

DOCUMENT RESUME

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[Improper Small Business Set-Aside Contract Award]. PSAD-78-139; B-192587. August 25, 1978. Released September 1, 1978. 2 pp.

Report to Rep. James Lloyd; by Jerome H. Stelarow, Director, Procurement and Systems Acquisition Div.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Procurement and Systems Acquisition Div.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Department of the Navy: Long Beach Naval Station, CA; Approved Disposal Co., Inc.; Western Refuse Hauling, Inc.; Department of Defense.

Congressional Relevance: Rep. James Lloyd.

Award of a refuse disposal contract at the Long Beach Naval Shipyard in California to Approved Disposal Company, Inc., was investigated to determine whether Approved Disposal was eligible to compete for the contract set aside for small businesses. The investigation indicated a long-term affiliation between Approved Disposal and Western Refuse Hauling, Inc. The combined annual average receipts of the two affiliates exceeded \$10 million for the preceding 3 fiscal years, disqualifying Approved Disposal from participation in a small business set-aside. The Small Business Administration officially determined that Approved Disposal did not meet the size standards applicable to the shipyard's contract but took no position on whether Approved Disposal had inadvertently or fraudulently misrepresented itself as a small business prior to the contract award. The contracting officer at the shipyard advised that the Navy will not exercise the renewal option in the current contract and will solicit bids later this year for a new contract. The officer also noted that he has experienced difficulties in obtaining responses from small businesses. This may be caused, in part, by the 50% performance-bond requirement.

(RRS)



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

PROCUREMENT AND SYSTEMS
ACQUISITION DIVISION

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B-192587

August 25, 1978

The Honorable James Lloyd
House of Representatives

Dear Mr. Lloyd:

In response to your request of March 22, 1978, we investigated the award of a refuse disposal contract at the Long Beach Naval Shipyard to Approved Disposal Company, Incorporated, to determine whether Approved Disposal was eligible to compete for the contract set-aside for small business.

Contract N62474-78-C-5304 was awarded on December 30, 1977, to the low bidder, Approved Disposal, for the collection and disposal of refuse at six Naval installations for the period January 1, 1978, through December 31, 1978. At the Government's option, the contract can be extended for up to 24 months. The invitation for bid for the contract specified that this award was only available to the small business firms whose average annual receipts for the preceding 3 fiscal years did not exceed \$3.5 million.

Our investigation revealed substantial evidence indicating long-term affiliation between Approved Disposal and Western Refuse Hauling, Incorporated. The combined annual average receipts of these affiliates exceeded \$10 million for the preceding 3 fiscal years, which would disqualify Approved Disposal from participation in the refuse disposal contract at the Shipyard.

On May 2, 1978, we requested the Small Business Administration to conduct an investigation based upon our findings. The Administration is responsible for establishing the eligibility of firms to participate in small business set-aside contracts.

On June 21, 1978, the Administration issued its official determination that Approved Disposal did not meet the size standards applicable in the refuse contract awarded by the Shipyard. The Administration took no position on whether Approved Disposal had inadvertently or fraudulently misrepresented itself as a small business prior to the December 30, 1977, contract award, and therefore, no action was recommended concerning the original award. It did, however, advise contracting officials at the Shipyard that the 24-months option available under this contract should not be exercised since Approved Disposal is not a small business.

PSAD-78-139
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The contracting officer at the Shipyard advised us that the Navy will not exercise the option clause in the current contract and is planning to solicit bids later this year for a new refuse contract to take effect January 1, 1979. He also stated that he has experienced difficulties in obtaining responses from small businesses. This may be, in part, caused by the 50 percent performance bond requirement mentioned in your letter. We did not undertake a review of the bonding requirement since this was beyond the scope of your primary concern as discussed with your office.

If we can provide any further information on this matter or be of assistance in any way, please call upon us. As agreed with your staff, we are sending a copy of this report to Congressman Glenn M. Anderson. No further distribution will be made until 7 days from the date of the report, unless you publicly announce its contents earlier or notify us otherwise, at which time we will release the report to interested parties.

Sincerely yours,

A handwritten signature in cursive script that reads "J. H. Stolarow".

J. H. Stolarow
Director

cc: Congressman Glenn M. Anderson