

DOCUMENT RESUME

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[GSA's Use of Advertised and Negotiated Contracts for New Construction and Major Repair and Alterations]. LCD-78-330; B-95136. July 6, 1978. 5 pp. + enclosure (5 pp.).

Report to Joel W. Solomon, Administrator, General Services Administration; by Robert G. Rothwell (for Fred J. Shafer, Director, Logistics and Communications Div.).

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A recent analysis of the General Services Administration's (GSA's) contract awards for construction and major repairs and alterations of buildings raised questions about the sufficiency of competition in the awards. From 1974 through 1976, 324 new construction contracts were awarded totaling \$335 million, and 1,610 contracts for major repairs and alterations were awarded totaling about \$177 million. About 13% of all contracts were awarded through negotiation in addition to those negotiated as small business set-asides. In formally advertised procurements, a large percentage of awards were made after receiving only one or two bids. After allegations were made of abuses in GSA's contracting activities, GSA started internal surveys of procurement management and took or planned corrective actions, including formation of a task force to perform investigations and make recommendations. The task force should consider information supplied by GAO and should cover efforts of the procurement offices to obtain competition and the reasonableness of the justifications for using negotiated procurement. (HTW)

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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

LOGISTICS AND COMMUNICATIONS
DIVISION

B-95136

July 6, 1978

The Honorable Joel W. Solomon
Administrator of General Services

Dear Mr. Solomon:

We recently completed a statistical analysis of the General Services Administration's (GSA's) contract awards for construction and major repairs and alterations of buildings, at the request of Senator Charles H. Percy, Ranking Minority Member of the Permanent Subcommittee on Investigations, Senate Committee on Governmental Affairs. The purpose of our analysis was to give Senator Percy a general picture of GSA's contracting for these services, in terms of degree of competition, use of and justifications for negotiated contracts, variations among regions, and any similar characteristics bearing on restricted competition and possible favoritism.

For this purpose your office provided us with computer printouts detailing and summarizing data on all such contracts awarded for over \$10,000 in calendar years 1974-76. We also looked at the contract files documenting some of these awards in your Chicago and San Francisco regions for examples and any readily available explanations of noncompetitive awards (made after receiving less than three bids or proposals) and the use of public exigency to justify negotiation.

As we advised Senator Percy, our analysis raises questions about the sufficiency of competition in GSA's contract awards. Because we did not audit the data or examine any contract awards in detail, we consider the results of our analysis to be only indicators of serious inadequacies in GSA's contracting practices which require further study. You may wish to use our findings in your current efforts to improve procurement management.

The data for the 3 years show awards of 324 new construction contracts for a total of about \$335 million, and 1,610 contracts for major repairs and alterations for

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about \$177 million. The enclosure contains five tables of information on these contracts; they identify the use of negotiated contracts, justifications for negotiated awards, and extent of competition obtained. The most significant indicators of potential problems are described below.

HIGH PROPORTION OF
NEGOTIATED CONTRACTS

Tables 1 and 2 show that about 13 percent of all contracts were negotiated awards. In terms of the total value of these contracts, negotiation covered over 6 percent of new construction awards and nearly 10 percent of repairs and alterations. The nature of construction and repair work and the large number of firms generally operating in most localities do not seem to require such a high degree of negotiated, rather than formally advertised, procurements.

Furthermore, the numbers of negotiated contracts shown are less than the actual awards, because those negotiated with the Small Business Administration and businesses eligible under section 8(a) of the Small Business Act were misclassified as advertised contract awards rather than as negotiated awards otherwise authorized by law. Section 8(a) awards, and other small business set-asides authorized under section 302(c)(15) of the Federal Property and Administrative Services Act of 1949, were not specifically identified in the computer printouts, but we would normally expect small business to be one of the most frequently cited justifications for negotiated awards. There is added reason, therefore, to question the need for GSA's large number of negotiated awards shown in the data provided to us.

Table 3 shows the statutory exceptions which were used to justify negotiation rather than formal advertising procedures for the 257 negotiated awards. Public exigency (some type of emergency situation requiring immediate contracting) was used for more than 174 cases--the majority of all negotiated awards for both new construction and major repairs and alterations. The number is nearly 10 percent of all the contracts for these services, seemingly a very high proportion of emergency situations. We scanned

the underlying information and noted some services that appear to be doubtful cases of public exigency. Among these were: (1) new construction awards for landscaping, miscellaneous concrete, and completion of interior finishes and (2) major repair and alteration awards for renovation design work, painting and decorating, and additional bookshelving.

The second and third most frequent reasons for negotiation were the impracticality of securing competition (45 instances) and the unsatisfactory bids obtained after advertising (33 cases). In regard to the impracticality of competing for major repairs and alterations, there may have been appropriate justifications for negotiation in those cases where the nature and scope of the work was not certain--contrasted with the availability of work descriptions and specifications for new construction. Although these reasons for negotiation are to be used to get competition not attainable by advertising, the actual extent of competition obtained by GSA generally seems inadequate.

