



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

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NATIONAL SECURITY AND
INTERNATIONAL AFFAIRS DIVISION

RESTRICTED

B-214283

RELEASED

AUGUST 8, 1984

The Honorable Dale Bumpers
United States Senate

The Honorable David Pryor
United States Senate

The Honorable John Paul Hammerschmidt
House of Representatives

The Honorable Bill Alexander
House of Representatives

The Honorable Ed Bethune
House of Representatives

The Honorable Beryl Anthony, Jr.
House of Representatives



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Subject: Evaluation of Whether the Air Force Improperly
Denied Solicitation Packages to Chem-Fab
Corporation (GAO/NSIAD-84-146)

In response to your December 9, 1982, requests and subsequent discussions with your offices, we evaluated whether the Air Force's Warner Robins Air Logistics Center (WRALC), Warner Robins, Georgia, had violated requirements of the Defense Acquisition Regulation (DAR) and Public Law 95-507 in denying eight solicitation packages to the Chem-Fab Corporation, an Arkansas small business firm. Solicitation packages contain information that contractors need to bid for contracts. Specifically, we determined why the denials were made and whether the denials indicate a pervasive problem. We briefed your offices on our findings and conclusions shortly after completion of our field work.

WRALC officials said that under normal circumstances, Chem-Fab would have been sent the denied solicitation packages. However, WRALC was unable to provide these packages because of an unexpected large increase in the number of solicitation package requests during September 1982, coupled with a shortage of clerks available for handling these requests.

We believe that WRALC's actions, however, did not violate applicable sections of DAR and Public Law 95-507. DAR and Public Law 95-507 require that solicitation packages on publicized procurements be provided to all requesting small businesses.

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Otherwise, DAR requires that contracting offices maintain a "reasonable number" of solicitation packages which may, when requested, be provided to contractors other than those from which bids or proposals were initially solicited. We believe that WRALC actions did not violate these sections because Chem-Fab's requests did not indicate, and WRALC was not aware of, the company's small business status. In light of this, WRALC was only required to maintain and distribute a reasonable number of solicitation packages to companies not on the bidder's list. WRALC apparently did this.

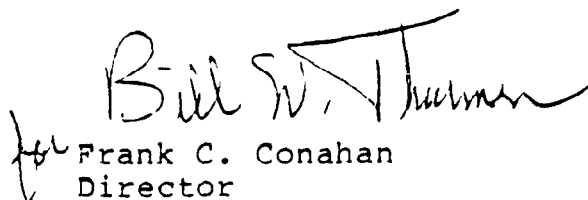
One of the government's primary concerns, when a prospective contractor is unable to obtain a solicitation package, is whether the agency made a reasonable effort to obtain competition. Data indicate that a reasonable effort was made. A substantial number of solicitation packages were distributed and multiple bids or proposals were received for all but one of the eight solicitations.

Chem-Fab's experience appears to have been a one-time problem rather than an indication of a pervasive problem. Chem-Fab had requested and received solicitation packages both before and after the denials, and was also awarded two contracts after the denials.

WRALC has made changes that should improve the timeliness of responses and decrease the possibility of companies being denied solicitation packages. These changes include increasing both the number of clerks to handle requests and the number of bid packages prepared.

These matters are discussed in more detail in the enclosure. The Department of Defense reviewed a draft of the report and agreed with our findings and conclusions.

We are sending copies of this report to the Secretaries of Defense and the Air Force and other interested parties.


for Frank C. Conahan
Director

Enclosure

EVALUATION OF WHETHER THE AIR FORCE IMPROPERLY DENIED
SOLICITATION PACKAGES TO CHEM-FAB CORPORATION

BACKGROUND

On December 9, 1982, the Arkansas Congressional Delegation asked us to determine (1) whether the Air Force had improperly denied nine solicitation packages for bids or proposals to Chem-Fab Corporation, a small business concern located in Hot Springs, Arkansas and (2) whether these denials indicated a pervasive problem. Solicitation packages contain information that contractors need to bid for contracts. Eight of the denial letters were issued by Warner Robins Air Logistics Center (WRALC), Warner Robins, Georgia, and one was issued by the Sacramento Air Logistics Center, Sacramento, California. We reviewed only the eight denials by WRALC.

Chem-Fab requested all eight solicitation packages during September 1982 and was sent denial letters in October 1982. Chem-Fab received solicitation packages on two of the solicitations even though it also received denial letters. Chem-Fab filed a protest with WRALC on November 2, 1982, alleging that the company had been improperly denied the opportunity to bid on the solicitations in question. Chem-Fab also indicated its small business status in this protest. WRALC denied Chem-Fab's protest on December 7, 1982.

In addition to the two solicitation packages discussed above, we identified six other solicitation packages which WRALC provided to Chem-Fab. One was provided in August 1982--before the denials--while the other five packages were provided after the denials. Chem-Fab was successful in obtaining contract awards in November and December 1982.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to determine why the denials were made and whether WRALC violated applicable Defense Acquisition Regulation (DAR) and Public Law 95-507 requirements.

