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

RELEASED

RESOURCES, COMMUNITY,  
AND ECONOMIC DEVELOPMENT  
DIVISION

B-219836

August 15, 1985

The Honorable Mike Synar  
Chairman, Subcommittee on Environment,  
Energy, and Natural Resources  
Committee on Government Operations  
House of Representatives



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Dear Mr. Chairman:

Subject: U.S. Synthetic Fuels Corporation's Contracting  
Policies and Practices for Consulting Services  
(GAO/RCED-85-162)

As requested in your April 4, 1985, letter and in subsequent meetings with your office, we are providing information on the contracting policies and practices of the U.S. Synthetic Fuels Corporation (SFC) for consulting services. Specifically, we are reporting on

- SFC's policies and practices for awarding contracts for consulting services;
- the extent SFC (1) awards consultant contracts on a competitive basis, (2) compares the costs of contracting for services versus hiring permanent employees, and (3) monitors contractor performance;
- the results of applying certain federal procurement regulations to SFC's contracting practices;
- the types of products or services rendered; and
- the levels of compensation and travel reimbursements.

We obtained this information generally by reviewing SFC's files for the 79 contracts awarded to individual consultants and consulting firms between October 1, 1983, and April 30, 1985, and interviewing SFC officials responsible for developing contracting policies and practices, monitoring contractor performance, and using consultants' products.

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BACKGROUND

SFC was established by the Energy Security Act (Public Law 96-294) of June 30, 1980, to provide private industry with financial assistance to undertake commercial-size projects that produce synthetic fuels. To enhance its ability to finance synthetic fuels projects, SFC awards contracts for goods and consulting services. Although the Energy Security Act generally exempts SFC from most statutes governing federal departments--including those for procurement of goods and services--SFC's Board of Directors, at its first meeting in October 1981, approved an overall contracting policy. This policy stated that procurements should be based on competition whenever practical and should follow the best commercial and government practices.

PRIOR GAO REPORT

In February 1984 we issued a report to the Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, on SFC's contracting practices with individual consultants.<sup>1</sup> We noted that, contrary to its stated policy, between October 1981 and August 1983, SFC awarded 55 contracts without competition, totaling \$775,635, to individual consultants. The report also pointed out that SFC did not compare consultant contract costs with the costs of hiring permanent employees and did not monitor consultants' performance, as required by SFC policies and procedures.

Individual consultant contracts  
awarded without competition

We reported that SFC's practice of excluding individual consultant contracts from competition was at variance with both the Board's policy of having procurements on the basis of competition and the federal government's procurement policy.

In November 1982 SFC adopted detailed, consolidated guidelines--in the form of a procurement manual--for justifying, negotiating, awarding, and monitoring contracts. We pointed out that the guidelines were not consistent with the Board's policy because they did not require competition for individual consultant contracts.

Federal procurement regulations set forth detailed rules on purchasing supplies and services from commercial sources and are the basic criteria on competition we used in determining what

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<sup>1</sup>The U.S. Synthetic Fuels Corporation's Contracting With Individual Consultants (GAO/RCED-84-106, Feb. 7, 1984).

actions a typical federal agency would be required to undertake in order to contract for consulting services. (Civilian agencies' implementing regulations are required to be consistent with federal procurement regulations.)

During the time of our previous review, federal agencies were to provide written justification that competition was not feasible for contracts costing \$10,000 or more. Public Law 98-191, December 1, 1983, raised this threshold to \$25,000. We reported that 8 of the 13 consultants in our sample had contractual limits of \$10,000 or more and 4 of the 8 had limits of \$25,000 or more.

SFC did not perform required cost comparisons

Both the Board's October 1981 policy statement and the November 1982 guidelines required that SFC determine the least costly method to acquire needed services by comparing consultants' charges with the cost of hiring permanent employees. We reported that none of the contract files we reviewed included a cost comparison.

SFC did not monitor consultants' performance

SFC's November 1982 contracting guidelines stated that the program organization that awards the contracts must monitor the consultant's performance, expenditures, and product delivered. We reported that consultants in our sample were not provided milestones for the work to be performed and several were not required to have a specified end product. We pointed out that, without milestones and a specified end product, SFC had no criteria by which to measure consultants' performance and product delivered. SFC officials were aware that consultants' performance was not being monitored.

