135617

United States General Accounting Office

GAO

Report to the Chairman, Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, U.S. Senate

April 1988

TELECOMMUNICATIONS ACQUISITIONS

Information on GSA's Procurements

135617

RESTRICTED—Not to be released outside the General Accounting Office except on the basis of the specific approval by the Office of Congressional Relations.

541850 RELEASED

GAO/IMTEC-88-24

GAO

United States
General Accounting Office
Washington, D.C. 20548

Information Management and
Technology Division

B-229463

April 13, 1988

The Honorable David Pryor
Chairman, Subcommittee on Federal Services,
Post Office, and Civil Service
Committee on Governmental Affairs
United States Senate

Dear Mr. Chairman:

This report responds to your November 25, 1987, letter requesting that we examine certain matters regarding the General Services Administration's (GSA) Federal Telecommunications System 2000 (FTS 2000) and Technical Assistance and Management Services (TAMS) procurements. As agreed with your office, we are reporting on (1) the facts concerning a potential conflict of interest involving the former GSA contracting officer for the FTS 2000 procurement; (2) whether a particular company[1] had a role in helping GSA prepare the FTS 2000 request for proposals (RFP), and, if so, whether that company is precluded from being awarded the TAMS contract; and (3) whether and how thoroughly GSA's Inspector General is investigating these matters.

GSA is procuring the new FTS 2000 system to provide improved long-distance voice and data communications services to federal agencies. Before issuing the final FTS 2000 RFP on December 31, 1986, GSA held a conference of industry representatives and issued two draft RFPs so industry and federal agencies could offer their comments on the project. Currently, contract offers are due on April 29, 1988. The TAMS contract, which is scheduled to be awarded in late May 1988, is intended to help GSA manage the transition from the current Federal Telecommunications System to FTS 2000 and obtain related technical and management assistance.

With regard to your first concern, we found that after reviewing the 1987 Statement of Employment and Financial Interests, GSA determined that a potential conflict of interest may exist between the former contracting officer's duties and his spouse's employment with a telecommunications company. The contracting officer disclosed his spouse's employment on the Statements of Employment and Financial Interests

[1]The Federal Acquisition Regulation, 48 C.F.R. 15.413-1, restricts disclosing the identity of offerors in ongoing procurements.

he filed in 1986 and 1987. The contracting officer also alerted his supervisor soon after he learned that his spouse's company had signed an agreement on February 19, 1987, to join with another company in making an offer on the contract for the FTS 2000 system. On July 23, 1987, GSA transferred the contracting officer to other procurement duties because of the potential conflict of interest. We believe GSA could have resolved this matter much sooner.

As to your second concern, GSA awarded three separate contracts to help it develop the FTS 2000 RFP. We found no evidence that the subject company performed work on any of the three contracts. Although the company did submit offers on two of the three contracts, it was not awarded either contract. We found no provisions in the RFPs for the two contracts[2] or federal procurement laws and regulations[3] that would preclude the company from making an offer on or participating in the TAMS contract. Similarly, the TAMS RFP contains no such provisions.

The Inspector General has not performed any audit or investigative work on your concerns, according to GSA's Assistant Inspectors General for Auditing and Investigations. They stated that GSA's Office of Ethics handled the potential conflict of interest concern and the Inspector General has not looked into whether the subject company is precluded from making an offer on or participating in the TAMS contract. The officials stated that they are, however, investigating some other aspects of the TAMS procurement and plan to perform an audit to assess the effectiveness of the contractor and the award and administration of the contract.

Background

GSA is procuring a new system called FTS 2000 to provide long-distance voice and data communications services to federal agencies. The new system is intended to replace the existing Federal Telecommunications System, the world's largest private, intercity voice network, because it is outdated and does not offer the features and services that many federal agencies want. The FTS 2000 procurement is expected to cover a 10-year period and have a maximum contract ceiling of $25 billion.

[2]To avoid giving one contractor an advantage over others and to ensure that the contractor performs in an impartial and objective manner, some requests for proposals and contracts contain special provisions that restrict or preclude contractors from being awarded or performing work on related future contracts.

[3]The Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251-260), the Federal Acquisition Regulation (48 C.F.R. Chapter 1), and the Federal Information Resources Management Regulation (41 C.F.R. Chapter 201).

