

GAO

Report to the Honorable Malcolm S.
Forbes, Jr., Chairman, Board For
International Broadcasting

November 1985

**CONTRACT
PRACTICES**

**Free-Lance Services
Provided by RFE/RL
Employees**



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National Security and International
Affairs Division

B-221023

November 27, 1985

The Honorable Malcolm S. Forbes, Jr.
Chairman, Board for
International Broadcasting

Dear Mr. Forbes:

Each year the Congress authorizes funds for Radio Free Europe/Radio Liberty Incorporated (RFE/RL), a government-financed private organization which broadcasts to Eastern Europe and the Soviet Union. During our review of broadcast controls at RFE/RL,¹ performed at the request of Senator Claiborne Pell, we found that RFE/RL was contracting with its employees for writing, announcing, and other broadcast and clerical support services. Because of questions this practice raised about possible abuses, we reviewed (1) RFE/RL's reasons for contracting with its employees, (2) the extent and cost of such contracting, and (3) controls in place, or possible, to prevent abuses.

The details on our findings are included as appendix I. In summary, we found that:

- RFE/RL expended \$178,651 (about 6 percent of the \$2.9 million expended for free-lance services) to contract with 222 full-time RFE/RL employees.
- A number of the contracts were for support services, such as typing, translation, statistical compilation, and research.
- Contracts were awarded to employees for tasks which management stated that on close examination were probably inappropriate because the tasks fell within the duties of the employees' job descriptions, and employees may have done contract work during normal, salaried working hours.
- Employee free-lance contracts were awarded in areas where the pool of available outside contributors is good.
- About 50 managers are authorized to award free-lance contracts to employees, but RFE/RL has no written policy or procedures that specify the conditions under which contracts with employees can be used.
- The Board for International Broadcasting's (BIB) budget justifications to Congress do not show that RFE/RL contracts with its employees.

¹Improved Oversight Can Reduce Broadcast Violations at Radio Free Europe/Radio Liberty (GAO/NSIAD-85-93, June 24, 1985)

According to RFE/RL's management, the principal reason for contracting with employees was to commission them to write scripts for use in broadcasts. They stated that contracts were awarded to employees because (1) outside contributors in the non-Russian language broadcasts to the Soviet Union are difficult to find, (2) employees must receive additional compensation for tasks outside their position descriptions, and (3) employees are used to maintain high quality broadcasts. However, in our review we found that the non-Russian language broadcasts to the Soviet Union accounted for only a small percentage of the free-lance contracts, and that about one third of the contracts were awarded for tasks which were within employees' position descriptions. Furthermore, we were informed that these practices had been going on for 15 years.

We recognize that the requirement for broadcasts to be relevant and timely may create extenuating circumstances which occasionally justify contracts with RFE/RL employees, and we believe RFE/RL should have the flexibility to contract with employees, on an exception basis, for services it needs but cannot reasonably obtain from other sources. However, RFE/RL has not, in our view, applied adequate controls to ensure that employee free-lance contracts are (1) used only when necessary, (2) properly reviewed and authorized to avoid abuses, and (3) performed outside normal duty hours.

Accordingly, we recommend that the Chairman of the BIB, working with the Board, have the the president of RFE/RL develop regulations that govern the awarding of free-lance contracts to employees. These regulations should require that

- RFE/RL department heads not contract with employees unless needs cannot be reasonably met through other means,
- RFE/RL department heads initiating employee free-lance contracts certify that outside contributors and existing staff resources are unavailable,
- the RFE/RL senior vice president or equivalent position approve all employee free-lance contracts, and
- RFE/RL institute controls to help assure that employees perform free-lance contract work outside of normal, salaried duty hours.

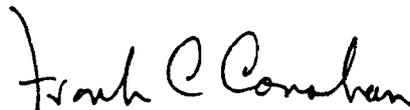
We further recommend that BIB identify in its budget submission to the Congress that some of the funds may be used for RFE/RL employee free-lance contracts.

RFE/RL and BIB reviewed a draft of this report and concurred with all recommendations. In commenting on the draft, officials indicated that action had been or would be taken to implement all recommended changes. (See app. III.)

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 Senate Committee on Governmental Affairs and the House Committee 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.

We are sending copies of this report to the Director, Office of Management and Budget; to the Chairmen of the Senate Foreign Relations, House Foreign Affairs, and Senate and House Appropriations Committees; and to Senator Pell.

