

MAR 27 1984

The Honorable Parren J. Mitchell
Chairman, Committee on Small Business
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to respond to your February 24, 1984 letter regarding the NRC's procurement of stenographic reporting services. I also appreciate the opportunity you afforded the NRC representatives to meet with your Counsel, Ms. LaVon French, on March 16, 1984 to discuss this matter.

The NRC issued two solicitations for its stenographic reporting services. One solicitation, IFB No. SECY-84-327, for the services required in the Washington, D.C. area was issued as a 100% set-aside for small business on January 31, 1984. Bids were opened on March 9, 1984. An abstract of the seven bids received is enclosed for your information.

The second solicitation IFB No. ASB-84-352, for our requirements throughout the United States, excluding the D.C. area, was issued on February 6, 1984 on an unrestricted basis. The Small Business Administration (SBA) appealed the NRC Contracting Officer's disapproval of their recommendation to set this procurement aside exclusively for small businesses. The NRC Director of Contracts, acting in his capacity as Head of the Procuring Activity (HPA) sustained the Contracting Officer's decision in this matter by letter dated March 19, 1984 to the SBA. Procurement action for this requirement, however, remains suspended pending resolution of this matter.

Our decision to divide the requirements was based on the need to obtain adequate price competition to assure awards at reasonable prices. The historical record for these services at NRC indicates that there is no reasonable expectation that bids will be received from a sufficient number of responsible small business concerns to assure awards at reasonable prices. The Federal Procurement Regulations (FPR) mandate that a total set-aside shall not be made unless such an expectation exists.

Enclosed for your review is a summary of these past procurements. As you will note under Procurement No. 1, one small business was defaulted, two were not competitive, and one is now a large business. Under Procurement No. 2, a small business set-aside, 76 copies of the solicitation were issued and only three proposals were received. Of the three, only one was acceptable.

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As a result, effective price competition was not achieved. Review of Procurement No. 3 shows that of the four letters submitted to SBA by small businesses indicating an intent to bid on the out-of-town requirements if set aside, only two firms, Tayloe and Bossard, bid on the in-town set-aside. As the abstract shows, their prices are not competitive with those of the other bidders.

In September 1983, a market survey was conducted as required by the FPR to determine whether exercise of the option under the existing Tayloe contract would be advantageous to the Government. The survey of prices paid by six other Government agencies for similar services showed that NRC was generally paying higher prices than the other agencies, particularly since NRC reimburses travel costs separately and the other agencies surveyed include such costs in the per page price. Since the survey indicated that the option year prices (7.5% higher than first year prices) were not better than those in the market, the contract option could not be exercised.

Concurrent with the above decision, the procurement history and market survey were reviewed and analyzed. It was concluded that:

- a. Adequate small business competition for the entire NRC requirement to assure award at a reasonable price cannot be reasonably expected.
- b. Adequate small business competition does exist for the NRC in-town stenographic reporting requirements.
- c. A combination of an unrestricted solicitation for the out-of-town requirements with a total set-aside for the local requirements would best serve the needs of NRC and the small business community.

The above combination, in effect, achieves a partial set-aside in lieu of one unrestricted solicitation thereby assuring that a portion of the work will be awarded to the small business sector. Our in-town services represent approximately 30% of the total NRC requirement. In addition, if award of the unrestricted portion is made to a large business, the mandatory subcontracting provisions of Public Law 95-507 would take effect thus providing additional opportunities for participation by small and small disadvantaged business concerns in NRC's requirements.

The profitability of either portion of the work was not a factor in NRC's decision making process. The contract does not require submission of data on actual profits realized for services performed under the contract. Sales of copies of transcripts to the general public also play a part in profits earned; however, the contractor is not required to maintain or submit sales data to NRC.

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Again, we appreciate being given the opportunity to discuss this matter in greater depth with Ms. French. I hope that we were able to provide insight into our reasons for issuing a part of our requirements on an unrestricted basis.

If we can provide any further information, please let me know.

Sincerely,

Original Signed by
Patricia Norry

Patricia G. Norry, Director
Office of Administration

Enclosures:

1. Abstract
2. Procurement History