



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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AUG 29 1975

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The Honorable John Brademas, Chairman
Select Subcommittee on Education
Committee on Education and Labor
House of Representatives

Dear Mr. Chairman:

In accordance with your September 17, 1974, request, we have reviewed certain allegations made by Mr. Robert F. Drucker, a former employee of the National Institute of Education, Department of Health, Education, and Welfare, in his undated statement entitled "On Welfare of the Elite or Why Inflation Came to Call." The statement alleges questionable management practices, including:

1. Noncompetitive contract and grant awards.
2. Inadequate control of procurement actions.
3. Possible conflict of interest in certain procurements.
4. An unreasonable ownership arrangement and associated educational laboratory costs.
5. Underutilization of space at an educational laboratory.

The first three issues relate to Institute activities, and the other two relate to Office of Education activities before the Institute was established in August 1972.

We reviewed Institute contract files, congressional hearings and legislation relating to the educational research facilities program, and Institute procurement policies and procedures. We held discussions with officials of the Department, educational laboratory personnel, an Office of Education consultant, and other individuals who might have knowledge of the situation.

We also reviewed Institute and Department investigative reports addressing the issues raised by Mr. Drucker and considered them in our examination. We contacted Mr. Drucker, who declined to elaborate upon his allegations. We did not examine the circumstances of his dismissal from the Institute.

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NONCOMPETITIVE AWARDS

Mr. Drucker questioned all of the Institute's fiscal year 1973 contracts, charging that 97 percent were awarded on a sole-source basis.

The Institute justified these sole-source procurements as essentially continuations of ongoing research efforts, including the educational laboratories and centers program. This program was designed to seek solutions to educational problems and to develop programs to meet student needs through improved educational practices. The Institute considered conducting competitive negotiations to be impractical and inefficient because (1) the contractors had the experience to perform the research and (2) an award to any other organization could have duplicated already-completed contract work.

According to an Institute official, these procurements were based upon evaluations and recommendations by various Institute program area task forces. The noncompetitive laboratory and center awards were based on a substantive technical review by independent, non-Government experts on specialist and master panels. Seven specialist panels composed of 70 experts evaluated these awards for technical quality and individual relevance, and a master panel reviewed the specialist panel's judgments.

Most Institute procurements in fiscal year 1973 were continuations of programs transferred from the Office of Education. The summary below shows that because the Institute decided to continue research already begun, only about \$12.8 million was available for competitive funding in fiscal year 1973.

Institute Fiscal Year 1973 Awards

	<u>Contracts</u>		<u>Grants</u>	
	<u>Num- ber</u>	<u>Amount</u>	<u>Num- ber</u>	<u>Amount</u>
New awards	65	\$ 693,068	216	\$12,080,844
Laboratories and centers	76	36,972,127	5	1,138,691
Continuation of Office of Educa- tion programs	<u>63</u>	<u>32,274,121</u>	<u>59</u>	<u>17,162,982</u>
Total	<u>204</u>	<u>\$69,939,316</u>	<u>280</u>	<u>\$30,382,517</u>

We believe that the Institute could not have realistically solicited competition because (1) most fiscal year 1973 funding awards were for continuation of ongoing research and (2) the Institute followed reasonable procedures in reaching decisions on funding 1973 awards.

INADEQUATE CONTROL OF
PROCUREMENT ACTIONS

Mr. Drucker considered the Institute's control over many contracts inadequate, asserting that contractors often prepared their own work statements and related cost estimates.

An Institute official acknowledged that when the Institute was first established a few modification or continuation contracts were awarded on the basis of contractor-derived statements of work rather than Institute-derived statements, but he stated that procedures have been substantially improved since 1972. For example, Institute-written procedures require that a statement of work specify objectives and work to be performed in reaching these objectives.

We examined recent Institute contract files and found that statements of work contained the specific elements required.

