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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D C. 20548

CIVIL DIVISION

MAR 18 1969

Dear Dr. Paine:

The General Accounting Office (GAO) has made a review of the selection, negotiation, and award of certain contracts, at the National Aeronautics and Space Administration's (NASA) Manned Spacecraft Center (MSC) for the purpose of determining whether the practices followed were in accordance with the requirements of 10 U.S.C. 2304(g). The purpose of this letter is to advise you briefly of the general results of our review and the subsequent actions taken by NASA officials, in concert with officials of the GAO, to promulgate revised procedures, which have as their objective, improved procurement practices.

Briefly, 10 U.S.C. 2304(g) provides that, in all negotiated procurements in excess of \$2,500 "**** written or oral discussions shall be conducted with all responsible offerors who submit proposals within a competitive range, price and other factors considered." The statute does not provide definitive guidance with respect to what is to be included in the written or oral discussions and leaves to the contracting agency the responsibility for determining the competitive range.

Our review of the NASA procurement instructions, issued to implement the statutory requirements, also indicated a need for further clarification concerning the written or oral discussions and the determination of competitive range. Because of this lack of definitive guidance in the statute and in NASA's implementing procurement instructions, varying interpretations have been applied by different source selection and contracting officers.

We reviewed the selection of proposals for negotiations in 47 awards made by MSC during the period, January 1, 1965, through June 30, 1967. In 17 of the 47 awards, the selection officers had limited negotiations to a single offeror, even though the records showed that other offerors had submitted proposals that appeared to us to be competitive in price and other factors. The justifications for negotiations with only one offeror raised questions concerning the determinations of competitive range and compliance with the requirement for oral or written discussions with all offerors within that range. However, the absence of more explicit guidance in the statute and in NASA procurement regulations and instructions, gave source selection officials considerable leeway in satisfying the statutory requirements.

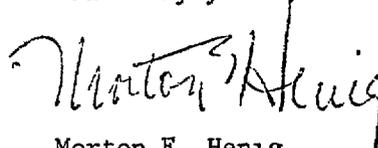
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At the completion of our field work, we discussed these matters extensively with NASA officials, who generally concurred in our conclusion that there was a need for more definitive guidance to source selection officials. As a result of these discussions, Procurement Regulation Directive No. 69-5 was issued March 10, 1969. This directive provides additional guidance concerning (1) the determination of the offerors within the competitive range and (2) what is to be included in the oral or written discussions. Issuance of this directive should result in more consistent and improved procurement practices.

We appreciate the courtesy and cooperation given our representatives during this review.

Sincerely yours,



Morton E. Henig
Assistant Director

The Honorable Thomas O. Paine
Acting Administrator, National
Aeronautics and Space Administration

1969-10-14