We reviewed records provided by Chem-Fab to the congressional requestors who, in turn, provided them to us. At WRALC, we analyzed (1) procurement records relating to the eight denied solicitation packages, (2) records relating to Chem-Fab's protest of the denials, and (3) procedures and practices for distributing solicitation packages. We also interviewed procurement officials at WRALC.

Our review was performed in accordance with generally accepted government auditing standards.

CHEM-FAB WOULD NORMALLY HAVE BEEN SENT
THE DENIED SOLICITATION PACKAGES

WRALC officials told us that under normal circumstances Chem-Fab would have been provided solicitation packages, even those for which supplies had been exhausted. WRALC's Chief, Operations Support Branch, Directorate of Contracting and Manufacturing, said that the center was unable to act promptly on Chem-Fab's requests because of an unexpected large increase in the number of solicitation package requests coupled with a shortage of clerks available for handling these requests. These two circumstances are shown in the schedule on page 3.

Requests received in advance of
time normally needed to provide
solicitation packages

WRALC's Operations Support Branch Chief said that the branch responds to requests for solicitation packages on a first-come-first-served basis and that when initial supplies of solicitation packages are exhausted, new supplies are ordered if at least 10 days remain before the closing dates for receiving bids or proposals. The Chief said that 10 days is considered the minimum time needed to acquire the packages, provide them to contractors, and receive bids or proposals back from the contractors.

The following table shows dates pertinent to Chem-Fab's requests for five of the denied solicitation packages.

| <u>Solicitation package</u> | <u>Date request received</u> | <u>Closing date for bids or proposals</u> | <u>Date of denial letter</u> |
|---------------------------------|----------------------------------|---|----------------------------------|
| 82-B-0167 | 9/27/82 | 10/13/82 | Undated |
| 82-B-0168 | 9/21/82 | 10/14/82 | 10/28/82 |
| 82-90023 | 9/27/82 | 10/12/82 | 10/22/82 |
| 83-90340 | 9/27/82 | 11/01/82 | 10/28/82 |
| 83-90372 | 9/27/82 | 10/08/82 | 10/21/82 |

A sixth package--number 83-90181--was denied because WRALC did not get to Chem-Fab's request in time to provide a package before the closing date for receiving a proposal. Chem-Fab's request for this package is not on file at WRALC and the denial letter is undated.

The above table shows that Chem-Fab's requests were received at least 10 days before the closing dates for receiving bids or proposals. According to WRALC officials, packages could have been ordered and provided to Chem-Fab before the closing dates if WRALC had acted promptly on Chem-Fab's requests.

Fewer clerks had to handle more requests

The Operations Support Branch Chief said that WRALC was unable to act promptly on Chem-Fab's requests--which were all received during September 1982--because of an unexpected large increase in the number of requests for solicitation packages, combined with a shortage of clerks available for handling requests during that month. The following table shows this situation.

| <u>Month/year</u> | <u>Number of requests</u> | <u>Clerks assigned</u> |
|-------------------|---------------------------|------------------------|
| 10/81 | 3,157 | 4 |
| 11/81 | 5,260 | 4 |
| 12/81 | 7,077 | 4 |
| 1/82 | 5,619 | 4 |
| 2/82 | 4,996 | 4 |
| 3/82 | 6,883 | 4 |
| 4/82 | 11,180 | 4 |
| 5/82 | 12,246 | 4 |
| 6/82 | 10,692 | 4 |
| 7/82 | 3,402 | 4 |
| 8/82 | 4,811 | 3 |
| 9/82 | 20,953 | 2 |

We compiled a monthly summary of solicitation requests for fiscal years 1981 and 1983 to determine whether the yearend increase in fiscal year 1982 solicitation requests was a common occurrence. The following chart shows that the number of solicitation requests remained fairly steady during the fourth quarter of fiscal year 1981 while the number of requests increased in the last month of fiscal year 1983.

| | <u>FY 1981</u> | <u>FY 1982</u> | <u>FY 1983</u> |
|-------|---|----------------|----------------|
| | ----- (number of solicitation requests) ----- | | |
| July | 6,474 | 3,402 | 4,815 |
| Aug. | 8,205 | 4,811 | 6,340 |
| Sept. | 6,092 | 20,953 | 8,335 |

The September 1983 increase, however, was not nearly as dramatic as the September 1982 increase, as indicated above. This limited sample seems to corroborate the opinion of the Operations Support Branch Chief that the large increase in September 1982 requests was unexpected.

WRALC'S ACTIONS DID NOT VIOLATE
DAR OR PUBLIC LAW 95-507

We believe that WRALC did not violate the applicable sections of DAR or Public Law 95-507 in denying Chem-Fab the solicitation packages because WRALC was not aware of Chem-Fab's small

business status when the requests were denied. In light of this, WRALC was only required to maintain and distribute a reasonable number of solicitation packages to companies not on the bidders list. WRALC apparently did this.

