



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D C 20548

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COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

September 10, 1976

The Honorable Robert M White
Administrator, National Oceanic and Atmospheric Administration
Department of Commerce

Dear Dr. White

We recently completed a review of the coastal zone management program pursuant to a joint request of the Chairmen, Senate Committee on Commerce and the National Ocean Policy Study. A draft report on the results of the review was forwarded to you for comment on May 7, 1976. Although the request did not specifically cover the procurement activities of the National Oceanic and Atmospheric Administration (NOAA), we did note certain procurement actions of the Office of Coastal Zone Management (OCZM) which we believe warrant your attention.

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In summary, we found that OCZM

- has been without the benefit of a procurement plan based on anticipated or actual needs,
- has not adequately controlled or monitored its procurement actions, and
- exceeded its procurement authority on several occasions

The scope of our review and findings are discussed more fully in the following sections

BACKGROUND

It is Department of Commerce (DOC) policy that an office requiring supplies or services use Form CD-45 (Supply, Equipment or Service Order) not only as the requisition but also as the purchase/delivery order, invoice, and inspection and receiving report. The requesting office assigns sequential document control numbers to each CD-45 procurement action originating within its office and requests necessary administrative clearances at the time they are submitted to the procurement office for processing. Effective March 1, 1975, the NOAA procurement officer's authority to make small purchases, i.e., purchase orders, was increased from \$2,500 to \$10,000. Those over \$10,000 are sent to the DOC.

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procurement office to be processed as contracts. The small purchase system used by NOAA (1) is for the purchase of goods and nonpersonal services from commercial sources, (2) is limited to a maximum of \$10,000 for a single transaction, and (3) involves a minimum of administrative costs.

Procurements, whether in the form of purchase orders or contracts, may be either competitive or noncompetitive. Noncompetitive or sole-source procurements require the preparation of Form CD-302 (Justification for Noncompetitive Procurement) which is to be attached and processed with the procurement requisition (CD-45). The document is to fully support the circumstances which make competition impractical or not feasible and explain the exclusive or predominant capability the proposed contractor possesses which meets the requirements of the procurement. Effective December 1, 1975, the requirement for a sole-source justification statement was raised from \$250 to purchases over \$500.

We reviewed procurement records maintained at OCZM, NOAA and DOC procurement offices and records maintained by the NOAA finance office for selected procurements made by OCZM during the period November 1972 - December 1975.

OCZM PROCUREMENT ACTIVITIES LACK PLANNING, CONTROL AND MONITORING

OCZM allocates funds for procurement but has no plans as to what and when specific supplies and services are needed. Additionally, OCZM has not provided the necessary control over the administration of its procurements and has been lax in monitoring contractor performance. As a result, we believe that OCZM has overreacted to its needs and, in some cases, contracted for personal services that did not benefit the program to the extent anticipated.

We found that funds allocated to procurement represent what is left over after the other elements in the budget have been funded. Without the benefit of a procurement plan and because procurement funds usually are not sufficient, reprogramming usually occurs. OCZM's budget plan for the first half of fiscal year 1976 included about \$57,000 for the procurement of supplies and services while OCZM requisitions initiated during the same period for supplies and services amounted to over \$100,000.

From November 1972 to December 1975, OCZM initiated about 225 requisitions for supplies and services. Since their requisition records were incomplete, especially the earlier ones, we were unable to determine exactly how many of these resulted in procurement actions. We selected 62 requisitions on the basis of the product or service required, and

found that 15 resulted in contract awards, 27 in small purchase orders, 17 in amendments to contracts or purchase orders, 2 were cancelled and one resulted in a grant award. Eleven of the contracts and 21 of the purchase orders were sole-source procurements. Most of the amendments extended the periods of performance and/or increased the price. The two cancelled requisitions were for the same product and cancelled because OCZM considered the proposals received unsuitable. OCZM said that requisitions are not used to initiate grant awards and could not explain why it was done in the above instance.