Referring again to tables 1 and 2, the GSA regions varied widely in their use of negotiation. For new construction, the highest proportion of their total numbers and/or value of contracts negotiated was experienced by Boston, San Francisco, and Auburn. Negotiated major repair and alteration awards were particularly heavy in New York, Washington, Chicago, and Denver.

LITTLE OR NO COMPETITION FOR MANY CONTRACTS AWARDED

Table 4 shows the range of bidders responding to invitations for formally advertised contracts. The unusual feature is that over 20 percent of the awards for which pertinent data was available (both new construction and major repairs and alterations) were made after receiving only one or two bids.

Formal advertising requires a minimum of two prospective sources; the award is made to the lowest responsive and responsible bidder. However, all of the bids may be rejected if the prices are unreasonable or the competition is inadequate to insure reasonable prices.

If less than three bids are received, the contracting officer may make the award, but the Federal Procurement Regulations require that he determine whether the small number of bids received is due to an absence of the prerequisites of formal advertising. These include non-restrictive specifications, wide dissemination of announcements on prospective procurements before issuing invitations for bids, and sufficient time for bid preparation. The record of the invitation for bids must include the contracting officer's recommendation on action needed to get more than one or two bids in future procurements.

Table 5 shows the extent of competition for contracts awarded after negotiation. Although one might expect less competition because of the conditions justifying use of negotiated awards, the amount actually obtained is so limited that it is questionable. Only one or two firms responded in 17 of 41 new construction procurements and in 92 of 216 major repair and alteration awards--over 40 percent of all such awards. The average contract value in these cases was below the average of all negotiated contracts for new construction, but above the average of all contracts in the case of major repairs and alterations. For the latter type of work particularly, awards made after negotiating with only one or two firms were for relatively large amounts.

The combined data from tables 4 and 5 show that a total of 409 contracts were awarded for all types of work when only one or two firms responded. That represents about 25 percent of the 1,686 contracts for which pertinent data was available. With a record of such limited competition, there may be serious inadequacies in GSA's contracting procedures for construction and major repairs and alterations. Do the procurement offices develop and maintain adequate lists of potential bidders for various types of work? Does the work planning system allow sufficient time for developing specifications and advertising before the work must begin? Are procurement offices soliciting a reasonably wide range of firms for these contract awards? Are potential contractors not bidding because they are reluctant to accept terms and conditions associated with Government contracting?

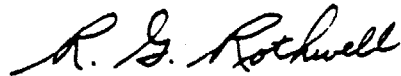
OBSERVATIONS

After the allegations of fraud, favoritism, and kick-backs in GSA's contracting activities, you started several internal surveys of the agency's procurement management, and took or are planning to take such positive actions as strengthening your Office of Audits and Investigations, separating contract award and inspection activities, and refining methods of procurement solicitation so that orders are not limited to the same few businesses.

We also understand that you recently formed a task force to thoroughly investigate activities most susceptible to criminal abuse and recommend corrective actions. The information in this report is directly related to the thrust of that investigation. We suggest, therefore, that your task force specifically consider this information and cover (1) the efforts of the procurement offices to obtain competition for construction and repair and alteration contract work and (2) the reasonableness of the justifications for using negotiated procurement for such work.

If your office has any questions about the statistical tables in the enclosure or our analyses of the data, we would be pleased to meet with you.

Sincerely yours,



for F. J. Shafer
Director

Enclosure

TABLE 1

CONTRACTS OVER \$10,000 AWARDEDBY GSA FOR NEW CONSTRUCTIONDURING CALENDAR YEARS 1974-76

GSA regional office	Number of contracts		Value of contracts		Total
	Nego-tiated	Adver-tised	Negotiated	Advertised	
Boston, Mass.	2	10	\$8,354,551	\$ 11,677,255	\$ 20,031,847
New York, N.Y.	0	6	-	731,947	731,947
Washington, D.C.	2	70	230,440	100,996,603	101,227,043
Atlanta, Ga.	4	72	4,309,611	109,642,872	113,952,483
Chicago, Ill.	3	24	681,400	20,151,455	20,832,855
Kansas City, Mo.	0	19	-	10,280,593	10,280,593
Fort Worth, Tex.	1	11	25,188	16,168,554	16,193,742
Denver, Colo.	0	10	-	6,463,710	6,463,710
San Francisco, Calif.	22	35	6,062,650	17,508,955	23,571,605
Auburn, Wash.	7	26	1,767,300	19,544,512	21,311,812
Total	41	283	\$21,431,120	\$313,166,497	\$334,597,637
Percent	12.7	87.3	6.4	93.6	100

