Operations-Management coordinate with the Procurement and Facilities Branch to:

1. Inform field office personnel that the Solicitation contains the Agency's procedures for reviewing transcripts for acceptance and invoices for payment. Significant areas of the Solicitation should be identified.
  2. Develop a schedule of regular reviews to verify whether field offices are correctly monitoring court reporting contracts.
  3. Provide training necessary for field office personnel to perform their functions as contracting officers technical representatives for the court reporting contract.
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## APPENDIX

UNITED STATES GOVERNMENT  
**National Labor Relations Board**

Memorandum

**TO:** Jane E. Altenhofen  
Inspector General

**FROM:** Richard A. Siegel, Associate General Counsel  
Division of Operations-Management  
and  
Gloria Joseph  
Director of Administration

**DATE:** March 9, 2001

**SUBJECT:** Draft Report "Audit of Procurement of Court Reporting Services"

This is in response to your memorandum, dated February 8, 2001, regarding the Draft Report "Audit of Procurement of Court Reporting Services".

Attached are three action plans that outline the specific actions, which will be taken with regard to each of the three recommendations. Actions in response to three recommendations have a target completion date of June 30, 2001.

We have no comment on any other aspect of the report. Please contact Rick Siegel on 273-2900 or Gloria Joseph on 273-3890 if you have any questions.

Attachment

cc: Chairman  
Acting General Counsel  
Procurement and Facilities Branch