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Investigation Of The Appalachian Regional Commission's Contracts With Macro Systems, Inc. And American Health Profiles B-164031(4)

Appalachian Regional Commission

**BY THE COMPTROLLER GENERAL
OF THE UNITED STATES**

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AUG. 31, 1973



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-164031(4)

1
c1 The Honorable Ken Hechler
House of Representatives

Dear Mr. Hechler:

2 3 This is our report pursuant to your letter request of January 11, 1973, that we investigate the Appalachian Regional Commission's (ARC's) contracts with Macro Systems, Inc., and American Health Profiles, Inc.

You expressed particular interest in (1) the procedures, regulations, and laws governing the award of the contracts, (2) the contracts' costs, and (3) whether ARC had available in-house, or elsewhere, persons who could have effectively provided, at less cost to the Government, the services Macro performed.

ARC is a joint Federal-State partnership concerned with the economic, physical, and social development of the 13-State Appalachian region. It consists of a permanent Federal cochairman appointed by the President with the advice and consent of the Senate and the Governors (or their representatives) of the 13 Appalachian States. The Governors established the position of States' regional representative to function as the equivalent of the Federal cochairman in ARC's day-to-day operations.

BASIC CONTRACT INFORMATION

ARC contracted with Macro to obtain expert technical advice and assistance in developing a coordinated plan for black lung screening and diagnostic services in Appalachia. The work to be performed includes (1) developing and establishing guidelines for ARC-sponsored black lung screening and evaluation programs, (2) developing estimates of ARC funding needed for the programs, (3) answering questions the States might have in developing plans for their programs, and (4) reviewing the State plans submitted to ARC for conformity to the guidelines.

ARC officials approved entering into the contract on September 8, 1972. The contract was awarded on November 14, 1972, retroactive to September 5, 1972. It provided for 147 man-days of consultant services at fixed rates per man-day which cover salary, fringe benefits, indirect costs, overhead, and profit. Other costs, such as travel, are reimbursable. The total contract cost was not to exceed \$39,100.

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ARC also contracted with Health Profiles to obtain its recommendations on a comprehensive program for mobile medical screening to detect black lung, as well as comprehensive health tests to determine a miner's overall state of health. The contract called for Health Profiles to develop and include in a draft report (1) technical specifications for a feasible mobile medical screening vehicle, including equipment and staffing requirements, (2) a plan for scheduling vehicle visits to areas with significant numbers of active and inactive miners but with insufficient medical facilities, (3) a plan for transmitting test results into the miners' permanent medical records, (4) an awareness program to inform and motivate the miners to take the tests, and (5) a recruitment and training program for local people to help with scheduling tests and followup. In providing the vehicle and equipment specifications, Health Profiles was to also cite the reasons for recommending the equipment and its placement in the van.

The contract was awarded on December 1, 1972, at a fixed price of \$23,000.

Chronologies of the two contracts are in appendix I.

CONTRACTING PROCEDURES

ARC is not a Federal agency and therefore is not subject to title 41 of the United States Code which covers public contracts or to the Federal Procurement Regulations (title 41 of the Code of Federal Regulations) which establishes Federal contracting procedures. Title 40 Appendix of the United States Code, section 106(7), authorizes ARC to enter into contracts necessary in carrying out its function on terms it deems appropriate.

ARC regulations provide that ordinarily at least two proposals will be obtained. Staff members keep informal lists of companies and consultants who have expressed interest in doing work for ARC. When ARC plans to award a contract, companies on the list with the appropriate expertise are invited to submit proposals. An ARC official told us that often other firms believed to have the potential expertise are also invited to submit proposals.

If the proposed work is of such a nature that it cannot be performed by companies on the list, ARC staff members nominate firms with the appropriate expertise. ARC's executive committee (the Federal cochairman, the States' regional representative, and the nonvoting executive director) or delegated staff members discuss with representatives of the nominated firms the proposed work and their general capability to perform it. If a firm appears to have the necessary expertise, it is requested to submit a proposal.

ARC staff members and the executive director review the proposals for conformity with ARC's needs. The proposal considered to be in the best interests of ARC is then recommended by the executive director for approval by the executive committee. The executive committee may approve contracts involving costs of less than \$25,000. Contracts involving costs of more than \$25,000 must have the approval of the Federal cochairman and a majority of the 13 States.

ARC officials said that they make technical and financial audits of completed contracts and that these audits basically involve comparisons of technical results and actual costs with the criteria specified in the contracts. Because of staff limitations, ARC usually relies on the contractors' overhead rates established during audits by Federal agencies. ARC and its Federal cochairman have access to contractors' records and the right to audit for 3 years after final payment under the standard terms and conditions attached to all ARC contracts.

The determinations to award the contracts to Macro and Health Profiles came about as follows.