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We made three recommendations to the Chairman, SFC, to correct the problems we noted. The following sections include a discussion of the manner in which SFC has dealt with each recommendation.

SFC's CURRENT POLICY FOR AWARDING CONSULTANT CONTRACTS

In our prior report, we recommended that SFC follow its Board of Directors' policy and award individual consultant contracts on a noncompetitive basis only after it determines that unique expertise needs and/or a time-critical situation makes competition infeasible.

On March 15, 1984, about 1 month after our report was issued, SFC's Board of Directors revised its 1981 procurement policy by formally resolving that competition in awarding contracts does not apply to contracts for the services of individual consultants. The Board further resolved both that cost comparisons between developing an in-house capability and contracting for consulting services are required only when the consulting services are expected to be used over an extended period of time and involve significant costs and that the results of such comparisons do not necessarily override other considerations. SFC did not define what constitutes an extended period of time, significant costs, or other considerations. This change in the Board's procurement policy was within the discretion of SFC under the Energy Security Act.

During the period October 1, 1983, to April 30, 1985, SFC awarded 79 contracts to individuals and firms for consulting services. Expenditures for the 79 contracts totaled \$2.3 million through June 17, 1985. The 43 contracts with individual consultants were awarded on a sole-source basis without competition. The 36 contracts with consulting firms were awarded on either a competitively negotiated basis or a noncompetitive basis. Table 1 shows a comparison of the number of contracts awarded to individuals and firms and the total expenditures through June 17, 1985, in each category of service.

Table 1

Consulting Services Contracts and Expenditures

Category of service	Individuals		Firms		Total contracts	Total expenditures
	<u>Contracts</u>	<u>Amount</u>	<u>Contracts</u>	<u>Amount</u>		
Policy development	18	\$298,503	11	\$ 647,445	29	\$ 945,948
Legal services	2	18,526	12	674,342	14	692,868
Technical/ environmental	9	139,176	3	54,806	12	193,982
Finance	1	147,506	2	70,393	3	217,899
Administration	8	128,197	5	88,987	13	217,184
Projects	<u>5</u>	<u>27,342</u>	<u>3</u>	<u>24,147</u>	<u>8</u>	<u>51,489</u>
Total	<u>43</u>	<u>\$759,250</u>	<u>36</u>	<u>\$1,560,120</u>	<u>79</u>	<u>\$2,319,370</u>

### Individual consultant contracts

SFC's procurement manual exempts the selection of individual consultants from its basic policy of awarding contracts on the basis of competition and permits selection of particular individual consultants because of the highly specialized professional expertise SFC is seeking. The SFC selection official is required to set forth his basis for selecting an individual consultant. SFC awarded all 43 contracts with individual consultants on a sole-source basis. Expenditures for individual consultants totaled \$759,250 through June 17, 1985.

SFC officials told us that they had certain safeguards in hiring consultants. For example, SFC's procurement manual requires that each request for an individual consultant agreement must be accompanied by signed statements from the requesting official and the cognizant SFC vice president identifying any business or personal relationships they may have had or currently have with the proposed consultant. The prospective consultant is also required to provide a signed statement identifying any personal or business relationship he or she may have had or currently has with SFC's requesting official or any of SFC's directors or officers.

### Contracts with consulting firms

When seeking services from a consulting firm, SFC's policy is to contract competitively unless the required services are highly unique or time constraints exist. The method most commonly used is competitive negotiation. This includes mailing notices of requests for proposals to known consulting firms and, after interested firms submit proposals, discussing the proposed contracts with those firms in the competitive range.

Of the 36 contracts with consulting firms totaling \$1,560,120 paid through June 17, 1985, 23 were awarded on a competitively negotiated basis. The number of proposals received ranged from 3 to 16, as shown in table 2.

