



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

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MANPOWER AND WELFARE
DIVISION

MAY 1973

Mr. Tom Kouzas
Deputy Assistant Secretary for
Administration and Management
Department of Labor

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Dear Mr. Kouzas:

As part of our survey of activities of the Manpower Administration's Unemployment Insurance Service (UIS), we examined agreements and contracts between the UIS, State agencies and private and public firms. Our work was performed primarily at the UIS headquarters in Silver Spring, Maryland. The contracts and agreements included in our examination were entered into between May 1970 and September 1972.

CONTRACTING METHODS USED BY UIS
TO PROCURE SERVICES

In addition to Federal contracts, the UIS, together with State agencies, uses two other methods to procure services. These are (1) the Memorandum of Agreement, and (2) the Statement of Agreement/Cooperative Agreement.

The Memorandum of Agreement is a contract between the UIS and a State agency. The State agency performs the services or procures the services by awarding a contract to an outside firm. Generally these services are solely for the benefit of the signatory State agency. Only UIS Salary and Expense funds are used to procure services under this method.

The Statement of Agreement/Cooperative Agreement are documents used to enter into a three-party agreement. All of the work is performed by an outside firm. Grants-to-States' funds are used to procure services under this method.

We reviewed 49 UIS files representing most of the contracts in effect at the time; 15 were UIS-awarded Federal contracts amounting to about \$530,000; 9 were Memorandum of Agreements amounting to about \$714,000 and; 10 were Statement of Agreement/Cooperative Agreements amounting to about \$2.1 million. Because of the lack of adequate information in the files, we were unable to determine the type of the remaining 15 contracts, but further inquiry disclosed that 12 were State agency contracts, one was a Manpower Administration contract under which some services were provided to UIS, and the remaining two related to proposed procurements for which no contract was ever awarded.

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UIS officials informed us that contracting methods and procedures are currently being reviewed by a team assigned to UIS and given responsibility for contracting activities. During our review, we noted certain matters which we believe warrant your attention in view of their significance relative to current contracting procedures and any proposed changes resulting from the UIS review.

NEED FOR CONTINUED USE OF
STATEMENT OF AGREEMENT/COOPERATIVE AGREEMENT
SHOULD BE REVIEWED

Of particular concern to us is the use of the Statement of Agreement/Cooperative Agreement method of contracting used by UIS to procure technical services. The services were to be performed in several States and were of significance to the unemployment insurance activities within these States as well as to overall UIS activities.

Under this method of contracting, UIS negotiates with the contractor for the services to be performed. After negotiations are completed, the terms, conditions, a description of the services to be performed and their cost through incorporation by reference to the contractor's proposal, and the name of the UIS official responsible for reviewing the firm's work and approving payments to the contractor for completed work, are set forth in the Statement of Agreement. This agreement is between UIS, a State agency and the contractor; however, the contractor is the only party required to sign the agreement.

The UIS then prepares the Cooperative Agreements which UIS officials advise us is considered to be a contract. This document includes many of the same provisions found in the Statement of Agreement. The Cooperative Agreement is signed by the contractor and the State agency; UIS then requests the State agency to submit a Supplemental Budget Request for the total amount of the contract in order to meet the billings of the contractor.

As previously stated, these contracts deal with matters which benefit all the States rather than only the contracting State. Under these circumstances, it would appear that the contracts should have been between the UIS and the contractor thus avoiding the use of a State agency as a third party and insuring that the contract will be subject to Federal Procurement Regulations (FPR) and Department of Labor Procurement Regulations (DOLPR), which are designed to protect the interests of the Government.

Despite repeated requests to UIS officials, we have been unable, with two exceptions, to obtain any information as to why this type of contract arrangement is used or needed. In the one case, we were advised by a UIS official that the Statement of Agreement/Cooperative Agreement method was

used to avoid Federal procurement regulation restrictions such as the selection of a contractor generally by competitive bidding and permitting the use of sole source contracts only under certain circumstances. This official stated also that this method was used because the UIS did not have sufficient salary and expense funds to award the contracts itself; therefore, it had to use grant-to-States' funds which could only be expended by the State agencies. Additionally, this official and another UIS official informed us that UIS used this method due to lack of contracting staff resources.

As a result of UIS pursuing the above described method of contracting, the mechanisms included in the FPR's and DOLPR's to protect the interests of the Government in contracting matters were not operative, as described below.

1. For 9 of the 10 agreements, where information was available, the procurements appeared to have been made on a sole source basis. Both the FPR and DOLPR require that procurements be made through formal advertising and competitive bidding when possible; but, if it is not feasible or practicable, a justification is to be prepared stating the reason why a sole source contract must be awarded. The contract files, however, were void of any documentation justifying use of sole source.
2. The contract files for the 10 agreements contained no documentation as to the extent or the contents of the negotiations between UIS and the firms. The FPR require that such negotiations be documented.
3. Eight of the ten agreements included cost breakdowns. These agreements are cost reimbursable type contracts and FPR require such contracts to have cost breakdowns. Four of the eight agreements with cost breakdowns show the profit margin or fixed fee amount separately and these amounts are in excess of those allowed by DOLPR. The other agreements include the profit margin as part of the contractor's fees.

We believe the current UIS review of contracting procedures should include a determination as to the need for the Statement of Agreement/ Cooperative Agreement method of contracting and consideration of subjecting this contracting method to FPR and DOLPR.

