



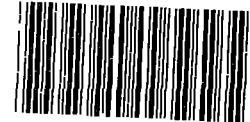
UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D C. 20548

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PROCUREMENT, LOGISTICS,  
AND READINESS DIVISION

December 2, 1981

B-205214



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The Honorable Ralph Regula  
House of Representatives

Dear Mr. Regula:

Subject: Access to Certain Consulting Service Contract  
Information (PLRD-82-21)

On July 9, 1981, you asked us to study Federal agencies' implementation of a reporting requirement on consulting services. This requirement resulted from an amendment to each appropriation bill which you sponsored. In subsequent discussions with your Office, it was decided that, in lieu of the requested study, we would answer the following four questions on consulting service contracts and the public's access to information about these contracts.

1. How can a citizen obtain information on Government spending for consultants?

Public Law 93-400 requires that a system for collecting and disseminating procurement data be established. This system is embodied in the Federal Procurement Data System (FPDS), which was established under the policy direction of the Office of Management and Budget's Office of Federal Procurement Policy in February 1978. The FPDS requires that procurement data be reported in a uniform manner by all executive agencies making acquisitions from appropriated funds. The FPDS data covers all prime contract actions (over \$10,000) awarded to non-Federal sources for supplies, equipment, construction, and services. One of the specific data elements that is kept on each contract action is a determination of whether the procurement is for consulting services. Starting with fiscal year 1980 summary data, the FPDS is preparing a special analysis on use of consulting services by executive departments and agencies. An additional special analysis on consulting services is planned for fiscal year 1982. It will be a quarterly report on the top 100 consulting contractors by agency. Citizens can receive, free of charge, one copy of almost all standard reports (including special analyses) prepared by the FPDS. However, there is a fee for some of the larger standard reports, including a descriptive listing of all contract actions.

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2. What are Federal agencies doing to make the award of their consulting service contracts public?

There are at least two preaward steps that most agencies may take in announcing their intent to award a consulting service contract. They can notify potential offerors from an established list of prospective contractors. When this is done, the department or agency either prepares a Request for Proposal or an Invitation for Bid in which the agency details the work it expects a contractor to perform. An additional preaward step involves publishing a notice in the Commerce Business Daily to prospective offerors of intent to award a contract.

Once the award has been made, subject to certain dollar thresholds, agencies are supposed to make the award public. Agencies meet this requirement by publishing a notice in the Commerce Business Daily and by reporting the procurement action to the FPDS. In addition, when required by the Congress, selected agencies are required to file reports which detail their reliance on consulting services to get the work done.

3. What authority can be used to award a procurement contract for consulting service?

There are various sources of statutory authority, such as annual appropriation acts and authorizing legislation, which enable an agency to award consulting service contracts. Often, the power to contract is expressly granted to a governmental agency by congressional enactment. It may be subject to limitations regarding the amount, duration of availability, and permissible application of appropriated funds.

Statutory authority to procure consulting services is frequently found in the authorizing legislation of agencies, with a proviso that it be done in accordance with section 3109, title 5, United States Code. Section 3109 provides that when otherwise authorized by an appropriation or other statute, the head of an executive agency or department may procure the temporary or intermittent services of a consultant or expert without regard to certain civil service laws.

Not all statutory provisions authorizing the procurement of consulting services refer to section 3109. For example, the Administrator of General Services is authorized to procure the services of "experts or consultants or organizations thereof." Frequently, agencies are given general contractual authority, in addition to explicit authority to obtain consulting services, to "enter into such contracts \* \* \* as may be necessary \* \* \* with any \* \* \* person, firm, association, [or] corporation."

Finally, language in annual appropriation authorizations may contain express authority for a particular agency to contract for consulting services.

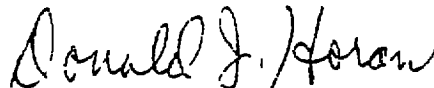
4. How can a citizen obtain access to a consulting contract?

A contract, and accordingly one for consulting services, is a Government record. With a few specific exceptions, citizens have access to records of the executive branch through the Freedom of Information (FOI) Act. While the contract can be made public under the Act, this does not necessarily include the backup information and data used to support a contracting decision. In many instances, this supporting data includes proprietary information, such as trade secrets and patented information.

An excellent guide to use in obtaining information from Federal agencies is the "Citizens Guide on the Use of FOI and Privacy Act" (House Report 95-793), which was prepared by the House Committee on Government Operations.

Copies of this report will be made to others upon request. I hope that these answers provide sufficient insight to your inquiry on consulting services.

Sincerely yours,



Donald J. Horan  
Director