



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

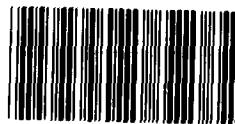
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GENERAL GOVERNMENT
DIVISION

DEC 31 1980

Mr. Carroll B. Harvey
Director, Department of General Services
District of Columbia Government
613 G Street, NW.
Washington, D.C. 20001



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Dear Mr. Harvey:

Subject: Action Needed To Bring Minority
Business Awards Into Compliance
With 1980 Amendment (GGD-81-38)

The purpose of this letter is to bring to your attention that contracts and awards in process exist which do not take into account 1980 amendments to the Minority Contracting Act, so that you will take appropriate action to prevent this situation from continuing. The information we are providing does not represent the result of our overall study of the program, which will be presented to you at a later date.

The act was amended in July and September 1980 to strengthen the District's minority business program in several ways. One important provision contained in both of these amendments is that:

The prime contractor shall perform at least fifty (50) percent of the contracting effort, excluding the cost of materials, goods and supplies, with his own organization and resources, and if he subcontracts, 50 percent of the subcontracting effort, excluding the cost of materials, goods and supplies shall be with certified Minority Business Enterprises. The contract shall contain a certified statement to this effect. Waiver of the above requirements must be given in writing by the contracting officer with approval and consent of the Minority Business Opportunity Commission.

This provision is designed to assure participation in the contract work by the minority business, with consequent

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business capability development. In the past some minority businesses have acted as a middleman in that they receive the award but others do all of the contract work. The new provision with its allowance for waiver in appropriate circumstances should serve to limit awards to minority businesses who merely serve as middlemen.

The act does not identify the conditions under which waiver of the above requirements would be granted. No revised regulations have been issued on the new provision or on the waiver clause. Some recent contracts have been awarded involving firms that are subcontracting more than 50 percent of the work to nonminority firms. For example, an award for supplying and delivering margarine and shortening totaling about \$35,000 was made on October 3, 1980, to two firms that listed nonminority firms as subcontractors. The Invitation For Bid (IFB) did not contain the 50-percent provision, and DGS officials said they did not consider it in making the award. According to the owner of one of the minority firms, he has arranged for a nonminority firm to supply, warehouse, and deliver his total contract requirements.

Of even more concern are awards in process and future solicitations where bidders intend to subcontract to nonminority firms. For example, bids have been received, but no award made, for over \$300,000 of fresh foods and vegetables to be supplied during the first quarter of next year. We know from past awards that these commodities have been subcontracted to nonminority firms. The IFBs do not contain the "50-percent" provision. The apparent low bidder, if awarded this contract, intends to use a nonminority firm to supply, warehouse, and deliver the total contract requirements.

Neither the Acting Assistant Director for Materiel Management nor his Chief of Procurement had been informed of the act's new amendments until we brought them to their attention in late November. (We have been told a memo was issued on December 8 stating that the new provision should be incorporated in new solicitations.) The Acting Assistant Director for Construction Management told us he became aware of the new amendments in early December, but he had not yet taken actions to comply.

We recommend that [prompt action be taken to (1) provide guidance implementing the new provision and (2) bring all future awards, including those in process, into compliance with District law.]

Copies of this report are being sent to House and Senate Subcommittees on the District of Columbia; the Mayor and the Council of the District of Columbia; the Inspector General of the District of Columbia; and the Executive Director, Minority Business Opportunity Commission.

Please let us know of the action taken or planned on this matter.

Sincerely yours,

W.J. Anderson

William J. Anderson
Director