GSA held a conference of industry representatives in February 1985 to announce the FTS 2000 concept. In October 1985, GSA issued a draft RFP to obtain comments from industry and federal agencies. After issuing the second draft RFP in October 1986, GSA issued the final RFP on December 31, 1986. Since then, GSA has issued nine amendments. The most recent amendment states that GSA requires the submission of offers by April 29, 1988.

GSA also plans to award the TAMS contract to help the agency manage the transition from the existing Federal Telecommunications System to FTS 2000 and monitor activities throughout the life of the FTS 2000 contract. The TAMS contractor will also provide GSA with technical and management assistance in the areas of (1) financial management, (2) technical support, and (3) planning, organizing, and training. According to the contracting officer, GSA expects to award the TAMS contract in late May 1988.

FTS 2000 Contracting Officer Was Transferred Because of a Potential Conflict of Interest

GSA requires its employees to file a Statement of Employment and Financial Interests by July 31 of each year. On August 1, 1986, the former contracting officer for the FTS 2000 project signed the Statement disclosing that his spouse was employed at a telecommunications firm.

On February 19, 1987, the spouse's employer signed an agreement to participate with another company in making an offer on the contract for the FTS 2000 system. The contracting officer stated that he alerted his supervisor as soon as he learned of the agreement. The contracting officer's supervisor confirmed this. The supervisor added that he telephoned a corporate official to inform him that, to avoid a potential conflict of interest, the contracting officer's spouse could have no involvement in the FTS 2000 project. According to the supervisor, the corporate official stated that the spouse was not and would not be involved in the company's work on the FTS 2000 system and sent a letter, dated March 3, 1987, to that effect. The supervisor stated that he informed a GSA Deputy Standards of Conduct Counsellor of the potential conflict of interest and that the contracting officer's spouse was not involved with the FTS 2000 project. He said he also sent a copy of the March 3, 1987, letter to the Deputy Standards of Conduct Counsellor.

According to the contracting officer's supervisor, a short time later, the contracting officer advised him that the spouse's supervisor might

become involved with the FTS 2000 project. Upon learning this, the contracting officer's supervisor said he again contacted the corporate official and advised him that a potential conflict of interest could result if the spouse's supervisor became involved with the FTS 2000 project. According to the contracting officer's supervisor, the corporate official advised him that the spouse's supervisor would have no involvement with FTS 2000 and sent a letter dated March 19, 1987, documenting that information. The contracting officer's supervisor stated that he advised the Deputy Standards of Conduct Counsellor that (1) the spouse's supervisor was not involved with the FTS 2000 project and provided a copy of the March 19, 1987, letter and (2) he decided to keep the contracting officer in his position because he believed there was no conflict of interest. In making the decision, the contracting officer's supervisor said he was sensitive to the potential conflict of interest situation, had consulted with a GSA Deputy Standards of Conduct Counsellor, and knew the issue was still under agency evaluation and would be reviewed by higher-level GSA management.

The contracting officer's supervisor stated that from March 19, 1987 on, he was not overly concerned about the situation because there was no real conflict of interest and the FTS 2000 procurement was coming under increased oversight within GSA. He said GSA's lawyers, technical project staff, and an assisting contractor were involved in amending the RFP to resolve a bid protest and other issues such as fixed prices and tariffs that were raised by potential offerors. In addition, he stated that from March through July 1987, he became more involved with the procurement. The contracting officer's supervisor stated that other factors would also decrease the decisionmaking role of the contracting officer. For example, the contracting officer's supervisor knew a senior-level GSA manager would personally select the winning offeror and GSA planned to use a source selection board to participate in the management of the procurement including the evaluation, selection, and award of contracts. In addition, the offer deadline was extended to July 30 and then to August 31, 1987. During this period, the contracting officer's spouse worked for a company that had only announced its agreement to team with another company, as a subcontractor, to submit an offer, but had not actually submitted one. The Deputy Standards of Conduct Counsellor stated that, upon learning of the supervisor's decision to keep the contracting officer in his position, she advised the former Director of GSA's Office of Ethics of this decision and sent copies of the March 3 and March 19, 1987, letters to him.