Sincerely yours,



Frank C. Conahan
Director

Better Controls Needed Over RFE/RL's Employee Free-Lance Contracts

Radio Free Europe/Radio Liberty (RFE/RL) provides daily radio broadcasts to five Eastern European countries and the Soviet Union in the native languages of their listeners. To do so, RFE/RL employs a staff, consisting mostly of former citizens of the target countries, organized into broadcast services within the RFE and RL broadcast divisions. At the time of our review (1984)¹ the RFE division contained five services: Bulgarian, Hungarian, Romanian, Polish, and Czechoslovakian. The RL division contained 15 services, broadcasting in Russian and 14 other languages spoken in the Soviet Union. In addition to the RFE and RL division, RFE/RL also has, among others, audience research and broadcast analysis units.

To supplement a staff of writers, editors, producers, announcers, researchers, and analysts, RFE/RL contracts with outside contributors—emigres and other individuals living in the West—who research, write, and announce programs broadcast on RFE and RL. These are known as “free-lance” contracts. Free-lance contracts are also awarded to RFE/RL employees.

RFE/RL funds free-lance contracts from a budget category called “miscellaneous fees and professional services.” RFE/RL’s fiscal year 1985 grant request stated that funds in this category are used for outside professional services, including free-lance, legal, protective, architectural, engineering, and data processing. Funding for the free-lance portion of the professional services budget increased 42 percent, from about \$2.0 million in fiscal year 1983, to about \$2.9 million in fiscal year 1984. In justifying the increase, RFE/RL stated that additional increased free-lance funding was needed to enhance the quality of broadcasts by obtaining more outside contributors. In its fiscal year 1984 budget submission, RFE/RL stated that

“The quality of [RFE/RL] broadcast programs has suffered, especially in recent years, from budgetary restrictions on commissioning of programs from outside contributions. Evaluators have recommended less dependence on programs by in-house staff. Management needs flexibility to enhance and diversify programs, particularly by obtaining free-lance contributions from these groups: (1) Recent emigres from the audience area, particularly those with special credentials to address audiences on the problems of their societies, and (2) professional specialists in the U.S. and other Western

¹After we completed our review, RFE/RL transferred RL’s Estonian, Latvian, and Lithuanian broadcast services to RFE. The United States does not recognize Soviet annexation of Estonia, Latvia, and Lithuania into its territory. This report covers fiscal year 1984 when these services were part of RL, and they are referred to as part of RL throughout.

countries who can speak authoritatively on important questions of interest to Soviet and East European audiences.”

The Board for International Broadcasting's (BIB) budget submission to Congress stated that “. . . an increase in funds available for free-lance contributions would allow RFE/RL to expand its free-lance program, establish competitive rates once again and attract a more distinguished group of contributors in Western Europe and the United States.”

Objectives, Scope, and Methodology

As part of our review of broadcast controls at RFE/RL, we assessed the extent, purpose, and reasonableness of RFE/RL's practice of contracting with employees for free-lance services. To determine the extent and purpose of the practice, we compiled a listing of fiscal year 1984 employee free-lance contract payments from information provided by RFE/RL's Finance Department and reviewed transaction records supporting these payments. To assess the reasonableness of the practice, we reviewed the BIB appropriation acts, budget justifications and grant agreements, RFE/RL's policy guidance and personnel position descriptions, as well as Comptroller General decisions and Federal Acquisition Regulations; and discussed the practice with RFE/RL's senior vice president, five department heads, and representatives of Finance and Personnel Departments. We conducted our review in accordance with generally accepted government auditing standards.

Contracts With RFE/RL Employees

In fiscal year 1984, RFE/RL paid \$178,651, or 6 percent of the \$2,860,000 expended for free-lance services, to contract with 222 full-time RFE/RL employees. Fifty employees received over \$1,000, five of those about \$5,000, and one was paid nearly \$11,000. RFE/RL awarded over 900 free-lance contracts to employees in fiscal year 1984. These contract payments were in addition to the employees' regular salaries, and each employee certified on the payment voucher that the work was performed outside normal working hours.

During fiscal year 1984, most of the broadcast services (12 of 20) used outside contributors (see appendix II). For example, the Russian, Hungarian, Romanian, Czechoslovakian, and Polish services contracted with 120, 104, 114, 188, and 235 outside specialists, respectively. The Bulgarian Service used 22 outside contributors compared to 26 employees. RFE/RL officials stated that limited emigration from Bulgaria constrains the pool of persons available for both employment and outside contributions.

