

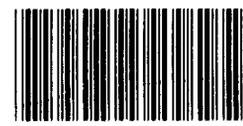
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United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-251641



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December 17, 1992

The Honorable Richard G. Lugar
United States Senate

The Honorable Dan Coats
United States Senate

This is in response to your inquiry on behalf of the F.A. Wilhelm Construction Co., Inc. That company was concerned about its prequalification status for United States Postal Service (USPS) solicitation No. 169982-92-A-0032. Specifically, you wanted us to review the materials enclosed with your letter and advise you whether the USPS has the authority to exclude potential bidders under a prequalification process.

Our answer to your question is that the USPS clearly has the authority to exclude potential bidders under its prequalification process. When Congress established the USPS as an independent entity, Congress permitted the USPS to operate like a private business when it is advantageous to do so. Further, Congress permitted the USPS to establish its own procurement rules and regulations.

Unlike executive branch agencies, the USPS is exempt from the Competition in Contracting Act, which establishes the federal policy of "full and open competition." Because the USPS believes the federal policy can be cumbersome and time consuming, and thus prevent it from operating in a businesslike way, it has adopted a policy of "adequate competition." The USPS' Procurement Manual defines adequate competition as the solicitation and participation of a sufficient number of vendors to ensure that the price paid by the USPS is fair and reasonable.

Consequently, the USPS' policy focuses on the business objective of meeting the needs of its operating customers rather than full and open access of competitors to postal business. The key feature of the USPS' policy is that it allows contracting officers discretion to determine the measures taken to obtain competition, including limiting

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competition to those contractors or items of known capability.

One way USPS contracting officers can limit competition is through the use of the prequalification process. In a recent report, however, we said that USPS' authority to limit competition, including through the use of prequalification, has been seldom used. A copy of that report, Procurement Reform: New Concepts Being Cautiously Applied at the Postal Service (GAO/GGD-91-103, August 6, 1991), is enclosed for your reference.

As stated in the USPS' Procurement Handbook, the prequalification process reduces a large number of prospective contractors to those who have shown they can consistently meet high standards of quality and reliability. The advantages of prequalification are that it can reduce the risk of poor contractor performance and that it can reduce the contracting officer's administrative burden.

In conclusion, we believe the USPS' position is well within its authority and is consistent with its mandate to operate in a businesslike manner. We trust that this response will meet your needs. If you have any questions, I can be reached at (202) 275-8676.



L. Nye Stevens
Director, Government Business
Operations Issues

Enclosure