

DOCUMENT RESUME

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Federal Supply Service Multiple Award Program Contracting Procedures. PSAD-77-87; B-114807. March 11, 1977. 5 pp.

Report to Robert T. Griffin, Acting Administrator, General Services Administration; by Richard W. Gutmann, Director, Procurement and Systems Acquisition Div.

Issue Area: Federal Procurement of Goods and Services (1900);
Federal Procurement of Goods and Services: Reasonableness of
Prices Under Negotiated Contracts and Subcontracts (1904).
Contact: Procurement and Systems Acquisition Div.
Budget Function: General Government: General Property and
Records Management (804).
Organization Concerned: Federal Supply Service.

The Federal Supply Service needs to improve its evaluations of contractors' proposal prices in the award of multiple award schedule contracts. There are doubts concerning the appropriateness of benchmarks established and whether the Service negotiates the best possible prices.

Findings/Conclusions: A review of eight multiple award schedules showed that the contractor with the best offer often was not chosen as the benchmark contractor, and there was not adequate support to justify any other selection. Procurement files for the eight schedules did not include a memorandum of price negotiations required by Federal Procurement Regulations, so that the criteria used in negotiating contracts could not be ascertained. Without a formal record of negotiations, there is no assurance that all significant factors were considered or that the negotiated prices were fair and reasonable.

Recommendations: The Federal Supply Service should: (1) document the procurement files with the factors that were considered in evaluating the reasonableness of contractors' proposed prices, including selection of the benchmark contractor; (2) prepare a statement of justification when other than the contractor offering the best price discount is selected as benchmark contractor; and (3) prepare a record of negotiations. This documentation should be reviewed by supervisory personnel. (RRS)

01129



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20543

PROCUREMENT AND SYSTEMS
ACQUISITION DIVISION

MAR 11 1977

B-114807

The Honorable Robert T. Griffin
Acting Administrator of General
Services

Dear Mr. Griffin:

We completed a review of the Federal Supply Service practices in awarding multiple award schedule contracts with the objectives of ascertaining whether the Service negotiated fair and reasonable prices and identifying any weaknesses in the Service's contracting procedures and practices.

In March 1977, our office issued a congressional report on the need for the Service to negotiate prices commensurate with the volume of Government purchases and to ensure contractors' submissions of accurate, current, and complete sales and discount information. This letter addresses some additional administrative and procedural weaknesses we noted during our review.

In summary, we found that the Service needs to improve its evaluations of contractors' proposed prices. Our review centered on the Service's evaluations of eight multiple award schedules which had been performed in conjunction with the selection of a benchmark contractor as a target for use in negotiating catalog price discounts with other contractors. The procurement files showed that the contractor with the best offer often was not chosen as the benchmark contractor, nor was there adequate support to justify any other selection. Thus, there is doubt as to the appropriateness of the benchmark established and that the Service negotiated the best possible price.

The procurement files for the eight schedules did not include a memorandum of price negotiations required by the Federal Procurement Regulations. Thus, we were unable to ascertain what criteria Service officials used in negotiating contracts. Without a formal record of negotiations there is no assurance all significant factors were considered, or that the negotiated prices were fair and reasonable.

PSAD-77-87

As a first step toward improving the Service's performance in these areas, we recommend that the Federal Supply Service (1) document the procurement files with the factors that were considered in evaluating the reasonableness of contractors' proposed prices, including selection of the benchmark contractor; (2) prepare a statement of justification when other than the contractor offering the best price discount is selected as benchmark contractor; and, (3) prepare a record of negotiations, or a statement why negotiations were not considered necessary.

Secondly, we recommend that this documentation be reviewed by supervisory personnel with a view toward scheduling appropriate training for those needing it.

The following are further details with respect to points discussed above.

NEED TO IMPROVE EVALUATION OF
REASONABLENESS OF CONTRACTORS'
OFFERS AND SELECTION OF BENCHMARK

The Federal Procurement Regulations state that the Government's policy is to buy from responsible sources with fair and reasonable prices and at the lowest overall cost. To ensure fair and reasonable prices the Regulations require some form of cost or price analysis in connection with every negotiated procurement.

The Federal Supply Service satisfies the requirement for cost or price analysis through its benchmark discount negotiation technique. The benchmark guidelines provide for the contracting officer to identify the contractor who submits the most acceptable offer for a product or a group of products. The contracting officer compares discounts off the established commercial catalog price offered by the various prospective contractors, selects the benchmark contractor and negotiates the benchmark discount. When negotiating the discount, particular attention is devoted to discounts and terms extended to the contractor's most favored customer. The ultimate goal is to negotiate discounts that are commensurate with the Government's volume of purchases.