RFE/RL management stated that the principal reason for contracting with employees was to commission them to write scripts for use in broadcasts. However, RFE/RL also contracted with employees for such services as typing, translation, statistical compilation, and research. RFE accounted for most of the contracts, with \$111,548 paid to employees. RL contracts totaled \$43,628, most of these by the Russian broadcast service. While the needs of RL's 14 non-Russian broadcast services were cited by management as the primary reason for awarding contracts to employees, we found that only 4 percent of the payments to employees was for these broadcast services. Eight of the 14 services awarded no contracts. In addition to the broadcast divisions, other RFE/RL units awarded \$23,475 in contracts to employees. (See appendix II for a breakdown of free-lance contracts by the various RFE/RL units.)

Using employee free-lance contracts is apparently a long-standing practice. One broadcast service director who has been with RFE/RL for 15 years stated the practice has been going on at least that long.

Management Supports Contracts With Employees

The RFE/RL senior vice president stated that employee free-lance contracts are necessary to maintain high quality broadcasts. The senior vice president and other managers provided three basic reasons for the practice:

- The RFE/RL broadcasts require information on complex subjects, often in exotic languages, with time constraints. Finding outside contributors in the non-Russian languages of the Soviet Union is frequently difficult; therefore, to maintain timely and quality broadcasts, it is sometimes necessary to contract with employees to provide additional material for these broadcasts. Even when outside contributors are available, a staff member can produce a script more quickly.
- Staff members cannot be asked to perform services which are outside their position descriptions under German labor law and union agreements. Many members are knowledgeable and respected authors, or have other unique qualifications, and are thus in demand by the broadcast services to write on complex and specialized subjects. If a person is asked to write a script but is not employed as a writer by the service that wants it, then it falls outside the individual's position description and additional compensation must be paid.
- RFE/RL has been underfunded and understaffed for years. To compensate for inadequate resources and maintain quality programming, RFE/RL

is forced to contract with staff to work additional hours. As RFE/RL continues to receive enhanced funding, reliance on free-lance contributions in general, and those from employees in particular, will diminish.

RFE/RL Needs to Establish Policy and Procedures for Contracting With Employees

RFE/RL has no written policy or procedures governing contracting with employees for free-lance services. Since it is not a federal agency, RFE/RL is not bound by Federal Acquisition Regulations (FAR). The FAR prohibits federal agencies from contracting with their employees except under extenuating circumstances. Part 3, subpart 3.6, states the following:

3.601 Policy.

“Except as specified in 3.602, a contracting officer shall not knowingly award a contract to a Government employee or to a business concern or other organization owned or substantially owned or controlled by one or more Government employees. This policy is intended to avoid any conflict of interest that might arise between the employees’ interests and their Government duties, and to avoid the appearance of favoritism or preferential treatment by the Government toward its employees.”

3.602 Exceptions.

“The agency head, or a designee not below the level of the head of the contracting activity, may authorize an exception to the policy in 3.601 only if there is a most compelling reason to do so, such as when the Government’s needs cannot reasonably be otherwise met.”

RFE/RL managers are not required to determine that needs cannot reasonably be otherwise met before they contract with employees. In addition, controls are not adequate to prevent abuses of the practice of contracting with employees.

RFE/RL Managers Not Required to First Determine That Needs Cannot Reasonably Be Otherwise Met

RFE/RL has no policy requiring managers to first determine that needs cannot reasonably be met without contracting with employees. We found that most employee contracts were awarded in areas where the pool of available outside contributors is good. RFE/RL management stated that, because outside contributors are difficult to find, employee free-lance contracts are often the only means of obtaining contributions for non-Russian language broadcasts to the Soviet Union. However, only 6 of the 14 non-Russian RL broadcast services awarded employee free-lance contracts during fiscal year 1984, accounting for about 4 percent

of the value of all such contracts with employees. Furthermore, two of these services— Ukrainian and Belorussian—accounted for 87 percent of the non-Russian services' free-lance contracts. Most employee free-lance contracts were awarded by the Russian and Eastern European language broadcast services where, according to RFE/RL officials and our analysis, the available pool of qualified outside contributors is quite good.

