



[REDACTED]

Contract Awards For
Overhaul Of Aircraft Parts
Oklahoma City Air Materiel Area B-164153

Department of the Air Force

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

JUL 17 1961



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

B-164153

Dear Senator Pearson:

The accompanying report is in response to your letters of April 24 and 29, 1968. You requested that we investigate a statement made by Oxwell, Inc., of Wellington, Kansas, concerning the rejection of its proposals for overhaul of aircraft parts for the Oklahoma City Air Materiel Area.

Our review was directed primarily to an examination of the bases upon which the procuring contracting officer determined that Oxwell was nonresponsible and, therefore, rejected its proposals. We did not make an overall evaluation of the procurement activities of the Oklahoma City Air Materiel Area.

Department of the Air Force comments on our draft of this report are contained in its letters of March 10 and 27, 1969, and are included as appendixes IV and V, respectively. In accordance with our discussions with your staff, we have not presented our evaluation of those comments. However, the Department of the Air Force has indicated its intention to correct, where appropriate, its preaward survey practices.

We would invite your attention to the concern of the Department of the Air Force that public disclosure of this report could adversely affect the professional career of the contracting officer involved.

Sincerely yours,

A handwritten signature in dark ink, which appears to read "James B. Stacks". The signature is fluid and cursive, written in a professional style.

Comptroller General
of the United States

The Honorable James B. Pearson
United States Senate

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LIST OF ABBREVIATIONS

USED IN THIS REPORT

AFLC	Air Force Logistics Command
ASPR	Armed Services Procurement Regulation
DCASO	Defense Contract Administration Services Office
D/MM	Directorate of Materiel Maintenance
FSC	Federal Stock Class
NORS	Not operationally ready due to supply
OCAMA	Oklahoma City Air Materiel Area
PAS	Preaward survey
PCO	Procuring contracting officer
RFP	Request for proposals

REPORT ON
CONTRACT AWARDS
FOR OVERHAUL OF AIRCRAFT PARTS
OKLAHOMA CITY AIR MATERIEL AREA
DEPARTMENT OF THE AIR FORCE

INTRODUCTION

Pursuant to letters of request dated April 24 and 29, 1968, from Senator James B. Pearson, the General Accounting Office has reviewed the award of contracts resulting from requests for proposals (RFPs), F34601-68-R-2216; -2219; -2220; -2221; and -2223, by the Department of the Air Force, Oklahoma City Air Materiel Area (OCAMA), Tinker Air Force Base, Oklahoma. The contracts were for overhaul of various Federal Stock Class (FSC) 1650 aircraft parts.

Our review was directed primarily to examining into the bases upon which the procuring contracting officer (PCO) determined that Oxwell, Inc., was nonresponsible and thereby rejected its proposals.

We reviewed pertinent records and interviewed responsible officials at OCAMA, the purchasing activity, and at the Defense Contract Administration Services Office (DCASO), Wichita, Kansas, the activity that performed preaward surveys (PASs) of prospective contractors at the request of the purchasing activity. In addition, on June 11, 1968, we directed to personnel of this DCASO specific questions furnished to us by Senator Pearson. The questionnaire responses by the DCASO personnel are set forth in appendix I of this report. The PCO also provided his answers to these same questions on May 21, 1968, as set forth in appendix III.

The Armed Services Procurement Regulation (ASPR), section I, provides that preaward data, including information obtained from a PAS, should be accumulated for

the purpose of determining whether a prospective contractor is sufficiently responsible to perform under a contemplated award.

A PAS is generally made by the cognizant contract administration office at the request of the purchasing office and--at the option of the purchasing office--may encompass such areas as the prospective contractor's financial, production, and quality assurance capabilities. The office making the PAS is generally independent of the requesting and buying office.

Oxwell, Inc., Wellington, Kansas, contended that, although it proposed the lowest prices in response to RFPs -2216, -2219, -2220, and -2221, its proposals were unfairly rejected by OCAMA. Oxwell believes that the PCO at OCAMA declared it a nonresponsible contractor on the basis of his personal feeling of animosity for Oxwell's president rather than on the basis of merit.

The RFPs involved contracts of the indefinite-quantity, firm-fixed-price type. In general, this type of contract provides for the furnishing of an indefinite quantity, within stated limits, of specific supplies or services during a specified contract period. These supplies or services are to be furnished to activities designated either specifically or by class. These designated activities schedule deliveries by placing orders with the contractor. Funds for other than the stated minimum quantity are obligated by each order and not by the contract itself. The contract provides that, during the contract period, the Government shall order a stated minimum quantity of supplies or services and that the contractor shall furnish this stated minimum. Also, the contract provides for the contractor to furnish, if and as ordered, any additional quantities not exceeding a stated maximum.

PREAWARD CONTRACT ACTIONS

Our review showed that on January 23, 1968, the PCO was provided a PAS report by DCASO recommending complete award to Oxwell. The PCO did not agree with the recommendation because the OCAMA technicians that had participated in the PAS made a "no-award" recommendation. The PCO asked DCASO to supplement its PAS. The DCASO did so and on February 5, 1968, reconfirmed the recommendation contained in its first PAS report.