Table 2  
Consulting Firm Contracts Awarded  
on a Competitively Negotiated Basis

<u>Category of service</u>	<u>Contracts</u>	<u>Requests for proposals distributed</u>	<u>Proposals received</u>
		----- <u>(range)</u> -----	-----
Policy development	5	a	a-16
Legal services	11	3-21	3-12
Technical/environmental	3	3-6	3-6
Finance	0	0	0
Administration	2	5	5
Projects	<u>2</u>	3-6	3-6
Total	<u>23</u>		

<sup>a</sup>Data not available.

The contract files for the remaining 13 consulting firm contracts showed that SFC awarded these contracts to selected firms, generally on the basis of their past performance with SFC and other organizations; time constraints; or their unique qualifications, in SFC's opinion, for the particular tasks to be performed.

APPLICATION OF FEDERAL PROCUREMENT REGULATIONS TO SFC PRACTICES

The following discussion contrasts certain federal procurement regulations with SFC's contracting practices. The information is for comparative purposes only because SFC is not bound by such federal regulations.

As previously mentioned, before 1985, for a federal agency to award a contract costing \$25,000 or more on a sole-source basis, federal procurement regulations required a written justification that competition was not feasible.<sup>2</sup> In our prior report, we

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<sup>2</sup>Commencing in 1985, the Competition and Contracting Act (Public Law 98-369) placed more stringent requirements on sole-source procurements. However, for the purpose of illustration, we have used previously applicable regulations, including the \$25,000 threshold.

recommended that SFC provide a written justification demonstrating that competition is not feasible for contracts costing \$25,000 or more.

Although SFC files included statements of the rationale for awarding 13 consulting firm contracts to selected firms, the files did not include written justifications for awarding any of the 8 individual consultant contracts over \$25,000 on a sole-source basis without competition.

Federal procurement regulations also state that, whenever property or services are to be procured by negotiation, proposals shall be solicited from the maximum number of qualified sources. The Comptroller General's decisions in bid protest cases have established the principle that federal agencies should conduct a market search to ensure that contract awards are based on competition. Specifically, federal procurement regulations required that, to increase competition, proposed civilian agency procurement actions of \$10,000 and above usually must be published promptly in the Commerce Business Daily in a manner that invites competition on the contract. Commerce Business Daily is published every day, except weekends and holidays, by the U.S. Department of Commerce and provides industry with notice concerning current government contracting and subcontracting opportunities. Although SFC solicited proposals for 23 consulting firm contracts, it did not publish the requests for proposals in the Commerce Business Daily.

If SFC had to follow federal procurement regulations in effect before 1985, it would have had to advertise its contracts exceeding \$10,000 (both with individuals and with firms) in the Commerce Business Daily to provide potential suppliers an opportunity to submit proposals. Additionally, its contracts exceeding \$25,000 with individual consultants and firms would have needed written justifications on why competition was not feasible. Table 3 shows the total number and estimated costs of contracts with face values over \$10,000 and \$25,000 at the time they were awarded.

Table 3

<u>Category of service</u>	<u>Face values over \$10,000</u>		<u>Face values over \$25,000</u>	
	<u>Number of contracts</u>	<u>Estimated cost</u>	<u>Number of contracts</u>	<u>Estimated cost</u>
Policy development	7	\$111,900	12	\$ 886,375
Legal services	1	24,000	3	232,000
Technical/environmental	1	11,701	3	168,030
Finance	1	15,000	1	55,400
Administration	3	53,000	3	97,000
Projects	<u>2</u>	<u>35,500</u>	<u>1</u>	<u>25,000</u>
Total	<u>15</u>	<u>\$251,101</u>	<u>23</u>	<u>\$1,463,805</u>

In addition to the contracts shown in table 3, SFC awarded four contracts with no face values<sup>3</sup> where expenditures exceeded \$10,000 but were less than \$25,000 as of June 17, 1985, and six contracts with no face values where expenditures exceeded \$25,000. The expenditures for these 10 contracts totaled \$752,271 as of June 17, 1985.

#### COST COMPARISON

SFC's procurement manual requires that when the consulting services are expected to be used over an extended period of time and involve significant costs, the cost of consultants' charges be compared with the cost of hiring permanent employees. The Director of Contracts told us that, in most cases, a cost comparison would be beneficial. However, he stated that there were certain cases when it might not be beneficial, such as in contracts involving low costs and short time frames and those involving areas having only a few acknowledged experts.