From the records maintained at the NOAA and DOC procurement offices, the NOAA finance office and OCZM, we attempted to determine, as of January 1976, the status of the product or service required for the 15 contracts and 27 purchase orders. We found that about 34 of these procurements required an end product--usually a document on the results of a study. OCZM was unable to produce for us the required product for about half of these. Four of the procurements were still active, 7 completed on time, and 10 completed late. Because of inadequate control and monitoring by OCZM of its procurement actions, we could not determine whether the products or services for the remaining 21 procurements had been received. In addition, the finance office records indicated that only partial payments or no payments at all had been made on seven procurements considered completed by OCZM. As a result, any of these funds that could have been deobligated were not made available for use by OCZM.

We recognize that thorough and effective procurement planning, control and monitoring does not necessarily assure a successful outcome, but it will enhance the chances of success. We believe that procurement planning should also lessen the need for sole-source procurements awarded on the basis of time constraints. OCZM has claimed that the principal justification factors applicable to its sole-source procurements are the scarcity or non-availability of the required expertise and/or time constraints. Although we did not attempt to determine the availability of experts in the area of coastal zone management, we believe that adequate procurement planning would provide sufficient lead time to explore the possibility of additional expertise and to reduce sole-source procurements because of the time constraint factor.

The following are examples of how OCZM's lack of planning, control and monitoring affects its procurement activities:

--A contract awarded in June 1973, for \$55,939, called for three reports to assist NOAA in formulating the policy and administration procedures to fulfill the terms of the CZM Act of 1972 and the Marine Protection, Research and Sanctuaries Act of 1972. The original completion date was November 15, 1974, but extended

three times by amendment. The second amendment, dated May 9, 1974, also increased the contract price by about \$8,000 and added an additional task. The third report was delivered in February 1974, and the one required by the additional task added by the second amendment was delivered in November 1974. We could not determine whether the first and second reports were delivered. In September 1974, in response to an inquiry from the finance office, OCZM said that the contract was completed to its satisfaction. However, as of January 1976, the finance office showed that only \$30,000 of the contract price had been paid.

--A sole-source contract for \$20,000, awarded on June 30, 1973, was designed to result in a document for adding clarification to the CZM guidelines. The original completion date of February 28, 1974, was extended to March 30, 1974, by amendment which also increased the price to \$28,650. A document entitled, "Coastal Zone Management-The Process of Program Development," was delivered in November 1974. It was delayed because, according to OCZM, of editing problems. Although widely distributed to the States and other interested parties, the document disclaimed the content as being OCZM's policy or views. Had OCZM adequately monitored the contractor's performance, it should have assured itself that its policy and views were being adhered to.

--A negotiated contract awarded on June 29, 1974, for \$33,867, called for a study of urban coastal zone management to be completed by December 31, 1974. Although the contract period was extended to January 31, 1975, the amendment granting this extension was not executed until April 1975. The product, delivered in October 1975, was not considered by OCZM to be very good and has not been used. As of January 1976, only about two-thirds of the contract price had been paid.

--On April 15, 1975, a sole-source contract was awarded to conduct the annual Coastal Zone Management Conference held on May 27 - 30, 1975. The contract also called for the preparation of a report analyzing and assessing the conference. OCZM is not aware of any report, and, as of January 1976, no invoice had been received for payment.

CONCLUSIONS

We recognize that OCZM's total and individual expenditures for supplies and services are not large. However, due care must be exercised in the managing and expending of government funds. We believe that OCZM should initiate procurement planning and strengthen its (1) control of contract administration activities, and (2) monitoring of contractor performance. Such action should benefit the administration of the coastal zone management program.

RECOMMENDATIONS TO THE ADMINISTRATOR

The Assistant Administrator for Coastal Zone Management should be directed to

- Require program elements to develop annually, quarterly, or as needed, a procurement plan that dovetails with the program objectives for the same period of time, and
- Establish procedures at the program level for controlling and monitoring procurement actions from inception to completion.

OCZM HAS EXCEEDED ITS AUTHORITY

OCZM has, on occasion, exceeded its procurement authority by authorizing contractors to provide a product or service without the benefit of a contractual agreement. In addition, OCZM has also awarded successive procurements to the same individuals for personal services which could be tantamount to the establishment of an employer-employee relationship.

