



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-233855.2

July 21, 1989

The Honorable Mitch McConnell
United States Senate

Dear Senator McConnell:

This is in response to your letter dated June 29, 1989, supporting Ships Missile Systems Consultants Service, Inc.'s (SMSCSI), request that the General Accounting Office monitor the Navy's response to SMSCSI's request for documents under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1982).

On December 14, 1988, SMSCSI protested the proposed award of a contract to FMC Corporation under request for proposals (RFP) No. NOO123-87-R-0996, issued by the Naval Regional Contracting Center Detachment, Long Beach, California. The RFP solicited offers for engineering, installation and repair services for the TERRIER Guided Missile Launching Systems (GMLS) MK-10, including the GMLS MK-10 MODS 10-15 Solid State Control System. SMSCSI contended it should have been awarded the contract as the low offeror with the necessary knowledge and experience with the required systems. In its January 25, 1989, response to the protest the Navy stated that no contract had been awarded, solicitation requirements were under review, and no award would be made without further discussions and an opportunity for all offerors to submit revised proposals. We therefore dismissed SMSCSI's protest as academic on January 26.

By letter dated June 26, SMSCSI requested that our Office monitor the Navy's response to SMSCSI's letter of the same date to the contracting officer. The letter to the contracting officer noted that FMC had been awarded a contract for an amount which was \$1,339.79 below SMSCSI's offer and \$674,098 below FMC's previous proposal under the RFP. SMSCSI requested documents under FOIA relating to the RFP and previous Navy contracts with FMC for engineering services and materials on the TERRIER GMLS MK-10. SMSCSI further requested that the contracting officer review the documents and decide whether to initiate an internal protest review.

Our Office has no authority under FOIA to determine what information agencies must disclose under the Act. If the Navy does not furnish the requested information, SMSCSI's recourse is to pursue the remedies provided under the Act.

Sincerely yours,

James W. Vukobratovic
for

Robert M. Strong
Associate General Counsel