

GAO

United States General Accounting Office
Washington, DC 20548

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Office of
General Counsel

In Reply
Refer to:

B-195332

July 5, 1979

Mr. Alfred E. Baily, President
The Chester Engineers
845 Fourth Avenue
Coraopolis, Pennsylvania 15108

DLG 02093

Dear Mr. Baily:

This is in response to your letter of June 8, 1979, regarding my [presentation on price competition and the selection of architect-engineer services at the recent Engineers Public Affairs Forum]. I proposed that the Federal Government procure such services by competitive negotiation, which would include price competition.

You suggest that a problem would develop where a contracting entity that is "less sophisticated" than the Federal Government attempts that procedure, on the bases that (1) the entity may be incapable of making a proper evaluation and price therefore would become the determining factor, and (2) local government officials would be reluctant to award a contract to other than the lowest-priced firm in view of the assumed difficulty in explaining such an award to their constituents. You therefore recommend that where other than the Federal Government is involved a procedure be adopted such as that in the Model Procurement Code, or that contained in the Environmental Protection Agency's regulations at 40 C.F.R. Part 35 (1978), which are essentially the same as the one prescribed for the Federal Government by the Brooks Bill, 40 U.S.C. § 541 et seq. (1976).

First, I believe that any selection process, whether or not it includes price competition, will encounter difficulties if the contracting activity is incapable of making a proper evaluation. We do not see why those difficulties would be obviated by the process you propose.

Second, I emphasize that the competitive negotiation procedure supported by the General Accounting Office contemplates that price be considered only after

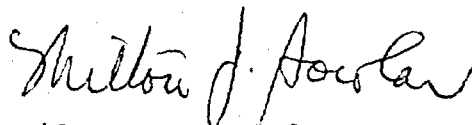


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professional excellence and technical capability are evaluated--it does not require that the contract be awarded to the firm offering the lowest-priced proposal. In this connection, the Model Procurement Code also provides language for use by jurisdictions which desire that type of selection process. In any case, and although this Office is primarily concerned with Federal procurement, it may well be easier after price-inclusive competition to justify an award to other than the lowest-priced firm on the basis of professional and technical excellence, than to do so under the system you recommend where it is not even known at what price highly qualified firms other than the one selected would perform.

Sincerely yours,

A handwritten signature in cursive script that reads "Milton J. Socolar". The signature is written in dark ink and is positioned above the typed name.

Milton J. Socolar
General Counsel