

June 18, 2015

The Honorable Barbara Comstock
Member, United States House of Representatives
21430 Cedar Drive, Suite 218
Sterling, VA 20164

Dear Congresswoman Comstock:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of May 12, 2015, forwarding correspondence from your constituent Truc Tran. Mr. Tran alleges wrongdoing on the part of the NRC in awarding and administering the agency's Maintenance, Operation, and Modernization (MOM) contracts. Contracts for functional area (FA) 4 of the MOM procurement, Legacy Modernization, New Software Application Development, and Maintenance and Operation of Modernized Systems, were awarded in December 2013 as a set-aside for small businesses, and Mr. Tran's firm was one of four vendors awarded a MOM FA4 contract.

Two of Mr. Tran's specific claims are that FA4 MOM contracts were improperly awarded to Centeva, LLC, because of organizational conflicts of interest and unrealistically low price, and List Innovative Solutions, Inc., because it was not a small business at time of award. As part of its procurement process, the NRC fully examined the positions of those two vendors, including the specific circumstances relevant to Mr. Tran's allegations, before the award of those contracts in 2013. The NRC found no indication of any conflict of interest regarding Centeva and found its proposed price to be fair and reasonable. The award to List Innovative Solutions was determined to be legally proper because the firm was a small business at the time of its initial proposal, notwithstanding that the firm was subsequently acquired by a large business. Mr. Tran's current allegations provide no new information for the NRC to examine.

Federal procurement law and regulation afford vendors the opportunity to protest the award of government contracts. Mr. Tran did not avail himself of that opportunity within the timeframes set forth in the bid protest regulations, although all of the information upon which these two allegations are based was available at the time he was notified of the apparent successful offerors on November 21, 2013. It is worth noting that the November 2013 notification letter made specific reference to size status challenges and specifically directed Mr. Tran (and others) to the provision of the Federal Acquisition Regulation regarding protesting a small business representation or rerepresentation.

Mr. Tran's third claim is that tasks assigned to MOM contract holders in FA2 should have been procured under MOM FA4, the small business set-aside. He also believes the FA4 contracts should be lengthened from 8 years to 10 years to match what was indicated in the original MOM request for proposals. The Contracting Officer disagrees with Mr. Tran's view regarding the appropriate functional area for tasks that have been awarded under FA2, and no part of this third allegation represents an alleged violation of law or regulation. The Contracting Officer welcomes and considers the views of contractors on contract-related issues but has no obligation to agree with those views or to take the specific actions preferred by a contractor.

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Mr. Tran's contract currently expires by its terms on September 25, 2018, but it is potentially extendable up through September 25, 2021 (for a total of 8 years). The Contracting Officer does not believe that the integrity of the Federal procurement system requires increasing the maximum potential length of Mr. Tran's contract by two additional years (to 10 years), and in fact believes that increasing the potential length of the contract would violate procurement law and regulation.

I hope this information is useful to you. The NRC is confident of the integrity of the procurement process in awarding the MOM contracts and initial task orders, but should you need any additional information, please contact me or Eugene Dacus, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

Mark A. Satorius
Executive Director
For Operations

B. Comstock

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Mark A. Satorius
Executive Director
For Operations

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