Both Federal and Commerce regulations prohibit an employer, officer or official other than the designated contracting officer from negotiating, entering into, amending or administering contracts or making advance contractual commitments on behalf of the Department. Regulations also severely restrict the procurement of personal or non-personal services by contract or purchase order when such procurements would be used for the purpose of evading the requirements of any law or regulation applicable to Federal employment or the Federal employees.

Following are the circumstances surrounding some of these questionable procurement activities

- A competitively negotiated firm fixed price contract for \$48,006 was awarded on October 5, 1973, to develop guidelines or criteria for approval of State CZM programs. A product was delivered in April 1974, about two months later than the completion data specified in the contract. During the course of this contract both the contractor and OCZM decided to expand the scope to include a study of the Federal relationship to State CZM programs. However, the contractor had submitted invoices for the work completed under the original agreement and final payment was made. The work being performed under the expanded scope was therefore being done without the benefit of a contract. OCZM submitted a request for a new contract in March 1974. When the DOC procurement office began to negotiate

with the contractor they learned that OCZM had instructed him to proceed with the work under the expanded scope, and that the contractor had completed about 60 - 65 percent of the work. DOC requested NOAA to furnish written details surrounding the events which prompted OCZM to exceed its authority. NOAA explained that, based on past experience of long time delays involved in stopping all work on a project, and because they believed it was necessary to provide coastal States with early guidance in dealing with Federal agencies in the development of their programs, both OCZM and the contractor agreed to proceed with the work. In accordance with regulations to resolve as promptly as possible all contract administration problems at the lowest level practicable, the contracting officer awarded a new contract to the contractor on June 28, 1974, for \$28,180, and a product was delivered in September 1974.

--On May 9, 1975, a sole-source purchase order for \$2,500 was awarded to an individual to collect, assemble and assess information on possible methods of control needed for coastal zone management. This effort was to begin on June 2, 1975, with the product delivered on August 15, 1975. A document entitled, "Method of Control of Land and Water Uses in the Coastal Zone," was delivered in October 1975. Another sole-source purchase order was awarded to the same individual on August 11, 1975, for \$2,400 as a continuation of work begun on the first purchase order. A document entitled, "Detailed Outline for Coastal Water Use Planning and Management," was delivered December 1, 1975--about 1 month late. OCZM submitted another requisition for a sole-source purchase order with the same individual in the amount of \$5,000 to assemble and assess information on the coastal zone programs of the Southeast region. The NOAA procurement office told OCZM that, from all indications, it looked like this individual was on the payroll via the purchase order route, and that OCZM foresaw this continuing relationship in May 1975 and split the procurement into segments. They pointed out that the Federal Procurement Regulations strictly forbid this type of action. The requisition was returned to OCZM with instructions to competitively seek sources for this procurement. OCZM requested proposals from three sources, including the individual OCZM originally intended to use. One contractor did not submit a proposal and the other contractor's proposal was more than double the \$5,000 proposed by the original source. In November 1975, a purchase order for \$5,000 was awarded to the original source.

CONCLUSIONS

Although we do not believe that OCZM deliberately attempted to exceed its procurement authority, the fact that such actions did occur would indicate that established procedures are not being adhered to.

RECOMMENDATIONS TO THE ADMINISTRATOR

The Assistant Administrator for Coastal Zone Management should be directed to

- Determine that the necessary information and/or training on procurement procedures and responsibilities has been provided to program element requisitioners, monitors and administrators, and
- Strengthen procedures for handling cases where program elements exceed their procurement authority to include submitting written details surrounding the events to the Secretarial level.

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Thank you for the cooperation extended to our representatives. We would appreciate being informed of any actions taken on the matters discussed in this report.

Copies of this report are being sent to the Assistant Secretary for Administration, the Assistant Administrator for Coastal Zone Management, and the Deputy Director, Office of Audits.

Sincerely yours,


John Landicho
Associate Director