The PCO still did not agree and asked DCASO again on February 12, 1968, for a further PAS limited in scope to FSC-1650 items and two specific evaluation factors. We were advised by DCASO personnel that the PCO requested DCASO to furnish a negative PAS finding. However, the PCO denies this.

The DCASO made another PAS, assigned a new number, and this time recommended no award, specifying that further PAS requests be withheld until March 31, 1968. The PCO used the results of the third PAS, in conjunction with the OCAMA technicians' no-award recommendation, to support his conclusion finding Oxwell nonresponsible.

These actions eliminated Oxwell from further consideration for the award of parts overhaul contracts until the latter part of March 1968. As a result, the total price to the Government was increased, depending on the actual numbers of parts overhauled, from about \$7,000, predicated on prices proposed for minimum contract quantities, to about \$47,000, predicated on prices proposed for maximum contract quantities.

We have set forth, under appropriate captions for each RFP, the chronology of events disclosed by the records maintained at both OCAMA and DCASO and by interviews conducted with the personnel at both activities.

RFP F34601-68-k-2216

On December 5, 1967, OCAMA issued RFP F34601-68-R-2216 to 30 prospective contractors. Seven firms responded with price proposals ranging from \$3,458 to \$14,897 for the minimum quantities set forth in the RFP. Oxwell submitted the lowest price proposal and DCASO was requested by OCAMA to make a PAS. The request for PAS, dated January 8, 1968, specified the following factors to be investigated:

1. Technical capability
2. Production capability
3. Plant facilities and equipment
4. Quality assurance capability
5. Labor resource
6. Performance record
7. Ability to meet required schedule

OCAMA's request for PAS also indicated that OCAMA personnel desired to participate in the PAS at the Oxwell plant on January 16, 1968, and established a reporting deadline of January 19, 1968.

DCASO received OCAMA's request for PAS on January 9, 1969, and assigned control number 68-1-4 to this request.

On January 16, 1968, the PAS 68-1-4 was made at the Oxwell plant by a team consisting of three DCASO representatives and four OCAMA technicians. The PAS report was annotated with the statement that, during the course of this PAS, the DCASO representatives repeatedly queried the OCAMA technicians as to any questions they might have or information they might need for additional discussion. No indication of other than satisfaction was made known to DCASO representatives by the OCAMA technicians prior to their departure from the Oxwell plant. In verification of the fact that OCAMA's technicians made no comment during the PAS, OCAMA officials advised us that the OCAMA technicians were instructed to make no verbal comment at the end of the PAS.

DCASO officials advised us that on the basis of the PAS at the Oxwell plant and the lack of any adverse comments by the OCAMA technicians who participated in the PAS, an affirmative report, 68-1-4, recommending complete award was prepared. This report was approved by the DCASO Pre-Award Survey Board. Report 68-1-4 dated January 22, 1968, rated as satisfactory all seven factors on which OCAMA had requested investigation.

On January 23, 1968, when this report was given to the PCO at OCAMA by a representative of DCASO, the PCO provided to the DCASO representative the OCAMA technicians' report which was dated January 23, 1968.

The OCAMA technicians' report was at variance with the DCASO report. The OCAMA technicians' report indicated that, although the Oxwell facilities appeared adequate for performing the repair as stated in the RFP, past production capabilities displayed by Oxwell had been and continued to be very marginal insofar as manpower and skills were concerned. The OCAMA report maintained that this marginal situation had been continuously noted in the inability of Oxwell to deviate from any planned work load schedule in order to respond to the need for urgent production of any item to satisfy outstanding NORS (an acronym for not operationally ready due to supply) or Air Force special project requirements. The report also indicated that this need for production flexibility was paramount in providing adequate logistic support to Air Force using activities. The OCAMA report, on the basis of what was termed "Production Analysis", concluded that Oxwell was unable to perform in a manner to meet the above performance criteria of production flexibility.

One of OCAMA's representatives who participated in the PAS at the Oxwell plant refused to sign the OCAMA report. We interviewed this OCAMA employee and he advised us that, at the conclusion of the PAS at Oxwell, neither the DCASO nor the OCAMA team members had any misgiving over giving Oxwell an affirmative recommendation. On the day after the PAS, another OCAMA team member, representing the Directorate of Materiel Maintenance (D/MM) and a participant in the PAS, queried him as to whether he noted

that Oxwell was delinquent in meeting its delivery responsibilities. He replied that there was no support for such a position and that, if Oxwell's deliveries were to be questioned, D/MM would have to have specific support for such a position.

The OCAMA employee who refused to sign the report stated, concerning production flexibility, that Oxwell had constantly received calls from D/MM urging Oxwell to expedite its production to provide parts to meet NORS. He stated further that Oxwell's contracts did not contain a requirement that Oxwell must expedite to meet NORS needs. This OCAMA employee said that these calls had been so frequent at times that they constituted harassment by D/MM. He stated that Oxwell had, nevertheless, expedited its production and deliveries in accordance with D/MM requests without benefit of contract amendments to cover these requests.