In our prior report, we recommended that SFC follow its guidelines by comparing consultants' charges with the cost of hiring permanent employees before awarding contracts to individual consultants.

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<sup>3</sup>A contract with no face value is generally for services without an estimated total cost.

As of July 1, 1985, SFC did not require written documentation that a cost comparison had been completed prior to awarding contracts and did not provide guidance on how a comparison should be performed. No documented evidence existed in SFC's contracting files that a cost comparison had been done on any of SFC's 79 consultant contracts awarded from October 1983 through April 1985. About half of these contracts had a face value over \$10,000.

Many of the SFC officials who were responsible for the consultant contracts have left the Corporation. We interviewed four SFC officials and one former SFC official who were responsible for 24 consultant contracts. Two stated that they had informally considered the cost of hiring an outside consultant versus using SFC staff but did not have any documentation showing the methodology they used. Two of the other officials indicated that they had not done any cost comparisons because of the short duration of the contracts. The fifth official said that no cost comparisons had been performed on the seven contracts for legal services because the General Counsel had decided that, because of the intermittent nature of SFC's legal work, it would be more cost beneficial to hire legal consultants than to maintain a large staff of attorneys.

#### CONTRACT MONITORING

In our prior report, we recommended that SFC follow its guidelines by monitoring consultants' performance over the life of the contracts.

The five contract monitors we interviewed said that their monitoring normally consisted of interacting with the consultants on a frequent, and in some cases daily, basis. Other monitoring responsibilities included ensuring that consultants met milestones required under their contracts, approving consultants' invoices prior to payment by the Accounting Department, and ensuring that the final product submitted to SFC was acceptable.

SFC does not require contract monitors to file written status reports on the progress that consultants are making in meeting the terms of their contracts. No written status reports appeared in any of the 29 ongoing contract files. However, the Director of Contracts stated that the contracting office contacts the monitors monthly and obtains oral comments on the status of the contracts. In most cases this involved verifying that the contract was ongoing. The 50 closed contract files generally included a written statement filed by the contract monitor stating that the contract had been completed satisfactorily.

TYPES AND USE OF PRODUCTS

The consultant contracts generally required the consultants to provide either written reports or oral or written advice on the results of the work performed. In some cases the consultants were to provide separate reports for different tasks performed under the same contract. Of the 79 contracts, 43 required written reports and 36 required oral or written advice, as shown in table 4. (See the enclosure for a listing of the completed written reports.)

Table 4Types of Consultant Products

<u>Category of service</u>	<u>Written reports</u>	<u>Oral or written advice</u>	<u>Total</u>
Policy development	15	14	29
Legal services	2	12	14
Technical/environmental	10	2	12
Finance	2	1	3
Administration	8	5	13
Projects	<u>6</u>	<u>2</u>	<u>8</u>
Total	<u>43</u>	<u>36</u>	<u>79</u>

The Director of Contracts and contract monitors we interviewed said the written and oral products were generally used by SFC to assist in

- developing its comprehensive strategy for assisting the synthetic fuels industry;
- evaluating the feasibility of proposed synthetic fuels projects;
- improving the administration and management of the Corporation; and
- dealing with various technical, financial, policy, and legal matters.

COMPENSATION

SFC compensated 54 of the 79 consultants on the basis of a negotiated daily or hourly fee rate. The other 25 consultants were paid on the basis of a negotiated fixed total contract fee, which usually could be adjusted if the scope of the work changed. In addition, SFC paid two of the consultants at a daily or hourly rate for some tasks and a fixed total contract fee for other tasks.

Table 5 shows the range of the daily fee rates for the 28 consultants who were paid on that basis.