DAR, Part 10, Section 1-1002.1 and Public Law 95-507, Section 223 (a), require that solicitation packages on publicized procurements be provided to all requesting small businesses. Otherwise, DAR requires that contracting offices maintain a "reasonable number" of solicitation packages which may, when requested, be provided to contractors other than those from which bids or proposals were initially solicited.

Chem-Fab did not notify WRALC in time
that it was a small business

Chem-Fab's requests for six of the eight packages we reviewed did not indicate a small business status (the other two solicitation requests were not on file at WRALC). WRALC would have been required to provide solicitation packages to Chem-Fab if the company had notified WRALC of its small business status. Despite the heavier-than-expected workload and fewer clerks to handle the requests, WRALC would have had to make a special effort to reorder packages for the five solicitations whose packages had been exhausted. Chem-Fab, however, may not have had enough time to respond to the solicitations.

WRALC was not aware of Chem-Fab's small business status until WRALC submitted an October 6, 1982, application requesting that the company be included on WRALC's bidder's mailing list. We could not determine when WRALC received the application. However, the application did not enter WRALC's system until December 15, 1982--after Chem-Fab's requests were received in September and the denial letters were issued in October. The Deputy Director, Directorate of Contracting and Manufacturing, said that WRALC was not aware of Chem-Fab's small business status until the company's November 2, 1982, protest of the denials.

Reasonable numbers of solicitation
packages maintained for unsolicited
contractors

WRALC appears to have maintained a reasonable number of solicitation packages for requesting contractors who were not on the initial distribution list. WRALC's records indicate that 30 or more packages had been made available for distribution to unsolicited contractors on each of the solicitations requested by Chem-Fab. Moreover, at least that many packages were distributed on all but two of the solicitations, as indicated by the following chart.

| <u>Solicitation number</u> | <u>Packages for unsolicited contractors</u> | |
|--------------------------------|---|--------------------|
| | <u>Available</u> | <u>Distributed</u> |
| 82-B-0167 | 44 | 44 |
| 82-B-0168 | 30 | 30 |
| 83-90023 | 37 | 37 |
| 83-90181 | 30 | 11 |
| 83-90339 | 30 | 30 |
| 83-90340 | 30 | 30 |
| 83-90372 | 30 | 30 |
| 83-90476 | 30 | 29 |

As mentioned earlier, WRALC distributes solicitation packages to unsolicited contractors on a first-come-first-served basis. Chem-Fab did not receive packages on five of the solicitations because all available supplies had been distributed before WRALC responded to Chem-Fab's requests.

REASONABLE EFFORTS TO OBTAIN COMPETITION

One of the government's primary concerns, when a prospective contractor is unable to obtain a solicitation package, is whether the agency made reasonable efforts to obtain competition. We believe the following data indicate that WRALC made reasonable efforts to obtain competition. A substantial number of solicitation packages were distributed and multiple bids or proposals were received on all but one of the eight solicitations we reviewed.

Contractors provided packages

| <u>Solicitation number</u> | <u>Solicited contractors</u> | <u>Unsolicited contractors</u> | <u>Total</u> | <u>Bids or proposals received</u> |
|--------------------------------|----------------------------------|------------------------------------|--------------|---|
| 82-B-0167 | 26 | 44 | 70 | 12 |
| 82-B-0168 | 28 | 30 | 58 | 1 |
| 83-90023 | 23 | 37 | 60 | 8 |
| 83-90181 | 8 | 11 | 19 | 7 |
| 83-90339 | 9 | 30 | 39 | 3 |
| 83-90340 | 9 | 30 | 39 | 8 |
| 83-90372 | 5 | 30 | 35 | 3 |
| 83-90476 | 6 | 29 | 35 | 6 |

CHANGES MADE TO IMPROVE RESPONSES

WRALC does not maintain copies of denial letters or lists of contractors who are not furnished solicitation data. Accordingly, we could not determine whether all current requests for solicitation packages are being satisfied. WRALC, however, has

made changes which should improve the timeliness of responses and decrease the number of companies being denied solicitation packages.

As stated previously, the Operations Support Branch Chief said that when Chem-Fab's requests were received in September 1982, WRALC (1) handled requests on a first-come-first-served basis, (2) tried to have at least 30 copies of solicitation packages available for companies not on the bidders list, and (3) ordered supplementary copies of packages if at least 10 days remained before the closing date for receiving bids or proposals. The Chief said that WRALC considered this the minimum time needed to acquire the packages, mail them to requesting contractors, and receive responding bids or proposals.

The Chief said that (1) they have started ordering enough packages to have at least 40 available for unsolicited contractors and (2) 4 clerks are now assigned to handle requests for packages. As a result of these two actions, the Chief said they have been able to satisfy demands.