On May 13, 1987, GSA's Information Resources Management Service required all of its employees involved with telecommunications at levels GS-9 and above to file the 1987 Statement of Employment and Financial Interests by May 22, 1987, because the Service had planned several major procurements. The contracting officer filed the 1987 Statement of Employment and Financial Interests, again disclosing his spouse's employment and her employer's announced intent to participate with another company in making an offer on the FTS 2000 system. The contracting officer later provided a letter from the company dated June 25, 1987, confirming his spouse's lack of involvement with the company's FTS 2000 system effort.

By memorandum dated July 1, 1987, the Director, Office of Ethics, notified the contracting officer that a potential conflict of interest may exist because his spouse had a financial interest in a company that does business with or may be interested in doing business with GSA. The memorandum also stated that the contracting officer must therefore refrain from participating in any matter that could affect that company. The former Director of the Office of Ethics stated that he did not recall learning about the contracting officer's situation before he reviewed the Statement of Employment and Financial Interests, filed in May 1987. He said he believed that there was no statutory[4] conflict of interest, but there was an appearance of a conflict of interest that was sufficient to warrant his decision.

On July 23, 1987, the Information Resources Management Service transferred the contracting officer to other procurement duties. According to the contracting officer's supervisor, the only reason the contracting officer was transferred was the potential conflict of interest caused by his spouse's employment and his duties. The supervisor added that he knew of no improper actions by the contracting officer with regard to his responsibilities on the FTS 2000 procurement.

Between February 19, 1987, and July 23, 1987, the contracting officer was responsible for coordinating with his supervisor, GSA legal and technical staff, and an assisting contractor on the development of three amendments to the FTS 2000 RFP; assuring that the RFP conformed with applicable procurement regulations and policies; assuring that the RFP clearly stated the government's requirements; and preparing and sending responses to questions about the RFP to all prospective offerors. During this period, the contracting officer also held a pre-proposal

[4] 18 U.S.C. 208.

conference with prospective offerors to discuss the FTS 2000 system requirements. The contracting officer did not evaluate any offers during this period. On December 4, 1987, the contracting officer left GSA to work at another federal agency.

Conclusion

While we found no information to suggest the contracting officer acted improperly in any way, we believe GSA could have settled the potential conflict of interest in a more timely manner. In late March 1987, GSA's ethics officers had the same information regarding the potential conflict of interest as was contained in the Statement of Employment and Financial Interests the contracting officer filed in late May 1987. These officers knew the contracting officer's duties and that the spouse of the contracting officer was employed by a company that announced its intention to join with another company to make an offer on the FTS 2000 contract. They also had copies of the letters dated March 3 and March 19, 1987, documenting that the spouse and her supervisor were not involved with the FTS 2000 project. GSA allowed the appearance of a conflict of interest situation to exist from late March 1987 to July 23, 1987, when it transferred the contracting officer to other duties.

Subject Company Is Not Precluded From Participating in TAMS

In developing the FTS 2000 RFP, GSA awarded three separate contracts to:

1. Obtain advice on the technical requirements that should be included in the FTS 2000 system RFP. This contract was called the Systems Engineering and Technical Assistance Management Services project. The contract was awarded on May 31, 1984.

2. Assemble a panel of experts to recommend strategies for the FTS 2000 project. The contract was awarded on January 14, 1985.

3. Prepare a study of the costs and benefits of various FTS 2000 system alternatives. This contract was awarded on November 25, 1985.

The company did not perform any work on the above contracts. While the company submitted offers for the cost benefit analysis and the Systems Engineering and Technical Assistance Management Services contracts, it was not awarded either contract. We reviewed the RFPs for the two contracts and found that there are no provisions in either RFP that preclude any offeror, including the company, from making an offer on

or participating in the TAMS contract. In addition, the fact that the company made these offers does not, under procurement laws and regulations, preclude it from making an offer on or participating in the TAMS contract.

We also examined the provisions of the TAMS RFP. There are no provisions in the TAMS RFP that preclude the company from making an offer on or participating in the TAMS contract. We do note, however, that the contractor that is awarded the TAMS contract will be restricted from participating in the FTS 2000 procurement.

