

DOCUMENT RESUME

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Social Security Administration Procurement Procedures with Regard to a Multiple Award Contract and its Maximum Order Limitation. HRD-77-144; B-164031(4). August 31, 1977. 6 pp.

Report to Rep. J. Kenneth Robinson; by Gregory J. Ahart, Director, Human Resources Div.

Issue Area: Federal Procurement of Goods and Services: Reasonableness of Prices Under Negotiated Contracts and Subcontracts (1904).

Contact: Human Resources Div.

Budget Function: General Government: General Property and Records Management (804).

Organization Concerned: General Services Administration; Social Security Administration.

Congressional Relevance: Rep. J. Kenneth Robinson.

Authority: 41 C.F.R. 101-26, 401(a).

Concerns were expressed about Social Security Administration (SSA) practices in the procurement of standard forms. An examination was conducted to determine whether regulations were being circumvented and whether the concept of Maximum Order Limitation (MOL) was being properly used. MOL allows Federal agencies to purchase supply items under contract up to a specific dollar amount after which competitive bids would have to be submitted through the General Services Administration (GSA). Findings/Conclusions: The complainant alleged that he was called by an SSA employee who requested pricing information on two items, including 450,000 sheets of form 1292. He provided this information and believed that his company had the lowest price for form 1292. He was told that this item would not be procured through competitive bids because of time limitations, although the price was over the MOL. Subsequently, 284,375 sheets of this item were purchased from a competing vendor after it had reduced its prices. When the complainant inquired about orders on form 1292, he was told that there would be no orders and that the pricing request was for information only. The Associate Commissioner of SSA stated that his procurement people did not solicit bids to compare prices, a practice forbidden by regulations. Since this point could not be proven and steps were being taken to improve procurement procedures, further pursuance of the matter was not warranted. There is nothing in the regulations to prevent the agency from reducing quantities to fall within the MOL. (HTW)



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

August 31, 1977

B-164031(4)

The Honorable J. Kenneth Robinson
House of Representatives

Dear Mr. Robinson:

In your letter of January 24, 1977, which transmitted several documents from one of your constituents regarding a Social Security procurement of paper products, you expressed concern that procurement regulations may have been circumvented and that the concept of the Maximum Order Limitation was not being properly used. In your letters of March 14 and May 6, 1977, you requested that we examine the possibilities of having vendors notify the General Services Administration more quickly when they make a change in their Federal Supply Schedule prices, having a central place showing what items have been purchased by Federal agencies, and providing for a time delay before making a price change effective.

As agreed with your office on June 3, 1977, our Procurement and Systems Acquisition Division will study and respond to your requests of March 14 and May 6, 1977. This letter is in response to your letter of January 24, 1977.

We examined the subject procurement of Social Security form 1292 (a Federal Supply Schedule standard item) made on September 25, 1976. We also reviewed the information that your constituent supplied. As discussed below, based on our work we cannot conclude that Social Security purposely circumvented procurement regulations or that the concept of the Maximum Order Limitation was not properly used in this procurement.

According to information derived from the above documents and discussions with procurement personnel in Social Security and General Services Administration, the following events occurred.

HRD-77-144

03581

Your constituent stated that he was called on the telephone by an employee of Social Security's procurement section on September 16, 1976, and that that employee requested pricing information on two Federal Supply Schedule items: 50,000 sheets of Social Security form 1291 and 450,000 sheets of Social Security form 1292. He said that on that date, he believed that his company had the lowest price on the Federal Supply Schedule for form 1292--\$180.00 per 1,000 sheets for orders of 10,000 sheets or more, before discount. He said that he provided the information requested by Social Security.

Your constituent said that he talked to this Social Security employee again on September 17, and was told to submit a written quotation for the 50,000 sheets of form 1291 but not for the 450,000 sheets of form 1292. He stated that when he told the employee that the price for 450,000 sheets was over the Maximum Order Limitation and asked if Social Security was going to have the General Services Administration ask for competitive bids, he was told no, because there would not be enough time to get bids before September 30, 1976, (the end of the fiscal year). He said that he was told that the pricing information on the form 1292 was for information only for the various departments to use in reviewing their needs.

The Maximum Order Limitation allows Federal agencies to purchase supply items under contract up to a specific dollar amount; an amount above that specified limit would have to go through the General Services Administration for competitive bids to try to get a lower price for the Government. Ideally, the Maximum Order Limitation provides a cut-off point where it is cost effective to have the agency use Federal Supply Schedules for ordering, rather than process its order through the General Services Administration.

Your constituent said that he submitted a written price quotation for form 1291; Social Security issued a purchase order to his company on September 27, 1976, for 50,000 sheets.

By letter dated September 27, 1976, to the General Services Administration, a competing vendor reduced its price for form 1292 from \$212.75 per 1,000 for orders of 10,000 sheets or more to \$212.75 per 1,000 for orders of 10,000 to 99,999, and \$171.25 per 1,000 for orders of 100,000 sheets or more, before discount, effective September 25, 1976. On September 25, 1976, Social Security purchased 284,375 sheets of its form 1292 from this vendor at \$171.25 per 1,000 plus printing and less a discount of 22 percent for a total price of \$39,996.17.

