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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D C 20548

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RELEASED

GSA

APR 3 1970

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Dear Mr. Teague:

Reference is made to your letter dated October 30, 1969, bringing to our attention certain statements by Mr. Norman L. Heikes regarding irregularities in the leasing by the General Services Administration (GSA) of office space in Goleta, California, for the Forest Service and your letter dated February 5, 1970, transmitting a series of articles on the subject as they appeared in the Santa Barbara News-Press.

We reviewed records of GSA and the Forest Service pertaining to leasing the space and GSA's record of investigation of Mr. Heikes' statements. We also inspected the building which was constructed to provide the leased space. Discussions were held with Mr. Heikes, GSA and Forest Service representatives, the lessor, other offerors or their agents, and Santa Barbara County engineers.

Mr. Heikes, a Forest Service employee, presented his statements in a letter to the Forest Service in October 1968. The letter contained the following summary views.

***Briefly, I would summarize my position as a belief that there has been a very serious fiscal irregularity committed with respect to the negotiations for, and subsequent acquisition of, the new Forest Service building located at 42 Aero Camino in Goleta, California."

* * * * *

***there would appear to be no other conclusion possible than that the successful bidder apparently knew something that the others did not, or was accorded some special privilege."

Our review did not disclose evidence of fiscal irregularity or collusion in connection with the leasing. However, the lessor did not comply fully with the lease provisions relating to construction of the building and there were weaknesses in administration of the lease. The construction deficiencies have now been corrected and precautions have been taken that should avoid recurrence of the administrative weaknesses.

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The details of our review are discussed below.

On October 11, 1967, GSA issued a solicitation for negotiated offers to lease within the city limits of Goleta or Santa Barbara, California, 9,860 square feet of net usable office space, together with a provision for off-street parking of 20 official vehicles. Five offers were received, varying from a low of \$3.75 a square foot to a high of \$4.74 a square foot.

By letter dated December 6, 1967, GSA notified Keshishian & Lavee, the low offeror, that their offer of \$3.75 a square foot was accepted, and in August 1968 a 5-year lease contract was signed by the two parties. A two-story building containing about 12,300 square feet of space was constructed at 42 Aero Camino, Goleta; 10,116 square feet of the space was occupied by the Forest Service on August 16, 1968. Currently GSA is leasing 11,196 square feet of space in the building for use by the Forest Service, and the Forest Service, with the lessor's oral permission, is occupying the additional 1,100 square feet of space in the building, rent-free.

In support of his position that there had been a very serious fiscal irregularity, Mr. Heikes stated that requirements contained in the solicitation for offers to lease had not been complied with relative to the load capacity of the floors, the providing of a building superintendent, fire protection, and soundproofing of the dispatcher's room. Mr. Heikes stated also that even the most superficial analysis would disclose that the omission of these and other items of lesser concern would more than offset the difference between the high and low offers. He stated that such analysis would lead to the conclusion that all bidders could have successfully competed with the present lessor, had they been able to bid on the same basis.

The solicitation for offers to lease required that all office floor areas have a minimum live-load capacity of 70 pounds for each square foot of floor area. Mr. Heikes stated that the actual live-load capacity of the building as constructed was 50 pounds a square foot.

The lessor, in response to a GSA request after Mr. Heikes raised the question, provided GSA a written certification of a professional engineer that the designed load-carrying capacity of the floors is 99 pounds a square foot. The certification showed that this capacity consisted of a live-load capacity of 50 pounds a square foot, a partition-load capacity of 20 pounds a square foot, and a dead-load

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capacity (walls, floors, roofs, and other permanent stationary construction) of 29 pounds a square foot. A GSA engineer reviewed the professional engineer's calculations of the load-carrying capacity of the floors and stated that the partition-load capacity of 20 pounds a square foot, as identified by the professional engineer, is live-load capacity in addition to the 50 pounds a square foot because the partitioning is movable, nonload bearing, and subject to relocation.

Moreover, the plans and specifications for the building were approved by Santa Barbara County. County engineers told us that the building was designed in accordance with the Uniform Building Code, 1967 Edition, which provides that the floor area have a live-load capacity of 50 pounds a square foot and, in addition, a partition-load capacity of 20 pounds a square foot. The engineers stated that the building was constructed in accordance with the approved plans and specifications.

Before September 1969, GSA's leasing specifications required a live-load capacity of 70 pounds a square foot of floor area. Mr. Heikes' statement apparently has raised the question of whether the movable partition-load capacity is taken into account in the stated capacity. To clarify the matter, GSA in September 1969 revised the specification by stipulating a minimum live-load capacity of 70 pounds a square foot of which 20 pounds represents movable partition-load capacity.

In December 1968, about 4 months after occupying the building, the Forest Service told GSA that a deflection of at least 1 inch had developed in the floor of the drafting room, which is located in the center of the second floor of the building. We were unable to ascertain the reasons for the deflection.

The lessor told us that, although the building was constructed in accordance with the approved plans and specifications, the deflection in the floor exceeded the tolerances permitted by the Uniform Building Code. He stated that he could not give an engineering explanation of the deflection. Santa Barbara County engineers also were unable to provide an explanation. GSA was of the opinion that the floors had been overloaded, and the Forest Service was of the opinion that the floors had not been overloaded.