Macro

ARC awarded Macro the contract without seeking proposals from other firms. ARC did not prepare a formal finding and determination to justify that decision because its regulations do not require one.

The States' regional representative told us that ARC waived competition because:

- Macro was especially well qualified to do the work because its staff had recently been working in West Virginia on a health project.
- Macro had a working knowledge of the Department of Health, Education, and Welfare's (HEW's) operations.
- There was a critical need to develop a black lung program as soon as possible.

A number of companies were competing for Federal consulting contracts in the health field. We are not qualified to evaluate those companies' technical capabilities to provide the services required by ARC; however, we believe that ARC should have considered contacting at least some of those companies to assure itself of the best quality work at the lowest relative cost. ARC officials stated that they did not have time to obtain competition; however, we believe that they did have sufficient time to do so because ARC had enough time to obtain a written proposal from Macro before the effective date of the contract.

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The contract was not awarded until more than 2 months after its September 5, 1972, effective date. Good contracting practice requires that a written agreement be made before the contractor does any work. Preferably, such an agreement would be a definitive contract. If time does not permit entering into a definitive contract, a letter of intent providing in general terms for the work to be done should be issued to and accepted by the contractor in advance of any work. This was not done.

Health Profiles

ARC awarded Health Profiles the contract without seeking proposals from other firms and did not prepare a formal finding and determination justifying the decision to waive competition.

ARC officials said that competition had been waived because, although Health Profiles is not a consulting firm, its normal sales product is comprehensive physical examinations and its sales have been directed toward members of various work unions for whom annual physicals are a part of fringe benefits. ARC was, in effect, purchasing Health Profiles' 3-years' experience in how to best organize semitrailer vans for comprehensive health screening; how to organize and operate mass mobile screenings; and, most important, how to attract persons who would rather not know if they are ill and persons who do not believe they are ill because visible symptoms have not yet appeared. Health Profiles reportedly has a very good record of getting persons scheduled for examinations to take them.

Our discussions with officials from ARC and several Federal health agencies revealed that competition and experience appear relatively limited in the mobile comprehensive health-testing field. Before the contract was awarded, Health Profiles gave ARC a copy of a newspaper article which quotes a Health Profiles vice president as saying that the company is the largest in the field. At that time one ARC official inquired into the names of Health Profiles' competitors; but, ARC officials informed us that they never considered obtaining competition because they believed that Health Profiles was uniquely qualified to advise ARC on the required methodology.

Conclusion

The obtaining of competition, where practicable, is the best assurance an agency has of getting the desired product or services at the lowest reasonable price.

Although the reasons for awarding the contract to Macro appear acceptable, the wisdom of that award is not as firmly established as if ARC had obtained and considered competitive proposals from other firms. We believe that ARC could have done this.

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In the case of the contract awarded to Health Profiles without competition, the nature of the services sought suggests that it might not have been possible to obtain competitive proposals. However, a decision to contract without attempting to obtain competition is of such significance that it should be documented fully by a responsible ARC officer when the decision is made. Such a requirement should be set forth in ARC regulations.

CONTRACT COSTS

Macro

Macro's vice president for administration furnished us with the accumulated unaudited costs of the contract as of February 28, 1973. Following is a comparison of the accumulated costs of \$36,791.26 with the amounts specified in the contract.

	<u>Contract</u>			<u>Macro unaudited costs</u>	
	<u>Daily billing rate (note a)</u>	<u>Man-days</u>	<u>Cost (note b)</u>	<u>Man-days</u>	<u>Amount</u>
Job title:					
Project director	\$469.52	25	\$11,738.00	27	\$12,677.04
Project manager	322.32	16-2/3	5,372.00	19-1/8	6,164.37
Senior consultant	183.84	70	12,868.80	63-1/4	11,627.88
Consultant (\$172.32) (note c)				7-3/4	1,335.48
Research analyst	83.28	35	<u>2,914.80</u>	9-7/8	<u>822.39</u>
Total			32,893.60		32,627.16
Travel			3,150.00		1,576.17
Subsistence			1,350.00		887.93
Other expenses			<u>1,700.00</u>		<u>1,700.00</u>
Total			<u>\$39,093.60</u>		<u>\$36,791.26</u>

^aBased on salary and allowances for fringe benefits, overhead costs, and profit.

^bCost in original contract. In February 1973 Macro received permission from ARC for the project director and project manager to each spend up to 10 more man-days on the contract. The items to be decreased were not specified, but the overall cost for completion of that portion of the contract was not to increase. The contract was amended April 26, 1973, to provide an additional \$23,753.

^cThis position was not provided for in the contract. The rate charged was the rate Macro is charging the Health Services and Mental Health Administration (HSMHA) of HEW.

Macro officials furnished us with a summary of the work of each of its employees. (See app. II.) The project director and the chairman of Macro's board of directors informed us that the tasks called for in the contract have taken longer than Macro anticipated, because they encountered problems in getting parties concerned to consider all factors and make decisions.