Table 5  
Range of Fee Rates for Consultants  
Paid on Daily Basis

<u>Category of service</u>	<u>Contracts</u>	<u>Low</u>	<u>High</u>	<u>Median</u>
Policy development	13	\$360	\$ 800	\$450
Technical/environmental	7	212	680	400
Finance	1	300	300	300
Projects	<u>7</u>	150	1,000	300
Total	<u>28</u>			

The consulting firm that received \$1,000 per day evaluated an analysis of the estimated market value of shale oil that would be produced from a proposed synthetic fuels project that was seeking financial assistance. The project's sponsor had prepared the analysis. As of June 17, 1985, this firm had been paid about \$9,700.

The consultant who received \$800 per day designed and helped to implement a management system for assisting SFC in its efforts to develop a comprehensive strategy plan for the synthetic fuels industry. He was paid about \$24,000 for his work.

Twelve consulting contractors were paid an hourly rate to perform work for SFC's administrative services office. Their rates ranged from \$25 to \$208 an hour, with a median rate of \$75. The firm that received \$208 an hour was paid about \$20,900 for assisting SFC in preparing a proposal for obtaining a medical plan for SFC employees and selecting the insurance company.

The 14 consulting contractors that provided legal services were also paid an hourly rate. Their rates ranged from \$25 to \$300 an hour, with a median rate of \$170. The law firm that received \$300 an hour for one of its employees was paid about \$62,900 through June 17, 1985, for assisting SFC in designing and implementing an employees' retirement and savings plan.

The consulting firms that provided administrative and legal services generally used persons with different levels of skills who were paid at different hourly rates based on the specific type of work performed. For example, paralegals who assisted lawyers received \$25 an hour while a law firm's partner earned the \$300 hourly rate for legal services rendered.

#### TRAVEL REIMBURSEMENT

SFC reimburses consultants for reasonable and necessary transportation, lodging, meals, and other miscellaneous expenses incurred during the performance of the consulting contract. First-class travel, while not prohibited in writing, is discouraged, and consultants are encouraged to use the most economical method. Consultants are entitled to reasonable lodging, \$35 per day for meals, and miscellaneous expenses. Reimbursement claims of individual consultants, although not of consultant firms, must be itemized; and original receipts for all expenditures over \$25 must be submitted. SFC's contract monitors approve all reimbursement claims.

We reviewed travel reimbursement files for eight individual consultants with claims for out-of-town travel. Room rates ranged from \$58 to \$133 per night and the \$35 per day limit for meals was generally enforced. We noted two exceptions to SFC's travel policy. In one case a consultant negotiated a flat per diem rate of \$75 per day for services provided over 1 1/2 years without submitting any receipts showing actual lodging and meal costs. His expense reimbursements, including travel costs for 44 trips to Washington, D.C., totaled about \$34,100.

In the other case, SFC permitted a consultant to use first-class air transportation and incur greater than typical expenses. The files did not show the reason for this. During the 5 1/2-month contract period, he made 16 trips to meet with SFC officials. Although he normally traveled coach class, he returned to his residence by first-class accommodations on six of the trips. He was reimbursed about \$17,500 for his expenses on the 16 trips. The average per diem rates of the other SFC consultants traveling to Washington, D.C., ranged between \$97 and \$107 per day versus the average of \$167 per day spent by this consultant.

SFC's policy for travel expenses of consultant firms differs from its policy for individuals. The firms do not have to submit

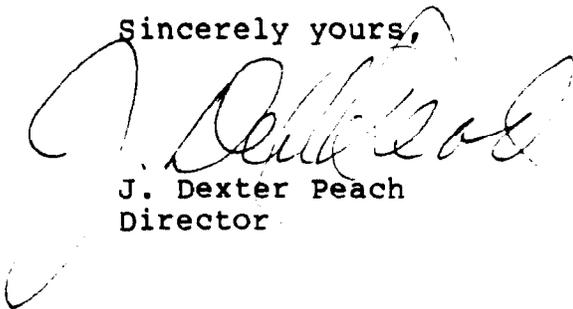
itemized travel expenses for their employees assigned to an SFC contract but include total travel costs on their monthly invoices submitted to SFC. Nine of the 36 firms claimed out-of-town travel reimbursement totaling approximately \$103,000 during the period October 1, 1983, to April 30, 1985.