TABLE 2
CONTRACTS OVER \$10,000 AWARDED
BY GSA FOR MAJOR REPAIRS AND ALTERATIONS

DURING CALENDAR YEARS 1974-76

GSA regional office	Number of contracts		Value of contracts		Total
	Negotiated	Advertised	Negotiated	Advertised	
Boston, Mass.	10	100	\$ 451,266	\$ 6,461,894	\$ 6,913,160
New York, N.Y.	37	132	1,635,119	15,722,400	17,357,519
Washington, D.C.	31	348	7,643,144	22,957,432	70,600,576
Atlanta, Ga.	2	162	46,504	10,441,524	10,488,028
Chicago, Ill.	44	119	2,581,677	11,328,395	13,910,072
Kansas City, Mo.	17	112	638,384	16,037,232	16,675,616
Fort Worth, Tex.	16	98	488,279	9,338,999	9,827,278
Denver, Colo.	26	116	1,679,145	10,936,125	12,615,270
San Francisco, Calif.	22	110	874,370	8,435,231	9,309,601
Auburn, Wash.	11	97	727,231	8,660,286	9,387,517
Total	<u>216</u>	<u>1,394</u>	<u>\$16,765,119</u>	<u>\$160,319,518</u>	<u>\$177,084,637</u>
Percent	13.4	86.6	9.5	90.5	<u>100</u>

TABLE 3

GSA JUSTIFICATIONS FOR NEGOTIATED
CONTRACTS OVER \$10,000 AWARDED FOR NEW CONSTRUCTION
AND MAJOR REPAIRS AND ALTERATIONS DURING
CALENDAR YEARS 1974-76

Type of negotiated contract justification	<u>Negotiated contracts</u>	
	<u>Number</u> (note a)	<u>Value</u>
New construction:		
Public exigency	25	\$10,125,485
Impracticable to secure competition by formal advertising	11	2,254,792
Negotiation after advertising	<u>5</u>	<u>9,050,863</u>
Total	<u>41</u>	<u>\$21,431,140</u>
Major repairs and alterations:		
Public exigency	149	\$12,327,398
Impracticable to secure competition by formal advertising	34	2,287,999
Negotiation after advertising	28	1,916,911
Others	<u>5</u>	<u>232,811</u>
Total	<u>216</u>	<u>\$16,765,119</u>
Total negotiated contracts:		
Public exigency	174	\$22,452,883
Impracticable to secure competition by formal advertising	45	4,542,791
Negotiation after advertising	33	10,967,774
Others	<u>5</u>	<u>232,811</u>
Total	<u>257</u>	<u>\$38,196,259</u>

a/When GSA showed more than one justification for the negotiated contract, we divided the contract number and dollar value equally between the justifications in order to maintain the integrity of the total contract number count and values. For example, in the case of public exigency as a justification, there were 163 awards justified solely on that basis and 22 awards justified by more than one reason. We divided the latter cases between public exigency and the other reasons.

TABLE 4

DEGREE OF COMPETITION FOR ADVERTISED CONTRACTS OVER \$10,000

AWARDED BY GSA FOR NEW CONSTRUCTION AND MAJOR

REPAIRS AND ALTERATIONS DURING

CALENDAR YEARS 1974-76

Number of firms responding	New construction contracts		Major repair and alteration contracts	
	Percent	Value	Percent	Value
1	8	\$ 5,099,654	11	\$13,914,667
2	9	16,935,762	7	11,590,521
Subtotal	17	22,035,416	18	25,505,188
3-5	35	81,705,261	27	38,358,186
6-9	24	128,221,357	24	44,489,996
10-up	12	20,514,487	16	27,875,142
Subtotal	88	252,476,521	85	136,228,512
No data (note a)	12	60,689,976	15	24,091,006
Total	100	\$313,166,497	100	\$160,319,518

a/The degree of competition was not identified by GSA for advertised contracts which had been completed and transferred to records centers at the time of our review. After eliminating these contracts, the percentages of contracts awarded on the basis of less than three bids are 19 percent for new construction, 22 percent for major repairs and alterations, and 21 percent overall.

TABLE 5

DEGREE OF COMPETITION FOR NEGOTIATED CONTRACTS OVER \$10,000

AWARDED BY GSA FOR NEW CONSTRUCTION AND MAJOR

REPAIRS AND ALTERATIONS DURING

CALENDAR YEARS 1974-76

Number of firms responding	New construction contracts		Major repair and alteration contracts	
	Per-cent	Num-ber	Per-cent	Num-ber
		Value		Value
1	12	\$ 1,384,400	27	\$ 6,261,368
2	29	5,560,704	15	1,122,613
Subtotal	41	6,945,104	42	7,383,981
3-5	51	12,634,866	46	6,585,813
6-9	8	1,851,170	11	1,985,591
10-up	-	-	1	809,734
Total	100	\$21,431,140	100	\$16,765,119