Macro's billing rates were in accord with those in its other recently negotiated Government contracts. Its June 1972 contract with HSMHA was to provide, as needed, planning and evaluation studies related to organizing and delivering accessible, economical, and quality health services. As shown below, the HSMHA contract rates are identical to the ARC contract rates for comparable positions.

<u>Job title</u>	<u>ARC contract specified daily rate</u>	<u>HSMHA contract rate converted to daily rate</u>
Project director	\$469.52	\$469.52
Project manager	322.32	322.32
Senior consultant	183.84	183.84
Consultant	(a)	172.32
Research analyst	83.28	83.28

^aNot listed in contract.

Health Profiles

ARC's contract with Health Profiles specified a fixed price of \$23,000 payable upon satisfactory completion of the contract. The completion date, originally set at December 31, 1972, was extended to February 28, 1973. ARC received the report called for by the contract on March 12, 1973, and on April 10, 1973, provided Health Profiles with some suggested revisions. At the time of our review, ARC had not received the final report.

ARC justified the original contract price on the basis of a budget Health Profiles had submitted and on the company's experience in organizing mobile screening tests.

The unique services called for under the Health Profiles contract at a fixed price prevents us from considering the reasonableness of the contract amount through price comparisons.

AVAILABILITY OF OTHER PERSONNEL

Macro

ARC officials informed us that no one on the ARC staff had the desirable professional credentials or experience necessary to provide

the leadership for the professional planning of a medically sound black lung screening program. They said that some of ARC's health staff members had the technical capability to do some of the work Macro did but that, when it was decided to award the contract to Macro, ARC's staff was already overworked and could not undertake additional responsibilities. ARC officials said that one ARC representative provided temporary technical assistance on one State's plan for about 6 weeks, but because of understaffing no one in ARC was working full time on the program. They also pointed out that another consideration in determining the availability of ARC staff was the staff's working relationships established on other ARC projects which might have subjected ARC to charges of bias in its approach in the black lung area, which is characterized by clear differences of medical and administrative opinions.

We asked ARC and Macro officials about the availability of experienced persons at the National Institute for Occupational Safety and Health (NIOSH) of HEW. They said that when ARC planned to contract with Macro, NIOSH had only one person assigned full time to developing a black lung program. Others were working on that program only part time.

ARC officials believed that Macro's neutral role of initial planning and overall coordination of the program could not have been effectively undertaken by persons already operating black lung programs in Appalachia because they would be subject to allegations of self-serving motives.

Health Profiles

The Veterans Administration, the Bureau of Indian Health Services of HEW, and the Air Force do not use mobile vans in giving comprehensive physical examinations.

The District of Columbia government and the National Center for Health Statistics of HEW have been using mobile vans for 10 years in giving examinations almost as comprehensive as those given by Health Profiles. There are, however, some differences in the van configurations, in actual testing equipment, and in staffing. Officials of both agencies said that they could have advised ARC on some of the items included in its contract with Health Profiles. The District government had drawn up plans for three new mobile vans in the summer of 1972 although the vans were subsequently not built because of a funding cutback.

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We informally discussed this report with ARC officials and considered their views in preparing it.

We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,

A handwritten signature in cursive script, reading "James B. Peets". The signature is written in dark ink and is positioned above the typed name.

Comptroller General
of the United States

CHRONOLOGY OF MACRO CONTRACT

Macro submitted proposal	July 19, 1972
ARC executive committee approved entering into contract	Sept. 8, 1972
Contract awarded	Nov. 14, 1972
Macro submitted first partial billing	Nov. 30, 1972
ARC approved extension of contract time to January 31, 1973--contract amended	Dec. 19, 1972
Macro submitted second partial billing	Dec. 31, 1972
Macro proposed a \$47,145 contract expansion	Jan. 18, 1973
Macro requested authorization for the project director and the manager to spend additional time on the contract	Jan. 26, 1973
Macro submitted third partial billing	Jan. 31, 1973
ARC approved Jan. 26, 1973, proposal--contract not amended	Feb. 6, 1973
ARC approved extension of time from Jan. 31 to Feb. 28, 1973--contract amended	Feb. 27, 1973
ARC approved extension of time from Feb. 28 to Mar. 15, 1973--contract amended	Mar. 2, 1973
Macro submitted report to ARC and proposed a contract expansion and an extension of time to June 30, 1973	Mar. 15, 1973
Macro submitted fourth partial billing (for Feb.)	Apr. 25, 1973
ARC approved Macro contract expansion for \$23,753 and an extension of time to June 30, 1973--contract amended	Apr. 26, 1973