POSSIBLE CONFLICT OF INTEREST

Mr. Drucker suggested two possible conflict-of-interest situations:

- The relationship of Dr. Thomas K. Glennan, former Institute Director, with the RAND Corporation, Santa Monica, California. C127
- The relationship of Mr. Marc Tucker, a current Institute employee, with the Northwest Regional Educational Laboratory, Portland, Oregon.

Before becoming Director of the Institute in November 1972, Dr. Thomas K. Glennan was an employee of the RAND Corporation from 1961 to 1969 and the Office of Economic Opportunity from 1969 to 1972. While Dr. Glennan was the Director, no new contracts were awarded to the RAND Corporation, two existing RAND contracts totaling about \$728,000 which had been transferred to the Institute were extended, and five grants totaling \$374,450 were awarded to RAND.

We found no evidence of conflict of interest by Dr. Glennan in Institute awards to RAND. He removed himself from participation in considering the two contract extensions and approved grant awards to RAND upon the recommendation of subordinate officials who followed normal award review procedures.

The Office of Education awarded a grant to Pennsylvania State University to help plan for establishing the Institute. In June 1972, Mr. Marc Tucker, then assistant executive director at the publicly owned, nonprofit Northwest Laboratory, was assigned to assist in this planning. He was chosen based on his experience with educational research and development at the Northwest Laboratory. The laboratory paid his salary and billed the university, which directly paid all of his travel, per diem, and other expenses until he became an Institute employee on October 19, 1972.

Mr. Tucker became head of an Institute Task Force for Laboratories-Center Transition in August 1972 and was involved in (1) indirectly administering laboratory and center funding reviews by specialist and master panels and (2) developing guidelines for submitting budget data for accepted laboratory and center programs. The Institute awarded seven contracts totaling \$6.6 million to the Northwest Laboratory for fiscal year 1973.

We found no evidence that Mr. Tucker, while a special employee of the Office of Education and the Institute from June to October 1972, in any way favored the Northwest Laboratory in contract awards. It appears that he took special precautions to divorce himself from considering contract awards to the Northwest Laboratory. Associates of Mr. Tucker said that he adhered to the special precautions, and our review of Institute fiscal year 1973 contract awards to Northwest Laboratory did not find evidence to the contrary.

FACILITY CONSTRUCTION GRANTS

The Cooperative Research Act of 1954 (Public Law 83-531, as amended) authorizes a program to grant funds for constructing and equipping educational research facilities. The Office of Education administered the educational research facilities program from its beginning in 1965 until August 1972, when the Institute assumed responsibility. During this period, the Office of Education reviewed all facility grant proposals

and awarded seven grants. An Institute official told us that the Institute's role in the program was largely confined to reviewing construction progress reports, approving the payment of costs incurred under the grant, and administering grant closeout activities.

Mr. Drucker raised a series of questions concerning the ownership arrangement and associated costs of the Southwest Educational Development Laboratory and the utilization of space by the Far West Laboratory for Educational Research and Development.

Southwest Educational
Development Laboratory

The Southwest Laboratory, incorporated in May 1966, is a nonprofit educational research and development corporation in Austin, Texas. Since its beginning the laboratory has been funded primarily by the Office of Education and the Institute. In January 1969, the laboratory advised the Office of Education that it needed long-term space and was informally invited to apply for a facilities grant under either a long-term lease or a condominium purchase arrangement.

The laboratory applied to the Office of Education for a facilities construction grant in May 1969. The proposal included three alternatives: long-term lease, leaseback, and condominium purchase. The proposal was reviewed by the Department's Office of General Counsel, Facilities Engineering Construction Agency, Office of Education staff, independent agencies, and three appraisers (members of the American Institute of Real Estate Appraisers). Based on these reviews and a cost analysis of the alternative acquisition methods, the Office of Education approved the condominium approach.

Department of Health, Education, and Welfare lawyers concluded that the acquisition of the Southwest Laboratory facility under a condominium ownership arrangement, including payment of a developer's fee and prepaid land rent, was legally permissible under section 4 of the Cooperative Research Act, as amended. We believe that the Office of Education's review of the facility grant transaction, the independent appraisers' findings and conclusions, and other analyses indicate that the amounts paid for the laboratory facility, developer's fee, and prepaid land rent were reasonable.

