



United States  
General Accounting Office  
Washington, D.C. 20548

160221

Resources, Community, and  
Economic Development Division

B-279349

April 13, 1998

The Honorable Frank R. Wolf  
House of Representatives

Subject: Telecommunications: NTIA's Contract With FEDSMR Regarding the  
U.S. Navy's Land Mobile Radio Service in Norfolk, Virginia

Dear Mr. Wolf:

In assigning radio frequency spectrum to federal agencies, the National Telecommunications and Information Administration (NTIA), within the Department of Commerce, must promote the efficient and cost-effective use of the spectrum to the maximum extent feasible. In order to encourage the efficient use of the spectrum, on December 1, 1992, NTIA contracted with FEDSMR, Inc.,<sup>1</sup> to operate a 5-channel land mobile radio system for federal agencies' use in Norfolk, Virginia. The contract requires NTIA to encourage federal agencies to use the FEDSMR system but specifies that NTIA cannot require the agencies to use the system. Accordingly, NTIA approved the U.S. Navy's request for spectrum to operate two 5-channel systems in the Norfolk area instead of using the FEDSMR system on the basis of the Navy's assertion that it needed its own systems to meet its mission requirements.

On September 22, 1997, you asked us to determine the extent to which NTIA fulfilled its responsibilities to promote the Navy's use of NTIA's contract with FEDSMR and its statutory requirement to promote the efficient and cost-effective use of the spectrum to the maximum extent feasible.

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<sup>1</sup>FEDSMR, Inc., signed the contract with NTIA. Later, the contract was amended to transfer FEDSMR's responsibilities to the Federal Radio Service Corporation. The company is still known as FEDSMR.

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RESULTS IN BRIEF

The National Telecommunications and Information Administration fulfilled its contractual responsibilities to promote the use of the FEDSMR system and its statutory responsibilities to promote the efficient and cost-effective use of the spectrum to the maximum extent feasible. Officials of the National Telecommunications and Information Administration initiated meetings between the company and the Navy and discussed the agency's findings in an attempt to allay the Navy's concerns about FEDSMR's proposal. The Administration concluded that the FEDSMR system could meet the Navy's requirements and that FEDSMR's proposal was more appropriate than the Navy's system from a federal governmentwide view of spectrum efficiency. However, the contract with FEDSMR specifies that the Administration must promote, but cannot require, federal agencies to use the FEDSMR system. Under the National Telecommunications and Information Administration Organization Act, the Administration is to promote the efficient and cost-effective use of the spectrum to the maximum extent feasible. Navy officials told us that the Administration aggressively promoted the Navy's use of the company's system but that the Navy ultimately decided not to use FEDSMR's services because the Navy determined that full control of its radio communications was the best way to achieve its mission. On this basis, the Administration approved the Navy's request for spectrum to operate its own systems in the Norfolk area.

BACKGROUND

The NTIA Organization Act requires the Secretary of Commerce, in assigning spectrum to federal agencies, to promote the efficient and most cost-effective use of the spectrum to the maximum extent feasible. The act also authorizes, but does not require, the Secretary to withhold or refuse to assign spectrum for land mobile radio services to federal agencies in order to further the goals of efficiency and cost-effectiveness. This provision of the act was delegated to NTIA. NTIA requires any federal agency requesting land mobile radio frequency spectrum for use within 30 kilometers of an existing NTIA-authorized system to provide a justification for establishing such a system. One such justification is that the existing system would not meet the requesting agency's mission requirements.

On December 21, 1992, NTIA authorized the Navy to operate a proposed 10-channel land mobile radio system at the Norfolk Naval Base. According to an NTIA official, FEDSMR was aware that the Navy had authorization to operate a 10-channel system independently of the company's system. In 1996, FEDSMR proposed to the Navy that it combine its 10 channels with the company's 5 for a

15-channel system to be operated by the company. The Navy considered the proposal but determined that it needed its own systems to meet its mission and, in March 1997, requested NTIA's approval to operate two 5-channel systems (instead of the single 10-channel system already authorized) at the Norfolk Naval Base and the Naval Shipyard in Portsmouth, Virginia. In June 1997, NTIA authorized the Navy to operate the two 5-channel systems. In December 1997, the Navy issued a purchase order to lease the needed equipment for its two systems.

NTIA FULFILLED ITS CONTRACT  
AND STATUTORY RESPONSIBILITIES

NTIA fulfilled its contractual responsibilities to promote the use of the FEDSMR system and met the requirements of the NTIA Organization Act to promote the efficient and cost-effective use of the spectrum to the maximum extent feasible. NTIA encouraged the Navy to use FEDSMR's radio system in Norfolk and took an active role in an attempt to allay the Navy's concerns about the company's proposal. The Navy ultimately decided not to use the company's services because the Navy determined that full control of its radio communications was the best way of achieving its mission. The circumstances leading to NTIA's approval of the Navy's radio systems in Norfolk and NTIA's specific promotion efforts are as follows.

