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Inspector General

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April 11, 2011

Helena Williams
President
MTA Long Island Rail Road
93-02 Sutphin Boulevard
Jamaica, NY 11435

Re: Avon Electrical Supplies
MTA/OIG #2011-04

Dear Ms. Williams:

This Office has concluded its investigation of an allegation that Avon Electrical Supplies (Avon) has been overcharging MTA Long Island Rail Road (LIRR) for the electrical supplies it provides pursuant to Blanket Purchase Orders (BPOs) covering Queens and Suffolk counties. Our investigation has substantiated the allegation and identified overcharges of \$47,264 made from August 2008 through February 2009. Accordingly, this Office recommends that LIRR recover this amount plus any additional overcharges that LIRR identifies after LIRR conducts a complete review of all purchases made under these BPOs from the time of their award. LIRR also should conduct a responsibility hearing to determine whether Avon's performance under this contract renders it non-responsible for future contracts.

BACKGROUND

LIRR awarded two Blanket Purchase Orders (BPOs 2421 and 2422) to Avon on May 11, 2005, as the prime contractor for an indefinite quantities contract to provide electrical supplies; secondary and tertiary contracts were awarded to other vendors in the event that Avon was unable to supply a product in a timely manner. The contracts, for Queens and Suffolk counties, provide that the base price for materials purchased through the contracts will be the price listed by the "i2Trade service," also known as "Tra-Ser." Tra-Ser is an online service that quotes prices for products on a daily basis. To this base price, the contracts with Avon provide that Avon will apply a percentage discount to the price of the item. LIRR will pay this discounted price. The discounts will remain fixed for the duration of the contract. Contract values for BPOs 2421 and 2422 would not exceed \$675,000.00 and \$766,711 respectively. All BPOs include a schedule of discounts ranging from 26% to 95% for 51 manufacturers. In addition, the BPOs provide that a 30% discount shall be applied to items that are not found in Tra-Ser.¹ According to LIRR, the crucial variable in the vendor bids was the discount offered to LIRR. LIRR

¹Tra-Ser provides the manufacturer's list price for the product on the day that it is ordered. Discounts are calculated based on the manufacturer and amount listed on the BPO. If a quote reads "not in trade service," the vendor applies a generic markdown of 30%.

explained that Avon was able to offer a larger discount because of the purchasing power of Wesco, its parent company. The contract does not require the vendor to provide LIRR with documentation of the Tra-Ser price of the purchased product, and LIRR does not subscribe to the service, so they cannot independently verify the quoted prices.

INVESTIGATION

In April 2009, OIG received an anonymous complaint, accompanied by 77 invoice copies, alleging that Avon had been overcharging LIRR on its contracts for years. The complainant alleged that it is a “common practice throughout [sic] the company and supported by all levels of management.” Each invoice illustrated the alleged overcharging by including a hand-written price beside the invoiced price, then subtracting the contractually required discount, and attaching a copy of the Tra-Ser listing for the product, verifying the actual product price. The 77 invoices appeared to corroborate the allegation. OIG met with LIRR representatives in Procurement, Engineering, and Accounts Payable to learn more about the contracts’ requirements.

Purchases Made through the BPOs

When the need for an electrical product is identified by a LIRR department working in Queens or Suffolk counties, the requesting department will contact its Materials Coordinator, who will then request the product and a quote from Avon. The request is faxed to Avon and the “Request for Quote” is entered into the Procurement Logistics System (“PLS”), the electronic record keeping system. Avon must then provide a price quote for the material and a turn-around time. If the vendor does not respond in a reasonable time, the request will be sent to the secondary vendor and if it cannot be obtained from the secondary, it is sent to the tertiary vendor. OIG was informed that the vendors do not always provide documentation of the Tra-Ser pricing with their quotes, with an estimate that Tra-ser pricing was included 60% to 70% of the time. OIG was given conflicting information about the vendor’s obligation to submit Tra-Ser pricing documents. LIRR Procurement told OIG that the vendor was required to submit Tra-Ser documentation; the Materials Coordinator knew that it was not contractually required, but said that it was initially requested from the vendor.

When the products are delivered, a receiving report is completed by the facility confirming the quantity of materials received. The receiving reports are attached to the purchase orders and the receipt is posted to the PLS system. OIG was told that a completed Vendor Purchase Order package should include: the purchase order, a detailed printout of needed materials, the requisition, the vendor quote, the Tra-Ser detail if provided, the packing slip and the receiving report.

OIG Review of Completed Avon Purchase Orders from August 2008 through February 2009

OIG representatives collected and analyzed 122 purchase orders between LIRR and Avon during the period August 2008 through February 2009. Using NYC Transit's Tra-Ser subscription,² we verified the product prices for all items listed on these purchase orders. We recalculated net prices and performed a comparison with Avon's invoices.

As an initial matter, and a critical consideration for price verification, OIG representatives found that Avon did not provide a Tra-Ser print out for approximately half of the purchase orders we reviewed. When we obtained the Tra-Ser price that was in effect at the time of the order, we found that the base price of the product on Avon's invoices did not match the Tra-Ser price: the base price submitted by Avon was higher 41% of the time. Additionally, Avon either did not offer a discount or gave LIRR less of a discount than required by their contract 55% of the time. These pricing discrepancies resulted in LIRR being overcharged \$47, 264 of the \$170, 976 it paid Avon, or 28%. Because of the frequency of the pricing errors by Avon and the contract values, we have little confidence that invoices outside of our sample contain proper pricing and believe that a complete review of the purchase orders for all of Avon's BPOs should be conducted by LIRR.

FINDINGS

1. Avon has overcharged LIRR for electrical products by not complying with the BPO pricing requirements, such as relying on Tra-Ser prices and applying the contractual discounts.
2. LIRR's contract does not require Avon to provide support for the prices found on Tra-Ser.
3. LIRR does not independently verify the price charged or that it is receiving the discounts to which it is entitled when purchasing products from Avon. Indeed, LIRR does not subscribe to Tra-ser so it is without the necessary tool to check the accuracy of Avon's pricing.

² Unlike LIRR, NYCT does subscribe to Tra-ser.

RECOMMENDATIONS

1. LIRR should review all of its Avon purchase orders under the two BPOs at issue in this report, and any other BPOs with Avon, to identify other potential overbilling.
2. LIRR should seek reimbursement from Avon for all overcharges.
3. LIRR should conduct a Responsibility Hearing to determine whether Avon Electrical Supply is a responsible vendor in light of these findings.
4. LIRR should, in its future contracts for electrical supplies and other similar contracts, require the vendor to document product prices and submit invoices that detail all discounts applied. LIRR should monitor the vendor's compliance with those terms.
5. LIRR should obtain Tra-Ser and independently verify the prices to ensure that its electrical and plumbing vendors are charging the correct amount and applying the appropriate discount.

Please advise me within 30 days of any action you take pursuant to this letter. If you need additional information feel free to contact Chris Prather, Deputy Inspector General, Investigations, at (212) 878-0279.

Very truly yours,

Michael L. Boxer
Special Counsel