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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D C 20548

HUMAN RESOURCES
DIVISION

August 31, 1983

B-205028

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The Honorable Howard H. Baker, Jr.
United States Senate

RELEASED

The Honorable John J. Duncan
House of Representatives

The Honorable James H. Quillen
House of Representatives

Subject: / Review of Contract Award for Management of
National Center for Research in Vocational
Education (GAO/HRD-83-79)

In February 1983, you requested that we review the contract awarded by the Department of Education (ED) in January 1983 for managing the National Center for Research in Vocational Education. We have reviewed the process followed in awarding the contract and found it to be in accordance with applicable regulations.

Our review was performed at ED headquarters and was made in accordance with generally accepted government auditing standards. We reviewed all pertinent documents regarding the request for proposals and award of the contract. We also reviewed applicable procurement regulations. We interviewed panel members, the ED contracting officer and his staff, and officials of ED's Office of Vocational and Adult Education. We did not evaluate the technical merits of the proposals the bidders submitted for the contract.

Under section 171(a)(2) of the Education Amendments of 1976, ED is authorized to support a National Center for Research in Vocational Education. On January 16, 1978, on the basis of a competitive procurement procedure, the Ohio State University Research Foundation was awarded a contract to operate the Center with annual options to renew the contract until January 1983. Ohio State was paid over \$25.3 million during the contract's 5-year period. In January 1983, on the basis of competitive procurement procedures, Ohio State University was awarded another contract to operate the Center, with annual renewable options through January 1987.

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Summarized below is a chronology of the key events leading to the award of the contract in January 1983 and the basis for our conclusion regarding the propriety of the procedures followed in making the award.

CHRONOLOGY OF EVENTS IN
CONTRACT PROCUREMENT PROCESS

On May 26, 1982, ED issued request for proposal (RFP) 82-028, for a contract to manage the Center for 5 years. The closing date for proposals was July 30, 1982. The RFP sets forth the criteria to be utilized by reviewers in determining the technical merits of the submitted proposals.

Two organizations, the Ohio State University Research Foundation and the University of Tennessee, submitted proposals in response to the RFP. The University of Tennessee's cost proposal for the first year of operation was \$2,704,425, and Ohio State's was \$4,633,000.

A Federal Technical Review Panel composed of ED personnel was convened August 2 through 6, 1982, to evaluate, rate and score the two proposals. Panel members used the criteria set forth in the RFP to make their evaluations. Five of the seven panel members gave the University of Tennessee higher point scores.

In September 1982 the Secretary of Education formed another panel composed of nationally recognized non-Federal experts, knowledgeable of the research and program improvement process in vocational education, to evaluate the two institutions with regard to staffing, facilities, equipment, and institutional experience and commitment. The panel's evaluation was to be based on site visits to each of the universities. The Assistant Secretary stated that this panel was formed because (1) the amount of the contract award represented a large percentage of the discretionary funds available to the Secretary for vocational education and (2) of the need to take an onsite look at the staff, facilities, and commitment of each organization.

On October 18 and 19, 1982, the panel visited the sites of the two offerors and prepared written comments on the staffing, institutional experience, resources, facilities, and equipment of each of the two offerors. A consensus of the opinions expressed by the panel in their written comments favored Ohio State.

Subsequently, ED officials requested the panel to also review the technical merits of the two proposals and provide written comments. Accordingly, the panel convened in Washington D.C., on November 2 and 3, 1982, and prepared written comments. A consensus of the opinions expressed by the panel on the merits of the proposals in their written comments favored Ohio State.

After discussing the original proposals with officials of Ohio State and Tennessee, ED requested them to submit best and final offers. On December 10, 1982, best and final offers were received from both Ohio State and Tennessee. Ohio State's final cost proposal for the first year of operation was \$4,369,947 and Tennessee's cost proposal was \$3,106,603.

The Federal Technical Review Panel met between December 11 and 13, 1982, to review the best and final offers and to make written recommendations for awarding the contract. One of the initial seven panel members had resigned before this time, and of the other six members, five recommended that the contract be awarded to Tennessee and one recommended Ohio State. The non-Federal expert panel was not requested to review the final offers.