The lessor has provided additional support for the drafting room floor by converting a non-load-bearing wall to a load-bearing wall and by installing a structural beam and supporting members. These corrections were made at no additional cost to the Government.

Mr. Heikes stated that a building superintendent, as required by schedule C of the solicitation for offers to lease, had not been provided. The opening paragraph of schedule C, which covers services, utilities, and maintenance, states that the "lessor is required to have available a building superintendent on the premises during the tenant working hours stated below [7:30 a.m. to 5:00 p.m.] to promptly correct reported deficiencies." A later paragraph of schedule C provides as follows:

- "5. EMERGENCY MAINTENANCE AND REPAIR SERVICE: Lessor shall have established a nearby continuing local source of service with regard to Lessor's responsibilities under the lease as to repair, maintenance and servicing of the premises and any and all related equipment, fixtures and appurtenances. The point of contact and source of supply of service must be readily available during normal business hours Mondays through Fridays (Federal holidays excepted), and remedial action on deficiencies affecting the operation and beneficial use of the space by the Government shall be initiated within four hours after due notice has been given by the Government, and followed through to completion within a reasonable time in accordance with the best practices of the particular trade(s) involved."

The requirement for a full-time building superintendent was not included in the lease contract signed by the lessor and GSA in August 1968 because GSA felt that this requirement was in conflict with the provisions of paragraph 5 above. GSA was of the opinion that it was unreasonable to expect that a building superintendent be made available to manage and maintain a block of space of the size covered in the lease.

We believe that the two provisions do not, on the face, conflict and that elimination of the requirement for a building superintendent on the premises could have had an impact on an offeror's proposal. The GSA contracting officer did not attempt to obtain a reduction in the rental rate for the deletion of the requirement for a building superintendent. In our opinion, GSA waived a contractual right without getting any consideration in return.

The lessor informed us that his offer was prepared to comply with paragraph 5 and that the offer did not anticipate the cost of

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a building superintendent. He stated that he had previously leased about 12 buildings to the Government, most of which were larger than the subject building, and that none had required a building superintendent. An agent for another offeror stated that he was unaware of the requirement for a building superintendent. He stated also that normally a building superintendent would not be furnished for a building of this size. A third offeror and the agent for a fourth offeror told us that their offers provided for a building superintendent. They were unable to furnish us documentation, however, to show the amounts included in the offers to cover this cost.

Mr. Heikes stated that the lessor had not complied with certain fire protection requirements of the solicitation for offers to lease. On the basis of a physical inspection of the premises and a discussion of the matter with a county fire prevention officer, a GSA review group determined that the requirements were complied with.

Mr. Heikes stated that the soundproofing of the dispatcher's room, as provided for in the solicitation for offers to lease, had not been complied with. This deficiency has been corrected at no additional cost to the Government. The lessor installed a carpet on the floor and drapes on the window wall.

The solicitation for offers to lease provided that, in determining which offer would be most advantageous to the Government, the contracting officer consider certain award factors in addition to the rental proposed and the conformity of the space offered to the specific requirements of the solicitation. Mr. Heikes stated that most of these award factors were ignored; he mentioned specifically the lack of public parking facilities, convenient location, satisfactory public transportation, and nearby dining facilities.

The GSA contracting officer told us that he did not make a separate evaluation of the award factors because he considered a Forest Service analysis to be satisfactory for GSA's needs. Our review showed that, in November 1967, the Forest Service made a detailed evaluation of four of the five sites proposed. Forest Service representatives told us that one of the sites was not included in the evaluation because it was in close proximity to one of the other sites and the same analysis would apply. Among the factors considered in evaluating the sites were geographic location and availability of parking and dining facilities. The availability of public transportation was not considered. Forest Service representatives told us that there was only limited public transportation in all of Santa Barbara County.

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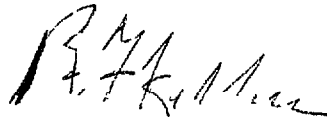
The solicitation for offers to lease stated that the availability of adequate dining facilities within three blocks of the offered space should be given consideration. The site evaluations showed that the distance to a suitable restaurant was 1/2 mile for each of three sites and 1 mile for the 42 Aero Camino site.

The Forest Service found that all four sites were acceptable although it recognized certain problems. The Forest Service specifically advised GSA that there was a lack of employee and visitor off-street parking at the four sites.

GSA recommended to the Forest Service acceptance of the offer for the 42 Aero Camino site because the rental rate was the lowest offered; past experience with the low offeror had proved to be very satisfactory; and the site was adjacent to a Forest Service automotive shop. GSA stated that having these operations at one location would enable office employees to share, when available, the parking facilities of the automotive shop and would enhance the agency's public identity and image. The Forest Service concurred in the acceptance of the low offer.

We did not request the formal views of GSA officials on the contents of this report, nor did we release copies of the report to them. We have notified them, however, of the general subject matter and the date of release.

Sincerely yours,



Assistant Comptroller General
of the United States

The Honorable Charles M. Teague
House of Representatives