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Our work was performed in accordance with generally accepted government auditing standards. We discussed the information obtained during our review with SFC officials and have included their comments where appropriate. As requested by your office, we did not solicit official Corporation comments on a draft of this report.

As arranged with your office, unless you announce its contents earlier, we plan no further distribution of this report until 30 days from the date of its issuance. At that time we will send copies to the Chairman, U.S. Synthetic Fuels Corporation and interested parties and make copies available to others upon request.

Sincerely yours,



J. Dexter Peach  
Director

Enclosure



LISTING OF WRITTEN CONSULTANT REPORTS  
PROVIDED TO SYNTHETIC FUELS CORPORATION  
BETWEEN OCTOBER 1, 1983, AND APRIL 30, 1985

1. Eastern Shale Versus Eastern Coal
2. The Oil Import Premiums Review and Analysis
3. Strategic Issues for Resource Base and Technology Assessment
4. Contribution of Heavy Oil to Domestic Synthetic Fuel Production
5. Methodology for Evaluating the Potential of Heavy Oil
6. The Potential of Domestic Heavy Oil Findings and Methodology
7. Financing and Tax Incentives for Synthetic Fuel Development
8. Regional Environmental Issues: Identification and Assessment Study for Synthetic Fuels Development
9. Completion Guarantees
10. Capturing Pioneering Plant Experience: Implications for Synfuel Projects
11. The Infrastructure for a Surge in Synfuels Production
12. How Management Practices Can Affect Project Outcomes
13. Review of Recent World Oil Price Projections
14. Evaluation of Modeling Approaches in Support of the U.S. SFC Recommended Comprehensive Strategy Development
15. Models Developed for SFC Policy Development Agreement
16. Conventional Oil and Gas Study
17. Economic Studies for Investment Analysis
18. Development of Learning, Capability, and Infrastructure
19. Techno-Economic Analysis
20. Legal Analysis of Cathedral Bluffs Water Rights
21. Evaluation of Water Supply Reservoir for Kentucky Tar Sands Project

22. Suggested Improvements to Solicitation, Evaluation, and Negotiation Methodology
23. Private Industry Incentives for the Development of a Synthetic Fuels Industry
24. Suggested Organizational Structure for Monitoring for Contract Compliance and Information Gathering in Financially Assisted Synthetic Fuel Projects
25. Evaluation of the Hop Kern Demonstration Unit, and Possible Expansion Units
26. Reevaluation of Hop Kern Demonstration Unit
27. Groundwater Availability Study for the Chaparros Ranch Tar Sands Project
28. Groundwater Availability Study for the Forest Hill Heavy Oil Project
29. Worker Registry Issues and Analyses
30. Review and Evaluation of the Geologic and Geophysical Data on the Chaparrosa Ranch Tar Sand Resource
31. Report on the Greenwich Oil Company Forest Hill Oxygen Combustion Project
32. Report on Water Supply Availability for the Union Oil Shale Project
33. Report on Water Supply Availability for the Cathedral Bluffs Shale Oil Project
34. Coal Liquid Mixtures
35. Methanol/Crude Oil Price Relationships: An Updated Report
36. Study of Vesting Provisions Under the Retirement Plan of U.S. Synthetic Fuels Corporation
37. Solicitation Philosophy - U.S. Synthetic Fuels Corporation
38. Project Administration Guidelines
39. Financial Department Staff Organization/Composition
40. Accounting Procedures Manual
41. Analysis of Word Processing System

42. Review of the Inventory Management System, U.S. SFC
43. Personnel Procedures Manual
44. Project Cost Estimation System Users Guide
45. Project Cost Estimation System Technical Reference Manual
46. Report on Project Monitoring
47. Report on Kentucky Tar Sands Project
48. Evaluation of Resources and Mining of the PR Spring Tar Sands Project
49. White River Shale Product: A Critique of Mining Plans as Related to Application for the U.S. Synthetic Fuels Corporation Support
50. Report on Shale Oil Reserves for Geokinetics Leases
51. Report on Shale Oil Reserves of Union Oil's Old Mountain Black
52. Deficiencies Noted During a Review of the American Syncrude/Indiana Oil Shale Proposal





