

DOCUMENT RESUME

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[Written Procedures Needed To Guide Personnel in Dealing with Investigations of Contractors]. August 31, 1978. 3 pp.

Report to Elsa A. Porter, Department of Commerce: Assistant Secretary for Administration; by John Laudicho, Associate Director, Community and Economic Development Div.

Contact: Community and Economic Development Div.  
Organization Concerned: Department of Commerce; Western Economic Development Corp.  
Congressional Relevance: Rep. George Miller.

In response to a congressional inquiry, certain information was obtained about the Western Economic Development Corporation (WEDCO), a local business development enterprise in California funded by the Department of Commerce's Office of Minority Business Enterprise. Concern was expressed that the Department of Commerce renewed WEDCO's contract while it was under investigation by the Department of Justice. Commerce's renewal of the WEDCO contract was not in violation of procurement regulations because the regulations do not specifically prohibit contracting with firms which are under investigation for possible criminal violations. In addition, the Department of Commerce lacks formal written procedures to guide its personnel in dealing with investigations of Commerce contractors. It is a matter of the contracting officer's subjective judgment as to what should be done when the officer is informed of an investigation which could affect a contracting decision. The Department of Commerce should establish written procedures which establish: the responsibility of the Office of Investigations and Security for notifying agencies within the Department of investigations which could affect their activities, the policy for distributing copies of investigative reports to such agencies, and the responsibility of contracting officers when informed of an investigation which could affect contracting decisions. (RRS)

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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

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COMMUNITY AND ECONOMIC  
DEVELOPMENT DIVISION

August 31, 1978

The Honorable Elsa A. Porter  
Assistant Secretary for  
Administration  
Department of Commerce

Dear Mrs. Porter:

By letter dated February 7, 1978, Congressman George Miller requested our Office to obtain certain information about the Western Economic Development Corporation (WEDCO), a local business development organization in California funded by the Department of Commerce's Office of Minority Business Enterprise. Among other matters, Congressman Miller expressed concern that the Department of Commerce renewed WEDCO's contract while it was under investigation by the Department of Justice. The results of our work were orally presented to members of Congressman Miller's staff on June 29, 1978.

Our work showed that Commerce's renewal of the WEDCO contract was not in violation of the Federal Procurement Regulations (FPRs) because the FPRs do not specifically prohibit contracting with firms which are under investigation for possible criminal violations. We noted, however, that Commerce lacks formal written procedures to guide its personnel in dealing with investigations of Commerce contractors. Specifically, there is nothing in writing which sets forth (1) the procedures of Commerce's Office of Investigations and Security (OIS) for notifying Commerce operating officials of investigations which could affect their activities; (2) Commerce's policy for distributing copies of OIS investigative reports to Departmental agencies; and (3) the responsibilities of Commerce's Office of Administrative Services and Procurement (OASP) contracting officers when informed about a Department or outside investigation which may impact on contracting decisions.

OIS's functions include serving as the Departmental liaison with Federal, state, and local governmental agencies

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in administrative and criminal investigations as well as conducting its own investigations of alleged violations of the law by Commerce contractors. We found that OIS uses informal procedures and policy for notifying Commerce officials of investigations and for distributing OIS investigative reports. However, written procedures and policy would eliminate confusion and would help to insure that essential investigative information is passed on to Department officials who have a need to know and can take action.

For example, in February 1977 the Department of Justice notified OIS that it was investigating WEDCO. This information, however, was not passed on to procurement officials because a former OIS official felt that they knew about the investigation because of prior OIS activities involving WEDCO. OASP subsequently extended both WEDCO contracts without knowing about the Justice investigation. OIS written procedures, in our opinion, would provide better assurances that proper officials are made aware of any investigations, such as Justice's investigation of WEDCO.

We recognize that because of the nature of OIS' work, care must be taken to prevent disclosing to unauthorized individuals information developed during outside investigations or included in OIS investigative reports. Therefore, the written procedures to be developed for distributing copies of OIS reports should specify under what circumstances and to whom copies of reports are to be given as well as what actions should be taken to guard against unauthorized disclosure of the information in such reports.

For example, in July 1975, OIS issued an investigative report on WEDCO accepting fees for services it provided to clients. However, our review of the WEDCO contract files disclosed nothing to show that an OIS investigation was performed and a report issued. We recognize that because of the nature of the material in OIS investigative reports, that it would not be feasible to put copies of reports in the contract files. However, we feel that because contractor files are official files, they should provide complete information on Commerce contractors. In the case of WEDCO, the files should have shown that WEDCO had been investigated without divulging any information about the investigation. The procedures on distributing OIS reports should address the situation we noted in the WEDCO case.

OASP officials told us that it would be a matter of subjective judgement on the part of a contracting officer as to what should be done when a contracting officer is informed of a Department or outside investigation which

could impact on a contracting decision. Written procedures, if only general, would provide guidance to the contracting officer of what is expected when confronted with such information.

Based on our work in the WEDCO matter, we believe that Commerce should establish written procedures which set forth

- the responsibility of OIS for notifying agencies within the Department of investigations which affect or could affect their activities;
- the policy for distributing copies of OIS investigative reports to such agencies; and
- the responsibility of OASP contracting officers and the actions they should take when informed of a Department or outside investigation which may impact on contracting decisions.

On July 10, 1978, representatives of our Office discussed the results of our WEDCO work and the need for formalized procedures with the Deputy Director for Program Development, OASP; the Deputy Director, OIS; and, the Supervisory Criminal Investigator, Criminal Investigations Unit, OIS. They concurred that written procedures, as outlined above, would be beneficial. We plan to follow-up in October 1978 to determine whether written procedures have been established.

We are providing a copy of this letter to Congressman Miller.

Sincerely yours,

  
John Landicho  
Associate Director