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GAO

United States General Accounting Office
Washington, DC 20548

Logistics and
Communications
Division

MARCH 7, 1980

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M.
The Honorable Carl Levin
United States Senate

Dear Senator Levin:

Subject: Architect-Engineer Selection Process
By the Corps of Engineers, Detroit District, *DLG*
On the Red Run Drain-Lower Clinton River,
Flood Control Project (LCD-80-39)

In your July 16, 1979, letter you asked us to review the process the U.S. Army Corps of Engineers, Detroit district, used to select an architect-engineer firm for the Red Run Drain-Lower Clinton River, Phase II Flood Control Project, in Michigan. Specifically, you asked us to determine if the corps acted "legally" in selecting an out-of-state firm. *DLG 04045*

We examined the statutory authority, implementing regulations, and procedures for selecting architect-engineer firms. We also reviewed the correspondence files and discussed the selection process with Detroit district corps officials.

The Federal Government's policy for selecting qualified architects and engineers is to publicly announce all requirements for architectural and engineering services and to negotiate contracts on the basis of demonstrated competence.

This policy was expressly declared in Public Law No. 92-582 (40 U.S.C. 541 et seq.), approved October 27, 1972 (frequently referred to as the Brooks Act), which amended the Federal Property and Administrative Services Act of 1949. The Brooks Act requires procuring activities

--to publicly announce the criteria by which architectural and engineering service firms will be evaluated in undertaking specific projects and



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--to have discussions with at least three firms before selecting a firm with which to negotiate a price.

The act does not limit selection to firms within geographic boundaries of a proposed project, nor does it require the heads of departments or agencies to publish implementing regulations to establish such boundaries. The Brooks Act is implemented through certain provisions of the Defense Acquisition Regulation (DAR).

The Red Run Drain-Lower Clinton River, Phase II Flood Control Project, was publicly announced, selection criteria were published, and discussions were held with at least three firms before price negotiations began. Consequently, we believe that selection of an out-of-state architect-engineer firm for the project did not render the contract illegal. However, the corps could have done a better job in its announcement regarding the specific evaluation criteria it used.

LACK OF SPECIFICITY IN PUBLISHED CRITERIA USED TO EVALUATE THE ARCHITECT-ENGINEER FIRMS

The Commerce Business Daily 1/ is used in complying with the Government's policy of public announcement. According to the Brooks Act and the DAR, the announcement should include the criteria that will be used to evaluate the qualifications of responding firms. The DAR notes that the announcement should also consider the (1) proximity of an architect-engineer firm to a project, (2) volume of work the Department of Defense previously awarded to an applicant firm, and (3) specialized experience in the type of work required.

While the corps apparently adhered to regulations regarding criteria that would be used to determine the most qualified firms, it did not specifically state the criteria in the public announcement.

1/The Commerce Business Daily is a daily publication issued by the U.S. Department of Commerce which lists U.S. Government procurement invitations, contract awards, subcontracting leads, sales of surplus property, and foreign business opportunities.

The Commerce Business Daily announcement for the project stated that initial screening of firms would be based on (1) professional qualifications necessary to satisfactorily perform the services required, (2) capacity to accomplish the work in the required time, (3) past experience regarding performance of contracts for the Department of Defense, and (4) present workload. We believe the announcement was not totally clear about specific criteria that would be considered, even though it is arguable that some of the specific criteria were subsumed in the public announcement. As shown below, 16 of 24 firms were eliminated for reasons not specified in the publicly announced criteria:

- Eight firms lacked previous experience in Corps of Engineers flood control studies and in General Design Memoranda preparation.
- Seven firms had over \$1 million in ongoing Corps of Engineers contracts.
- One firm was located over 300 miles from Detroit.

While the criterion regarding present workload could imply that \$1 million of ongoing work would be considered, no specific statement of this issue was made. Likewise, while the criterion regarding capacity to do the work could imply that proximity to the project would be considered, no specific statement to this effect was made. (Especially noteworthy is the fact that the firm eliminated for being located over 300 miles from Detroit was invited by an official of the Detroit district to submit a Standard Form 255 (Architect-Engineer and Related Services for Specific Projects) questionnaire for contract award consideration. In addition, one of the top three firms selected was about 450 miles from Detroit. Corps officials told us failure to eliminate this firm was due to an oversight.)

We believe the corps did not meet the spirit of the Brooks Act that all relevant specific qualifications be announced.

LACK OF DOCUMENTATION TO SHOW PRESELECTION
AND SELECTION BOARDS ACTIONS

In addition to announcing selection criteria, DAR states that all preselection and selection actions are to be fully documented. The Corps of Engineers' implementing instructions state, in part:

"All stages of the preselection and selection board actions as well as approval actions will be completely documented by a 'Selection Memorandum of Record' which will become a part of the contracting officer's official contract files * * * The documentation will be explicit, * * * with rationale to support the selection of specific firms and should be sufficiently objective to permit supportable differentiation between A-E [architect-engineer] firms. This criteria should be specific as to the qualifications, staffing, areas of expertise required, past experience, and project completion dates. * * *"

The files of the Corps of Engineers, Detroit district, did not contain the documentation specifically required by the regulations. For example, the files did not document the identity of 14 architect-engineer firms eliminated in the preselection board meeting. A memorandum dated May 24, 1978, stated that the board, in its selection process, determined that 24 of the 38 architect-engineer firms could respond to the demand of the project in a timely and professional manner. The memorandum listed the 24 firms and noted that 6 were Michigan firms which had varying degrees of familiarity with the project area. However, the preselection board did not document how the 14 firms were eliminated. As previously noted, the selection board eliminated 16 of the 24 firms for reasons documented in the files. But the selection board did not document how it arrived at the top three firms among the final eight, nor how it determined the rank order of preference of the top three.

CONCLUSIONS

While the selection of an out-of-state architect-engineer firm did not render the contract illegal and the corps followed the guidelines of the DAR, the Detroit

district was not as specific as it could have been in announcing the qualifications for the project in the Commerce Business Daily.

We think the public announcement should be as informative as possible and should include information regarding the criteria to be used in the evaluation and selection process. Such information could be used by the applicants to improve their submissions and provide them with knowledge of the selection process. It could also reduce the number of unqualified firms responding if they knew the pre-established criteria they had to meet. This in turn would permit the selection boards to more effectively analyze the documentation and data of those firms that do meet the announced criteria.

Furthermore, the Detroit district did not comply with regulations regarding full documentation of the selection actions taken by the preselection and selection boards.

RECOMMENDATIONS

We recommend the Detroit District Engineer require that

--public announcements for architect-engineer services contain, with a sufficient degree of clarity and specificity, the criteria to be used in determining the most qualified firm and the primary factors to be considered in the determination process and

--preselection and selection boards comply with regulations and fully document their actions.

We also recommend that the Chief of Engineers, U.S. Army Corps of Engineers, through his regular schedule of internal audits, determine if the deficiencies discussed in this report exist in other districts, and if so, take corrective action.

AGENCY COMMENTS

We discussed a draft of this report with officials at the Corps of Engineers, Detroit district. They

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concluded with the facts and said they are taking action to ensure that Commerce Business Daily announcements include the criteria that will be used to evaluate the qualifications of responding firms. In addition, corps officials plan to keep more detailed records on the actions taken by both the preselection and selection boards.

As arranged with your Detroit office, we are sending copies of this report to the Secretary of the Army and the Corps of Engineers.

Sincerely yours,


R. W. Gutmann
Director