We examined the Service's procurement files for eight multiple award schedules, under which 547 suppliers had contracts, to ascertain how the benchmark contractors were selected and if the selections were adequately justified.

Procurement files for three of the eight schedules contained sufficient information to identify the process followed in comparing contractors' offers, but did not contain the basis for selecting the benchmark contractor. We traced the discount comparison process and used the same information available to the contracting officers at the time they selected the benchmark contractor. We noted contracting officers selected other than the contractor with the best offer as benchmark without documenting the justification for the selection. Furthermore, we noted instances of contractors, submitting more acceptable offers under the criteria contained in the Service's benchmark guidelines, who were not selected as benchmark contractors. The Service's contracting staff was unable to explain why contractors offering better discounts were not selected as benchmark.

For one schedule, a contractor other than the one submitting the apparent best offer was often chosen as benchmark contractor. This occurred in four of the schedule's six commodity groupings reviewed, as demonstrated by the following chart.

<u>Product group</u>	<u>No. of suppliers</u>	<u>Percent</u>		
		<u>Discount range a/</u>	<u>Benchmark</u>	<u>Apparent best offer</u>
A	33	5-1/2 to 7-1/2	5-1/2	6
B	17	5-1/2 to 6-1/2	5-1/2	6
C	34	5 to 17	5	7
D	7	5-1/4 to 7-1/4	5-1/4	7-1/4

a/ Discount values arrived at by contracting officer after consideration of cash discount, prompt payment discount, shipping arrangements and quantity discounts on individual orders for a combination of items.

We could not determine what the actual overall effect on prices would have been if contractors offering better discounts had been selected as benchmark. But sales to Government over a 3-year period in the four product groups referred to above totaled an estimated \$86.4 million. If the four contractors with a better assigned discount value had been selected as benchmark, and comparable discount terms had been negotiated with the other contractors with offers below the resulting benchmark discount, the price of Government purchases of these products over the 3-year period would have been considerably less.

For the remaining five schedules, we had to rely on contracting officers' memories as to the basis for benchmark selections. We were told by Service officials that under four of these five schedules, the dominant contractor with the greatest volume of sales was normally selected as the benchmark.

NEED FOR IMPROVEMENT IN DOCUMENTATION OF NEGOTIATIONS

The Federal Procurement Regulations provide that at the conclusion of negotiations the contracting officer should prepare a memorandum setting forth the principal price negotiation elements. This memorandum is to be included in the contract file for the use of reviewing authorities. The memorandum should contain (1) the name and position of conferees representing the contractor and the Government, (2) the purpose of the negotiations, (3) the basis for any determination that cost or pricing data was not required for contracts with a negotiated price exceeding \$100,000, (4) a summary of the contractor's proposal and recommendations of advisory audit performed, (5) the most significant facts or considerations supporting the reasonableness of the negotiated prices, and (6) an adequate explanation in those instances where the prices negotiated differed significantly from the price negotiation objective.

The Service's benchmark guidelines recognize the need for meaningful negotiation of prices between the Service and its contractors. These guidelines specify that the benchmark discount represents a minimum goal and state that a "vigorous attempt should be made to achieve even higher discounts and more favorable terms and conditions."

Our review of 20 contract files and discussions with the Service's contracting staff disclosed that no record of negotiation was prepared for the contracts negotiated under any of the eight schedules reviewed. Furthermore, the files did not contain any documentation as to the extent of negotiations with a specific contractor. Other than an occasional reference to negotiations on the "Request for Approval of Award," which is prepared for each contract, the procurement files contained no information concerning the price negotiations held.

The Service's contracting staff stated that they normally conducted negotiations with specific contractors, but that this is often accomplished over the telephone. They further stated a formal record of negotiations would be very time consuming and is not prepared, but that comments concerning the negotiations are often recorded on the aforementioned "Request for Approval of Award."

In our opinion, the Service's contract files should include basic information and documentation concerning negotiations. Without this information, there is no assurance that adequate negotiations were held, nor that fair and reasonable prices were obtained.

This report contains recommendations to you. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

No further reporting of these matters is planned by us, however, we believe the implementation of stated procedures is needed. We would appreciate receiving copies of your statements on actions taken which will be submitted to the congressional committees.

We are sending copies of the report to the Director, Office of Management and Budget, and the Chairmen, Senate and House Committees on Government Operations and Appropriations.

We will be glad to discuss any questions you have on matters discussed in this letter.

Sincerely yours,



R. W. Gutmann
Director