APPENDIX I

CHRONOLOGY OF HEALTH PROFILES CONTRACT

Health Profiles submitted proposal	Oct. 16, 1972
ARC executive committee approved entering into contract	Nov. 3, 1972
Contract awarded	Dec. 1, 1972
ARC approved extension of time from Dec. 22, 1972, to Feb. 28, 1973-- contract amended	Feb. 20, 1973
ARC received Health Profiles' draft report	Mar. 12, 1973
ARC sent suggestions for revisions to Health Profiles	Apr. 10, 1973

APPENDIX II

SUMMARY OF MACRO PROGRESS

TO FEBRUARY 28, 1973

Scope of effort and current status	Tasks performed by category of staff			
	Project director	Project manager	Senior consultant (note a)	Research analyst
1. TOTAL PROGRAM--ALL STATES				
--Program guidelines (complete)	Developed medical aspects of program guidelines	Developed administrative aspects of program guidelines	Researched and interpreted pertinent background and legislative material on black lung programming	Collected relevant data on national and State miner and Social Security Administration (SSA) applicants and arranged appropriately
--Administrative guidelines (complete)	Determined NIOSH medical standards	Performed job planning and budget control	Collected and analyzed appropriate data on miners and black lung applicants for allocating ARC funds	
--Allocation guidelines for ARC funds (complete)	Met with President, United Mine Workers	Prepared progress reports for ARC		
--Procedures for development of a program monitoring system for ARC (complete)	Met with all state ARC officials on overall program objectives and goals	Interviewed NIOSH regional office on grants procedure	Scheduled meetings and designed meeting agendas for Federal, regional, State, and local agency meetings	Reduced NIOSH and SSA data on applicant population
--Continuing liaison developed among ARC and other Federal, Regional, State, and local agencies (on-going)	Met with HSMHA/ARC liaison coordinator	Supervised program and administrative guidelines review and modification processes	Assumed day to day responsibility for monitoring each State's planning effort and kept project officers apprised of status	
	Met with Department of Labor (DOL) special projects staff on medical aspects of Federal black lung program responsibilities	Met with DOL special projects staff on administrative and systems aspects of Federal black lung program responsibilities	Determined existing facilities and providers currently performing bulk of screening services from the appropriate agency in each State	
2. ALABAMA--Program plan (second draft phase)	Reviewed medical aspects of draft submitted	Reviewed administrative aspects of draft plan	Assisted Jefferson Health Foundation in development of their draft plan	
	Assessed existing medical facilities on site: Jefferson Health Foundation	Assessed administrative capabilities on site	Contacted State officials regarding designation of agency to administer program	
	University of Alabama Medical Center		Assumed day-to-day responsibility for State planning effort and kept project officer apprised	
	Contacted and interviewed State and local officials			

BEST DOCUMENT AVAILABLE

APPENDIX II

Scope of effort and current status	Tasks performed by category of staff			Research analyst
	Project director	Project manager	Senior consultant (note a)	
3. Kentucky--Program plan (second draft phase)	Reviewed medical aspects of draft submitted Contacted and interviewed State and local officials	Reviewed administrative aspects of draft plan Followed up contact with State and local officials	Scheduled interviews for assessment of proposed facilities and providers of screening services in the draft plan	
4. MARYLAND--Program plan (nonparticipation)		Contacted by telephone State officials to set up meeting	Corresponded with Maryland Appalachian Commission and assessed status of nonparticipation in the program	
5. OHIO--Program plan (preplanning phase)	Met with State representatives involved with the development of the plan	Followed up contact with State representatives	Scheduled future meeting to assess existing medical facilities to be used in the program	
6. PENNSYLVANIA--Program plan (second draft phase)	Met with State medical representatives involved with the development of the plan Reviewed comments from Macro staff critique of draft plan	Met with State administrative officials involved with the development of the plan Met with advisory group appointed by the State superintendent of health to provide necessary background information of the program Directed Macro staff in the critique	Prepared background materials and designed agenda for the State advisory group meeting Assisted the Pennsylvania Research Institute in the conduct of the advisory group meeting Performed critique of initial draft of State plan Scheduled onsite assessment of proposed facilities to participate in State program	
7. TENNESSEE--Program plan (nonparticipation)		Attempted to initiate State participation in the program planning effort		
8. VIRGINIA--Program plan (preplanning phase)	Met with State representatives	Met with State representatives and followed up contacts Scheduled onsite assessment of administrative capabilities for the program	Scheduled onsite assessment of proposed and existing medical facilities to be used for screening and diagnosis	
9. WEST VIRGINIA--Program plan (complete)	Met with State representatives on major policy areas Assessed medical facilities on site: Charleston Memorial Hospital Fairmont Clinic Presented recommendations to ARC for their consideration	Met with State representatives and followed up contacts Reviewed Macro staff comments on final draft critique	Performed critique of draft plans and submitted to project officers for review Revised budget	Performed critique of first and second draft plans

^a Macro consultant performed some of this work.

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