Controls Are Not in Place to Prevent Abuse

RFE/RL broadcast service directors, department heads, and their assistants are delegated financial approval authority ranging from \$2,000 to \$10,000. Since free-lance contracts are within this range, over 50 RFE/RL managers are authorized to initiate and approve free-lance contracts. There is no written policy or procedures defining what constitutes an acceptable employee free-lance contract. Some contracts were awarded to employees in fiscal year 1984 that appeared questionable and were viewed by RFE/RL senior management as inappropriate.

Some Contracts Appear Questionable

RFE/RL has no procedures to ensure that its managers first determine that RFE/RL's needs cannot be reasonably met without contracting with employees. Examples of contracts that appear to us to be questionable follow.

- Two broadcast services awarded contracts to staff members who were interviewed on the air. For example, the Polish Service broadcasts a weekly program entitled "About Our Work" in which staff members talk on the air about their work. Noneditorial staff who talk on this program are compensated from free-lance funds.
- RFE's research unit has contracted with broadcast service staff for "consultant" services.
- One management official, a department deputy director, received 12 contracts to write scripts for a broadcast service and received \$2,358.
- RFE/RL research groups, which provide program material to the broadcast services, were also major recipients of free-lance contracts.

Some contracts posed the potential for weakening the independent policy review process. The Broadcast Analysis Department, which is responsible for evaluating programs for quality, suitability, and policy compliance, is expected to maintain an independent outlook and appearance. However, 10 of its analysts received contracts totaling \$9,553 from the broadcast services to write scripts. Two of the analysts received contracts to write scripts from the services they evaluated. One

wrote extensively and received nearly \$11,000, the highest amount received by any employee. According to the Department's Deputy Director, the independence and judgment of these analysts are not compromised by their writing for or receiving compensation from the broadcast services.

**Management Views Some
Payments As Inappropriate**

RFE/RL management told us that staff members cannot be asked to perform services which are outside their position descriptions. However, we found that 33 percent of the employee free-lance contracts were awarded for tasks that were within the scope of the employees' position descriptions. For example, although RFE editors are responsible for writing scripts, one RFE broadcast service contracted with eight of its staff editors to write scripts. Additionally, some of the services contracted with their secretaries for secretarial services. Therefore, these employees received additional compensation for tasks which could reasonably have been required of them in the course of their normal duties. The senior vice president stated he did not expect such contracts to be awarded. However, RFE/RL had no regulations to this effect to guide the many managers awarding free-lance contracts.

Initially, the senior vice president and RFE/RL department heads stated that additional compensation should be paid when an employee did work for another RFE/RL department, even if the work was covered in the employee's position description. RFE/RL position descriptions do not specify that an employee must work for a particular broadcast service or department. As such, we asked RFE/RL management to further clarify this position. In a written response, the Director of Administration stated

"... upon examination that there probably are cases where free-lance payments to existing staff members are inappropriate. We would maintain that an employee is required to perform all duties of his or her job description without additional compensation. This holds true even if the services are rendered to another department. There are possible complexities which only a German Labor Court could resolve if it comes to a crunch, but basically we could maintain that virtually all free-lance payments of [these] categories . . . should be stopped."

RFE/RL managers told us that they awarded free-lance contracts to staff performing their jobs for another department because it has been their understanding that additional compensation was required.

RFE/RL Employees May Be Performing Contract Work During Regular Working Hours

Lack of controls may have also resulted in staff performing free-lance contracts during regular working hours. Although RFE/RL has no regulations specifying that staff are expected to do this work outside of normal working hours, employees sign a statement on the payment voucher presented to RFE/RL's Finance Department certifying that "Work [was] performed outside regular working hours."

RFE/RL officials indicated that employees may be performing contract work during regular working hours. A study prepared by RFE/RL's Personnel Department in response to our inquiries stated that RFE/RL should ensure that no free-lance assignments are performed during regular working hours, which it said is probably not the present practice. In addition, a senior RFE/RL official told us that editorial staff productivity has decreased because the staff knows it can receive compensation in addition to regular salaries by doing free-lance work during regular working hours. The Director of Administration stated "(W)e have taken largely on faith the regular assertion on payment forms that the extra work was done outside of working hours. We can and will as soon as possible begin to tighten up these procedures."