CONTRACTING PRACTICES NEED IMPROVEMENT

Our survey showed that UIS contracting procedures and contract file management were in need of improvement as discussed below, and should be considered in reviewing and revising UIS' contracting activities.

INADEQUATE JUSTIFICATION FOR FEDERAL SOLE SOURCE CONTRACTS

Examination of the 15 UIS awarded Federal contracts disclosed that they were negotiated contracts and were awarded on a sole source basis without formal advertising or competitive bidding.

The FFR and DOLPR require that statements be prepared setting forth enough facts and circumstances to clearly and convincingly establish that the use of formal advertising would not have been feasible or practicable. Also, specific circumstances are described in these regulations which permit as well as prohibit use of sole source contracts.

The statements for the 13 latest of the 15 contracts, awarded between March 31 and August 1, 1972, included references to regulations permitting use of contracting on a sole source basis. However, the facts and circumstances included in the statements in many instances, did not include circumstances permitted by the regulations nor did they appear to be adequate to justify UIS awarding contracts on this basis.

For example, three statements indicated that sole source was used because there was not time to draft adequate specifications describing services to be obtained. Another statement said that the contract needed to be awarded immediately in order that the services performed would not conflict with staff vacations and assignments. According to DOLPR these circumstances should not be used to support the award of contracts on a sole source basis.

In addition, UIS supported its award of some sole source contracts on the basis that the contractors would be performing work which was an extension of or related to work that they performed previously for the UIS. Supporting use of sole source contracts were statements that these contractors' costs would be lower than other firms which would have to spend considerable time familiarizing themselves with the work already completed and with UIS operations. However, the UIS did not request other firms to submit proposals on the work to be performed.

In addition to the matters disclosed by our examination of UIS contract files, we noted that there were other recent studies by the Department's Division of Internal Audit, by the Manpower Administration's Special Review Staff and by GAO of sole source contracts which resulted in revisions to procedures affecting UIS contracting practices. These studies indicated that many of the sole source contracts appeared to lend themselves to the selection of the contractor by the competitive process. These studies resulted in the Department issuing a Secretary's Order in December 1972 requiring that all contracts awarded on a sole source basis in excess of \$25,000 be approved by the Assistant Secretary of Labor for Administration and Management.

In addition an Office of Technical Assistance and Training was established within the Manpower Administration and new procedures and guidelines were issued to help assure that sole source contracts for technical assistance are awarded in accordance with FPR and DOLPR and are adequately administered to insure satisfactory performance by the contractors.

We believe that the Department's requirement for approval of contracts awarded on a sole source basis, if followed, will help insure that such contracts are awarded properly and in accordance with the FPR and DOLPR. In addition, we believe that the comments in our report, entitled "Technical Assistance Contracts Awarded to Project MAP, Incorporated," Department of Labor (B-163922 dated August 1, 1972), that the establishment of the Office of Technical Assistance and Training and the new procedures and guidelines--if properly implemented--should serve to improve the award and administration of sole source contracts under technical assistance programs need to be restated and applied with respect to contracts administered by UIS.

INCOMPLETE DOCUMENTATION IN CONTRACT FILES

Our examination of the UIS contract files disclosed that many files were incomplete. Some of the UIS contract files did not provide enough information for us to determine whether or not a contract for services existed while other files lacked documentation describing the pre- and post-contract award activities of UIS officials responsible for such activities.

The FPR requires that a record be maintained on contract actions. Also, the policy of the Manpower Administration is to maintain for each contract an official contract file containing a comprehensive record of all pre-award and post-award actions and supporting data.

For the 15 contract files where we could not initially identify the contract type we were unable to determine whether the services were procured under a Federal or a State contract, the kind of services and the cost of such services, or in fact, if a procurement had been made. These files contained informal documents showing the names of firms which had submitted proposals to or had performed work for the UIS or a State agency and the estimated cost of such services. However, the files did not contain copies of the contracts, a description of the services performed, and the cost of the services performed.

After inquiring further into the status of these 15 contract files, we learned from UIS officials that 12 files related to services performed or procured by State agencies, one file concerned services which the UIS received under a Manpower Administration contract, and two files related to procurements that had been considered but never approved by UIS.

The 19 contract files for the Memorandum of Agreements and Statement of Agreement/Cooperative Agreements were also incomplete. Each of these agreements named a UIS official to oversee the work performed; however, the contract files contained no record of any evaluation of the contractors' performance. Two officials responsible for making these evaluations advised us that they had not been made. A third official advised us that her evaluations consisted of discussions with the contractors. Also, as noted previously, the files did not contain any documents relating to negotiations between the contractor and UIS when the agency used the Statement of Agreement/Cooperative Agreement method of contracting, although such negotiations undoubtedly were held.

We believe that the current review of UIS contracting procedures should consider the adequacy of UIS controls to insure compliance with FPR and Manpower Administration's requirements for adequate documentation in UIS files.

We do not plan to make any recommendations at this time. We plan, however, to make a follow-up review of UIS contracting activities in the future to evaluate the adequacy of UIS's adherence to the FPR and DOLPR instructions on contracting and revisions in contracting resulting from the current study of UIS contracting activities.

We wish to thank you for the cooperation and assistance extended to our staff during our survey. We would appreciate being informed of actions taken or planned on the matters discussed in this report.

Sincerely yours,



George D. Beck
Assistant Director

cc: Secretary of Labor
Mr. McVeigh (AD)
Mr. Coe (ADC)
Mr. Kolberg (MA)
Mr. Goodwin (MD)