FEDSMR told NTIA that the Navy should have accepted the proposal because it would have used the spectrum more efficiently and would have met all of the Navy's needs. According to FEDSMR and NTIA, a combined 15-channel system is more efficient than three separate 5-channel systems because (1) each system requires one channel to operate (leaving only 12 channels available for communications on the three separate systems versus 14 available channels on a combined system) and (2) a combined system would provide each federal user with access to 14 channels, while three systems would provide each federal user with access to only 4 channels on one of the separate 5-channel systems. FEDSMR proposed adding equipment to its existing system in Norfolk to create a wide-area system (covering a larger geographic area) that it believed would better meet the Navy's needs than the Navy's two proposed local systems. Finally, FEDSMR planned to offer the wide-area service to Norfolk customers for \$11 per month for each radio with unlimited use—\$2 less than it charges its current local customers—and planned to include extra services, such as priority access to communications channels during emergencies.

Navy officials told us that after a great deal of consideration, they determined that the Navy needs its own systems to meet its mission and that they saw no

benefit to relinquishing the 10 channels to FEDSMR. The Norfolk Naval Base and the Naval Shipyard need radio communications to respond to various kinds of emergencies, including fires, accidents involving weapons, and environmental and natural disasters. Furthermore, according to these officials, an important consideration in the Navy deciding that it needed its own systems to meet its mission was that on January 1, 1998, the Norfolk Naval Base was to be assigned additional responsibility for handling potential nuclear emergencies. The Navy's concerns regarding FEDSMR's proposal included the costs, technical and operational capabilities, the viability of the company, and control of the system during an emergency situation. The following are the positions of the Navy, FEDSMR, NTIA, and our assessment.

- Navy officials said that they can build and run their own systems for less out-of-pocket costs than it would cost to lease FEDSMR's services for 5 years, because the Navy would not have to pay for radio tower space, adding radios or user groups to the system, additional salaries, or the company's profit. FEDSMR, on the other hand, questioned the validity of making an out-of-pocket cost comparison rather than a comparison of total costs. Specifically, FEDSMR questioned the Navy's estimate of personnel costs required to operate the Navy-owned sites because it did not include a portion of the salaries of Navy personnel who would absorb some of the responsibilities for operating the system. NTIA examined the differing cost estimates from FEDSMR and the Navy and concluded that, although there was room for disagreement on the Navy's personnel cost, the variation between operation by the Navy and by the company would likely be insignificant and that the costs would be about the same. NTIA's assessment seems reasonable.
- Navy officials said that the FEDSMR system could not meet all of the Navy's technical requirements—specifically, the company's existing system did not work in some Navy buildings. The officials said that FEDSMR's proposed system would not provide adequate in-building coverage and that this problem can only be resolved by having a tower on each base. Navy officials said that coverage in buildings is important during an emergency and noted two incidents in the Norfolk area in which inadequate radio coverage was a significant factor in the loss of life to public safety officials. FEDSMR officials said that they can meet all of the Navy's communications requirements. FEDSMR proposed to relocate the tower to provide coverage in the buildings; however, the Navy was concerned that FEDSMR's offer was not included in a written proposal and that the company could relocate the tower later to please another customer. NTIA found that FEDSMR's proposed actions would meet all of the Navy's technical communication

requirements and that the Navy's complaint in this area was not valid. NTIA's assessment seems reasonable.

- Navy officials told us that they were concerned about the economic viability of FEDSMR—the company had been in existence for only about 2 years, was having difficulty getting subscribers, and quit operating in Boston for a lack of customers. The officials also said that if FEDSMR went out of business, the Navy would be without a radio communications system. FEDSMR said that it would protect the federal government by giving it a security interest in the equipment and, if the company went out of business, the federal government would obtain ownership of the equipment. FEDSMR said that the government could continue to operate the system even if the company went out of business. NTIA found that the economic viability of FEDSMR appears sound. FEDSMR's parent company, Pegasus Communications Corporation, is a large, well-funded organization that can afford the capital investments required to operate and expand the system in Norfolk. While we did not examine the viability of FEDSMR, NTIA's position appears logical.
  
- Navy officials were also concerned that FEDSMR's system capacity would not meet the Navy's needs during times of emergency. The Navy would be sharing the system with other federal agencies, but if the Navy had its own systems, it would not have to share with other agencies and risk access problems. FEDSMR proposed allocating priority access to channels on the basis of the Navy's portion of the customer base—for example, if the Navy operated 80 percent of the customer base, it would have priority access to 80 percent of the 14 channels (i.e., over 11 channels) versus the 8 channels it would have on its own systems. NTIA determined that priority access requirements could be solved by agreement among the federal agencies using the system and that the Navy's concerns did not appear warranted. While the result might have given the Navy priority access to a greater number of channels using the company's system, the Navy was reluctant to accept this uncertainty in light of the importance of its mission. We did not assess whether the Navy needed its own systems to meet its mission because the focus of our work was on whether NTIA fulfilled its responsibilities.