BIB's Budget Justification for Free-Lance Contracting Is Not Clear

BIB's budget justifications to Congress do not state that RFE/RL employees are regularly awarded contracts for free-lance services. RFE/RL placed free-lance funds in its outside professional services budget, and budget justifications to OMB and Congress have stated that free-lance funds are used for outside professional services. This gives the impression that the free-lance budget funds only outside contract services. We believe OMB and Congress should receive better information on management's practices and the use of appropriated funds.

Summary of RFE/RL Fiscal Year 1984 Employee Free-Lance Contracts

	Number of Contracts	Amounts
Radio Free Europe		
Office of the Director	13	\$ 2,545
Czechoslovakian Service	136	29,450
Bulgarian Service	104	24,340
Romanian Service	77	19,540
Polish Service	135	17,895
Hungarian Service	98	16,330
RFE Research	11	1,448
Total RFE	574	\$111,548
Radio Liberty		
Office of the Director	1	\$ 32
Russian Service	156	24,372
Nationalities Service Management	1	136
Armenian Service	1	80
Belorussian Service	6	1,312
Georgian Service	1	64
Kazak Service	2	164
Ukrainian Service	14	5,184
Estonian Service	1	160
Azeri, Kirghiz, Latvian, Lithuanian, Tajik, Tatar-Bashkir, Turkmen, and Uzbek Services		0
Office of Planning and Research	54	11,210
"Samizdat" staff	5	914
Total RL	242	\$ 43,628
Other RFE/RL units		
Broadcast Analysis Department	100	\$ 16,718
Eastern Europe Audience Research	11	2,316
U.S. Operations	8	4,441
Total other units	119	\$23,475
Total RFE/RL	935	\$178,651

Comments on U.S General Accounting Office Draft Report



BOARD FOR INTERNATIONAL BROADCASTING

United States of America

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October 25, 1985

The Honorable Frank C. Conahan
Director
U.S. General Accounting Office
National Security and International
Affairs Division
Washington, D.C. 20548

Dear Mr. Conahan:

Thank you for your letter of September 30, 1985 containing the draft report "Better Controls Needed Over Radio Free Europe/Radio Liberty Employee Free-Lance Contracts."

Enclosed to this letter are the comments on the draft from the Office of the President of RFE/RL, Inc. We appreciate your courtesy in making a copy of the GAO draft available to the Board for International Broadcasting.

Sincerely,

A handwritten signature in cursive script, reading "Malcolm S. Forbes, Jr." The signature is written in dark ink and is positioned above the printed name.

Malcolm S. Forbes, Jr.
Chairman

Enclosure:

As stated.

Comments on U.S. General Accounting Office Draft Report

"Better Controls Needed over Radio Free Europe/Radio Liberty
Employee Free-Lance Contracts"

September 1985

- GAO Recommendation

Contracts with Employees should not be made unless an effort has been made to determine that needs cannot be reasonably met through other means.

(p. 3 of Conahan letter; p. 7 of Appendix I)

RFE/RL Comment: Agree. Instructions have been drafted to Directors using freelance funds that full time employees may not be paid for freelance work except under strictly defined conditions.

In addition to the instructions, administrative controls have been instituted to assure compliance.

- GAO Recommendation

RFE/RL Department heads should certify that outside contributors and existing staff resources are not available for freelance work before employees are paid for freelance work. (pp. 3-4 of Conahan letter; p. 7 of Appendix I)

RFE/RL Comment: Agree. Instructions have been drafted to require a determination that outsiders and existing staff resources are not available.

Additional administrative controls have been designed to assure compliance.

- GAO Recommendation

That the RFE/RL Senior Vice President or equivalent position approve all employee freelance contracts. (p. 4 of Conahan letter; p. 8 of Appendix I)

RFE/RL Comment: Agree. Instructions have been drafted to assure that employee freelance contracts are approved by the Senior Vice President or a designee.

Now on pp. 4 & 9-10.

Now on pp. 4 & 10.

Now on pp. 4 & 10.

Now on pp. 4 & 12.

- GAO Recommendation

That employees perform freelance contract work outside of normal, salaried duty hours.
(p. 4 of Conahan letter; pp. 10-11 of Appendix I)

RFE/RL Comment: Agree. Directors have been advised they are accountable for assuring that freelance work is not done during regular duty hours.

- GAO Recommendation

That the BIB make clear that some fraction of freelance funds is used under exceptional circumstances to pay employees.
(p. 4 of Conahan letter; p. 12 of Appendix I)

Now on pp. 4 & 12.

BIB Comment: Agree. This will be done.

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