RECOMMENDATION BY ASSISTANT SECRETARY
FOR VOCATIONAL AND ADULT EDUCATION FOR
THE AWARD OF THE CONTRACT

On January 5, 1983, the Assistant Secretary for Vocational and Adult Education recommended that Ohio State be awarded the contract. In a memorandum of that date to the Director, Assistance Management and Procurement Services, the Assistant Secretary stated the following regarding his rationale for recommending the award to Ohio State.

"* * * The proposals must be perceived as plans for five years of procurement. Thus, preference must be given to the proposal that proposes the best five-year procedural plan as well as detailed plans for the first year of operation. The Ohio State University has submitted such a proposal. The Federal Technical Review Panel appears to have given too much weight to the more narrowly focused University of Tennessee proposal for the first-year effort rather than viewing the proposal as a five-year effort with a need for balance and a broad based long-term approach. The Request for Proposal listed a substantial number of priority areas of focus. While the Request for Proposal did not indicate that each of these areas must be addressed, it suggested a substantively broad based

proposal that provided a balanced approach for the many diverse vocational education communities at all levels of vocational education.

"While the Federal Technical Review Panel provides advice to the government regarding proposals that are received, it clearly is the responsibility of the government to make the best decision regarding which proposer should be funded. This decision is based on the announced technical review criteria and the best buy for the government in terms of impact on the broad diverse vocational education communities for the planned five year duration of the National Center.

"While The University of Tennessee's proposed cost is less than the proposed cost for the Ohio State University, The Ohio State University proposal includes more activities and services to a broader range of vocational education communities at the prevocational, secondary, postsecondary and adult levels. This is in contrast to The University of Tennessee's proposal which is more focused and tends to be more oriented to the post-secondary and adult levels. While the Ohio proposal requests more funds, it proposes to do more work to serve the broad array of vocational education communities. This is more in line with the congressionally mandated intent for the National Center."

AWARD OF CONTRACT TO OHIO STATE

In the Contracting Officer's January 13, 1983, "DETERMINATION AND FINDINGS" regarding the contract, he concluded that the Assistant Secretary of Vocational and Adult Education

"has made a convincing and substantiated argument that the Contracting Officer should not accept the recommendation of the technical review panel and that the recommendation of Assistant Secretary * * * should be accepted, that award of this contract be given to Ohio State University Research Foundation in the amount of \$4,369,947."

On January 13, 1983, ED awarded a contract in the amount of \$4,369,947 to the Ohio State University Research Foundation for managing the National Center for Research in Vocational Education from January 16, 1983, to January 15, 1984, with annual options to renew.

PRIOR COMPTROLLER GENERAL DECISIONS
WHICH ARE GERMANE TO THE SUBJECT AWARD

The Comptroller General of the United States has issued a number of decisions which have a direct applicability to this award. Comptroller General Decision B-199540.3, dated November 16, 1982, states in part:

"The contracting officer * * * is not bound by the recommendations made by evaluation and advisory groups even though such groups may be composed of working level procurement officials and evaluation panel members who normally may be expected to have the technical expertise required for the technical evaluations.

"Although the contracting officer's decision must not be inconsistent with the solicitation's stated evaluation criteria and must have a rational basis, he is vested with a considerable range of judgment and discretion in determining the manner or extent to which the evaluation will be used."

Comptroller General Decision B-190530, dated January 11, 1979, discussed another case where an award was made contrary to a panel recommendation. In this case the evaluation process included a technical review panel to evaluate initial proposals and a site team visit, with team member comments to be considered as part of the overall evaluation. The decision states in part, "even if the technical review panel had unanimously recommended award to * * *, it would have been within the selection official's discretion to select * * * for award provided that selection would have had a reasonable basis and been consistent with the evaluation criteria." Also, the decision concludes that there was "nothing improper with this evaluation approach."

CONCLUSION

In view of the past decisions of the Comptroller General that a contracting officer is not bound by the recommendations of an advisory panel, and based on our review of the procedures followed in awarding the contract, we believe that the award to Ohio State University complied with applicable procurement regulations.

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Because this report contains no recommendations, it was not sent to ED for written comments. However, the matters contained in this report were discussed with ED's Contracting Officer.

We trust that this information is responsive to your request. As arranged with your office, unless you publicly announce the report's contents earlier, we plan no further distribution until 3 days from its issue date. At that time we will send copies to the Secretary of Education; the Director, Office of Management and Budget; and other interested parties and make copies available to others upon request.



Richard L. Fogel
Director