After considering the above factors, NTIA allowed the Navy's spectrum request, given the Navy's position that it required its own system to meet its critical mission needs. We believe that this decision was consistent with NTIA's statutory responsibility to require the Secretary to "promote" efficient and cost-effective use of the spectrum to the maximum extent feasible. NTIA has reported to the Congress that it plans to promote the effective federal use of the spectrum by, in part, relying on the strong incentives associated with

sharing radio systems—low capital investment and the ability to begin operating immediately.<sup>2</sup> In this report, NTIA said, nevertheless, that agencies can still procure systems tailored to their specific requirements whenever necessary. We also believe that NTIA fulfilled its contractual responsibilities to promote the use of the FEDSMR system. NTIA prepared a detailed analysis of the Navy's concerns and concluded that the FEDSMR system could meet the Navy's concerns and technical communications requirements for about the same cost as the Navy operating its own systems. NTIA also concluded that FEDSMR's proposed wide-area system was more appropriate than the Navy's systems from a governmentwide, long-term view of spectrum requirements and efficiency. Furthermore, NTIA initiated meetings between FEDSMR and the Navy and discussed its findings in an attempt to allay the Navy's concerns about FEDSMR's proposal. NTIA also encouraged the Navy to further consider FEDSMR's proposal after the company made key modifications to it.

Navy officials told us that NTIA aggressively promoted the Navy's use of the FEDSMR system but that the Navy ultimately decided not to use the company's services. The Navy determined that full control of its land mobile radio communications was the best way to ensure that its mission will be achieved during an emergency situation. NTIA officials told us that they are not in a position to judge whether an agency needs to operate its own radio system in order for the agency to meet its mission and, therefore, leaves that decision to the requesting agency. NTIA officials also told us that, if NTIA does not accept the Navy's judgment for what is needed to meet its mission, then NTIA would share in the responsibility if the FEDSMR system does not perform during an emergency—a situation they do not want.

#### SCOPE AND METHODOLOGY

We interviewed and obtained pertinent documentation from NTIA officials in Washington, D.C.; Navy officials in Norfolk, Virginia; and FEDSMR officials. We also reviewed the NTIA Organization Act, pertinent NTIA regulations, and NTIA's contract with FEDSMR.

We conducted our review from November 1997 through March 1998 in accordance with generally accepted government auditing standards.

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<sup>2</sup>On March 10, 1995, NTIA reported to the Senate Committee on Commerce, Science, and Transportation when the agency submitted its Implementation of NTIA's Land Mobile Spectrum Efficiency Plan, A Progress Report (Mar. 6, 1995).

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AGENCIES' COMMENTS

We provided the departments of Commerce and Defense with a draft of this report for review and comment. Both agencies generally agreed with the contents of the draft report. (See encs. I and II.) Also, Defense offered some technical and clarifying comments, which we incorporated in the report as appropriate.

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We will send copies of this report to the Commander of the Norfolk Naval Base and the Administrator of NTIA. Copies of this report will be made available to others on request.

Major contributors to this report were Phyllis Scheinberg, Janet Barbee, Sharon Dyer, John Thomson, and Mindi Weisenbloom. Please contact me at (202) 512-2834 if you or your staff have any questions.

Sincerely yours,



John H. Anderson, Jr.  
Director, Transportation and  
Telecommunications Issues

Enclosures - 2

COMMENTS FROM THE DEPARTMENT OF COMMERCE**THE SECRETARY OF COMMERCE**

Washington, D.C. 20230

APR - 1 1998

Mr. John H. Anderson, Jr.  
Director, Transportation and  
Telecommunications Issues  
Resources, Community, and Economic  
Development Division  
United States General Accounting Office  
Washington, DC 20548

Dear Mr. Anderson:

Thank you for your letter of March 13, 1998, allowing the Department of Commerce to comment on the General Accounting Office's (GAO) draft report on the National Telecommunications and Information Administration's (NTIA) contract with FEDSMR to provide land mobile radio services in Norfolk, Virginia. The Department welcomes such examination of its processes.

The Department of Commerce agrees with the GAO's findings that "NTIA fulfilled its contract responsibilities to promote the use of FEDSMR's system and its statutory responsibilities to promote the efficient and cost-effective use of the spectrum to the maximum extent feasible." I can assure you that NTIA will continue to encourage Federal agencies seeking to operate new or expanded land mobile systems to first consider commercial alternatives or existing Federal systems whenever an agency can technically and economically meet its critical mission requirements.

The Department and NTIA appreciate the opportunity this issue provided us to work with you and your staff.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Daley".

William M. Daley



COMMENTS FROM THE DEPARTMENT OF DEFENSE

COMMAND, CONTROL,  
COMMUNICATIONS, AND  
INTELLIGENCE

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE  
6000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-6000

April 6, 1998



Mr. John H. Anderson, Jr.  
Director, Transportation and  
Telecommunications Issues  
Resources, Community and Economic  
Development Division  
U.S. General Accounting Office  
Washington, DC 20548

Dear Mr. Anderson:

This is the Department of Defense (DoD) response to the General Accounting Office (GAO) draft report, "TELECOMMUNICATIONS: NTIA's Contract With FEDSMR," dated March 13, 1998 (GAO Code 348056/OSD Case 1566).

The Department of Defense has reviewed the report and has no objection. Technical corrections were separately provided to the GAO staff. The Department appreciates the opportunity to comment on the draft report.

Sincerely,

Arthur L. Money  
Senior Civilian Official

(348056)



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