Your constituent said that on October 6, 1976, he again called the Social Security procurement employee he had been dealing with and asked if any of the departments had decided how much of form 1292 they were going to order, and if there were going to be any requests for large orders. He said that he was told that there would be no orders, and that the pricing request was for information only.

Your constituent said that he called Social Security again on November 15, 1976, to see if any formal quotations would be coming on that large order that Social Security had inquired about in September. He said that he was told no, there would be no orders placed as a result of the requests for pricing except the one for 50,000 sheets of form 1291 that went to his company; he was told that all manufacturers were called to get prices for information only.

It is apparently true that a Social Security employee did call your constituent's company requesting prices, and that as a result of this call, an order for 50,000 sheets of form 1291 was placed with his company. Your constituent has stated that the Social Security employee said all manufacturers were called to get prices. We assume that the competing vendor who got the large order--284,375 sheets--was one of the manufacturers called. We must also assume that the competing vendor offered a price reduction to the Government on September 27, 1976, (effective back to September 25) to offer the lowest price on the Federal Supply Schedule and as a result, received the order for 284,375 sheets of form 1292.

By letter dated December 8, 1976, you requested that the Commissioner of Social Security provide you with background information on the procedures they used to procure approximately 450,000 sheets of form 1292 in September 1976. By letter dated January 10, 1977, the Associate Commissioner for Management and Administration answered your inquiry and stated that "the quantity awarded was reduced from 450,000 sheets to 284,275 /sic/ sheets prior to award, at the request of the ordering office, due to a change in their requirements."

Our review of the inventory records at Social Security showed that as of July 1, 1976, the Stock Replenishment Card for form 1292 had been adjusted to show "quantity to be ordered" of 1,500 cases or 450,000 sheets. The actual order was reduced to 284,275 sheets. However, there was no indication in the records showing why the amount to be ordered was reduced.

Your constituent, in his letter of December 23, 1976, raised the issue concerning the correct Maximum Order Limitation for this particular item on the Federal Supply Schedule. Under the multiple award contracts the Maximum Order Limitation for "supplies" was (at the time of this order) \$20,000, while the Maximum Order Limitation for "cards"--a special category of supplies--was \$40,000. The \$39,998.17 purchase on September 25, 1976, was for "cards."

We attempted to determine whether form 1292 should have been classified as "supplies" or "cards" and found that there was much confusion on both General Services and Social Security Administrations' part as to whether the Maximum Order Limitation should have been \$20,000 or \$40,000. We could not get a satisfactory definition for "supplies" vs. "cards" from either the General Services or Social Security Administrations, to determine in which category this item should be. However, according to the General Services Administration, there was so much confusion on this point that for the Federal Supply Schedule contract period from October 1, 1976, to September 30, 1977, the Maximum Order Limitation was changed to \$40,000 for "supplies," without discriminating for the special category of supplies--"ards."

We presented the events surrounding this procurement to Social Security's Associate Commissioner for Management and Administration and, in view of the fact that telephone calls were made to Federal Supply Schedule vendors, we also pointed out that the Code of Federal Regulations (41 CFR 101-26,401(a)) states in part,

"* * * Agencies shall not solicit bids, proposals, quotations, or otherwise test the market solely for the purpose of seeking alternative sources to Federal Supply Schedules. Further, agencies shall not request formal or informal quotations from Federal Supply Schedule contractors for purposes of contract price comparisons."

Because of this regulation and the telephone calls made to Federal Supply Schedule vendors, we asked the Associate Commissioner what explanation the Social Security Administration had to offer.

The Associate Commissioner stated that he was deeply concerned about the issues we raised and admitted there was some looseness in the procurement procedures followed. Based on his review he concluded that there had been some misunderstanding but there was no violation of law or regulation. He stated that the procurement people did not solicit bids or other information for the purpose of seeking to compare prices. They were seeking to clarify product identification terminology and to get up-to-date price verification of established prices.

He pointed out that recent steps have been taken to improve procurement procedures, such as

- the Division of Contracting and Procurement, under a reorganization, was placed at a higher level in the Social Security Administration, has a larger staff, and is aggressively strengthening supervision and training at all levels, and that
- explicit orders were given to improve both the procedures and documentation for future purchases.

Considering that the Associate Commissioner stated that his procurement people did not solicit bids to compare prices, the question of whether they did or did not would be most difficult, if not impossible, to prove. In view of this and the statement that Social Security intends to improve procedures for future purchases, we do not believe that further pursuance of this matter is warranted.

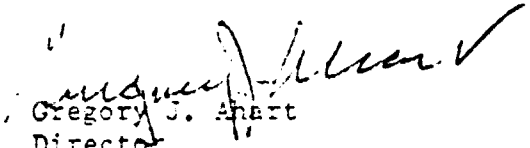
In regard to the Maximum Order Limitation, we could not, under existing regulations, find anything to prevent an agency from reducing the quantity to be ordered to a quantity which would fall within the Maximum Order Limitation.

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As arranged with your office, we are sending copies of this letter to the Commissioner, Social Security Administration, and the Administrator, General Services Administration. Copies will also be available to other interested parties who request them.

We trust this letter is responsive to your needs.

Sincerely yours,


Gregory J. Anart
Director