Far West Laboratory for Educational
Research and Development

The Far West Laboratory, established in 1966, is a public, nonprofit educational research and development agency located in San Francisco, California. Concern with multiethnic education problems caused the laboratory to seek a site near a low-income area. Laboratory officials reviewed eight alternatives, but decided the only feasible action was to acquire and renovate a six-story warehouse located near much of San Francisco's disadvantaged population. No feasibility study was made to determine whether leasing or purchase of laboratory space was more economical.

In June 1969, the Far West Laboratory applied for a \$6,601,130 facility grant to acquire the warehouse and remodel the entire facility for occupancy. The laboratory's proposal outlined plans for acquiring a building much larger than needed for its own programs and coordinating the placement of other educational research and development activities in the additional space.

In June 1969, the Office of Education awarded the laboratory a construction facility grant of \$4,770,000 to (1) purchase the warehouse, (2) remodel 70,000 square feet to a "ready for occupancy" level to meet laboratory needs, (3) remodel 10,000 square feet for joint use by the laboratory and tenants, and (4) prepare the remaining 104,000 square feet for use only to the extent of "roughing in" necessary mechanical, plumbing, and electrical systems.

The former head of the Office of Education laboratories operation staff said the entire \$6.6 million laboratory request was not funded because it would have exceeded the fiscal year 1969 budget. He said that based on laboratory assurances and meetings with San Francisco Unified School District officials, the Office of Education program officials concluded a school district commitment existed to use a major portion of the nonlaboratory space. Later, the San Francisco city attorney rejected a school district proposal to complete part of the building using local bond issue funds because the proposal did not satisfy legal requirements of the bond issue.

The facility consists of about 282,000 square feet of space. In February 1975, the laboratory occupied a total

of 85,284 square feet, with an additional 20,000 square feet of common space. The fifth and sixth floors are largely finished, and the laboratory occupies about 72 percent of this space. The first floor is mostly finished, and the laboratory shares it with other tenants. The nonlaboratory space on the second, third, and fourth floors consists of about 140,000 square feet which is unfinished and unoccupied. The laboratory estimates that about \$3,050,000 is needed to prepare these three floors for occupancy.

The laboratory obtained no firm commitments from any group or organization to use the nonlaboratory space before obtaining grant approval, nor did the Office of Education require such a commitment. The laboratory has tried continually to attract other tenants.

A General Services Administration regional official advised the Institute that it would be virtually impossible to find a Federal agency that would agree to locate its office in the facility.

The Far West grant stipulated:

"Support of the facility project is made conditional upon the realization of a demonstration school or other desirable educational tenant to be established as the prime other tenant in the Center."

Because the laboratory has been unable to locate a desirable educational tenant, a grant condition has not been fulfilled and the Commissioner of Education could take appropriate action to protect the Government's interest, such as requiring the return of all or a part of any funds previously disbursed. Such action, however, could result in the disposal of the facility, which may not be in the best interest of the Institute. We believe that the Institute should continue to negotiate with the laboratory to locate a suitable tenant.

Mr. Drucker was correct in pointing out the underutilization of the Far West Laboratory facility. Also, the Office of Education required neither a formalized cost-benefit analysis of the acquisition method approved for funding nor firm nonlaboratory space utilization commitments before the grant award. The Office of Education did not thoroughly consider the effect of its funding decisions on (1) how much space would be rehabilitated and (2) how well the Far West

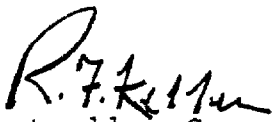
Laboratory could implement its Center for Educational Development concept. We brought these matters to the attention of Institute officials, who stated that they would continue to work with the laboratory to locate suitable tenants.

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We have not obtained formal comments on this report from the agencies or grantees. We did discuss our observations with Institute officials, and their comments were considered in preparing this report.

Sincerely yours,

Acting


Comptroller General
of the United States