We also asked the Director of GSA's Telecommunications Procurement Division if the company had done any other work for GSA that might preclude it from participating in TAMS. He stated that the only telecommunications work the company had done for GSA in the last few years was to help GSA develop the RFP for a planned system to upgrade local telecommunications service in a metropolitan area. He noted, however, that this contract was not related to the FTS 2000 system RFP or contract and should not preclude the company from participating in the TAMS contract. Although this contract was not related to the FTS 2000 RFP or contract, we examined it to determine whether this work might preclude the company from participating in the TAMS contract. We found that there are no provisions in the contract that preclude the company from making an offer on or participating in the TAMS contract.

Inspector General Has Not Performed Work on the Chairman's Concerns

The Inspector General has not performed any audit or investigative work on your specific concerns, according to GSA's Assistant Inspectors General for Auditing and Investigations. They stated that GSA's Office of Ethics had handled the potential conflict of interest concern and they were not aware of any open issues. They stated that they have not looked into whether the subject company is precluded from making an offer on or participating in the TAMS contract. The Deputy Assistant Inspector General for Investigations said they are, however, investigating some other aspects of the TAMS procurement. The Assistant Inspector General for Auditing added that he plans to perform an audit to assess the effectiveness of the TAMS contractor and the award and administration of the TAMS contract. This audit is listed in the Inspector General's Annual Audit Plan for calendar year 1988.

Scope and Methodology

To obtain the facts concerning the potential conflict of interest involving the former contracting officer for the FTS 2000 project, we interviewed the former contracting officer; his supervisor, the Director of the Telecommunications Procurement Division; the responsible Deputy Standards of Conduct Counsellor; the former Director of GSA's Office of Ethics; and the Acting Director of GSA's Office of Ethics. We also examined the Statements of Employment and Financial Interests filed by the former contracting officer during 1986 and 1987, the Office of Ethics' July 1, 1987, memorandum to the former contracting officer discussing the potential conflict of interest, portions of the FTS 2000 contract file, and other related documents. We were not able to corroborate some of the information provided orally with official documents because there were no internal correspondence or memoranda of meetings between the contracting officer, his supervisor, the Deputy Standards of Conduct Counsellor, and the former Director of the Office of Ethics.

To determine the role that the subject company had in helping GSA prepare the FTS 2000 RFP and whether the company is precluded from participating in the TAMS procurement, we interviewed GSA's contracting officials involved with contracts to develop the FTS 2000 RFP, a principal of the company, and GSA's contracting officer for the TAMS procurement. We also examined relevant RFPs and contract files, and procurement laws and regulations to determine whether there are any provisions that would preclude the company from participating in the TAMS procurement.

To determine whether GSA's Inspector General had performed any work related to the Chairman's two concerns, we interviewed the Assistant Inspector General for Auditing and the Assistant Inspector General for Investigations. We also reviewed the Office of Inspector General's Annual Audit Plan for calendar year 1988.

We conducted our audit between December 1987 and March 1988. Our work was coordinated with GSA's Office of Inspector General, which is looking into other matters relating to GSA's telecommunications procurements. At your office's request, we did not obtain official agency comments on a draft of the report. However, GSA's Assistant Commissioner for Information Resources Procurement; Director, Telecommunications Procurement Division; Acting Director, Office of Ethics; Assistant Inspector General for Auditing; Deputy Assistant Inspector General for

Investigations; and the former contracting officer for the FTS 2000 procurement reviewed the facts contained in this report and agreed as to their accuracy. We did not examine matters that were not directly related to the Chairman's request. We performed our work in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce its contents sooner, we plan no further distribution of this report until 5 days from the date of this letter. At that time, we will make copies available to GSA and to other interested parties upon request.

Sincerely yours,

Ralph V. Carlone

Ralph V. Carlone
Director

*U.S. G.P.O. 1988-201-749:80051

Requests for copies of GAO reports should be sent to:

U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877

Telephone 202-275-6241

The first five copies of each report are free. Additional copies are $2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.

United States
General Accounting Office
Washington, D.C. 20548

Official Business
Penalty for Private Use $300

First-Class Mail
Postage & Fees Paid
GAO
Permit No. G100