We also interviewed the DCASO industrial specialist who participated in the PAS at Oxwell's plant and he also advised us that production flexibility was not a contractual requirement. He stated that Oxwell had stopped production of other items to meet NORS requests from OCAMA and that this had caused some delivery delinquencies.

By letter dated January 24, 1968, the PCO at OCAMA requested DCASO to issue a supplement to its first PAS report, 68-1-4, after full consideration had been given to the OCAMA technicians' report. DCASO representatives obtained the additional information, discussed with Oxwell officials the deficiencies cited in the OCAMA technicians' report, and ascertained specific corrective actions to be taken by Oxwell. By letter dated February 5, 1968, DCASO reconfirmed the affirmative recommendation in its survey report 68-1-4. The summary paragraph of that letter is as follows:

"In summary, our reevaluation indicates that weaknesses have existed in some management areas. Corrective action has been or is being instituted to correct these and other

discrepancies noted. Mr. Dwight Thompson, President of Oxwell, Inc., is taking a more aggressive management participation which will insure that the weaknesses mentioned are being corrected. Other established positions to be immediately filled and not previously mentioned, will be full time clerk-typist, packaging supervisor, and instrument technician. Mr. Thompson, President, and Mr. E. Veail, Vice President of Oxwell, both have reemphasized that all contractual commitments will be accomplished on RFP F34601-68-R-2216, should contract be awarded. In light of above, we continue to support our overall affirmative recommendation on this proposal."

The DCASO files showed that on February 12, 1968, the PCO made his third request by telephone, asking DCASO to give further consideration to the delivery delinquencies and other deficiencies cited in the OCAMA technicians' report. The files also indicated that the PCO specifically requested DCASO to confirm or deny the delinquent status of 54 items, strictly FSC 1650.

DCASO agreed to make another PAS of Oxwell and assigned a new number to this PAS, 68-2-2. This PAS was limited in scope to only FSC 1650 items and covered only two evaluation factors, both of which were rated as unsatisfactory, whereas, in the initial PAS (68-1-4), seven evaluation factors were considered including the two covered in PAS 68-2-2 and all seven factors were rated satisfactory.

In performing PAS 68-2-2, DCASO analyzed Oxwell's delivery forecasts and subsequent deliveries on FSC 1650 items only, for the period February 1967 through January 1968. The percentage of FSC 1650 items delinquent each month was determined by DCASO as follows:

	<u>Satis- factory</u>	<u>Unsatis- factory</u>	<u>Total</u>	<u>Percent delinquent</u>
February 1967	6	19	25	76%
March	11	23	34	67
April	13	19	32	59
May	11	14	25	56
June	5	22	27	82
July	13	15	28	53
August	16	3	19	16
September	32	2	34	6
October	45	10	55	18
November	46	28	74	38
December	42	22	64	34
January 1968	61	0	61	0

DCASO determined that the December 1967 delinquency was attributed to an influenza epidemic among Oxwell employees. The DCASO analysis showed that Oxwell made up its December 1967 delinquency and met its January 1968 forecast on all FSC-1650 contracts in January 1968.

The PAS report 68-2-2 was annotated with the following comments concerning the above statistical data:

"*** The percentage factor shown therefore may not reflect the true problems existing which prohibited fulfillment of forecasted item, but the Contractor's AFLC Form 392, Part II narrative did not explain the reason for delinquency in most cases; also in many cases did not refer to the needed Government Furnished Parts in order to establish DMM personnel follow-up on the required item to aid production. Continued emphasis by the Government had been placed with the Contractor on improvement of the Part II narrative. The December and January AFLC Form 392's reflect the needed complete information that should have been reflected on the form in the previous nine months which would have indirectly reflected, thru this method of evaluation, a better performance record than as presently indicated. ***"

On February 19, 1968, the DCASO Pre-Award Survey Board, by a split decision, recommended that Oxwell not be given the award because of its past delivery delinquencies. The DCASO Pre-Award Survey Board's recommendation specified that further survey requests on FSC 1650 items be withheld until March 31, 1968, to allow time for the contractor's management changes to produce tangible results.

In the PCO's determination statement finding Oxwell to be nonresponsible on February 21, 1968, the PCO referred to DCASO's PAS report 68-2-2 and stated in pertinent part:

"Based on information obtained by the Pre-Award Survey Team, the Contracting Officer determines that the cited deficiencies are not due solely to inadequate 'Capacity' as defined in ASPR, but are deficiencies resulting from the Contractor's failure to apply the necessary tenacity and perseverance to do an acceptable job."

OCAMA then requested DCASO to make a PAS of Lamar Electro-Air, Inc., the prospective contractor submitting the second lowest price proposal. At the conclusion of this survey, OCAMA technicians participating in the PAS concurred with DCASO personnel in an affirmative recommendation. However, the DCASO Pre-Award Survey Board held that PAS 68-2-6 showed that Lamar had a high delinquency rate and a marginal management and administration system. These weaknesses are similar to the ones cited by the Board in the Oxwell survey. The Board recommended on March 18, 1968, that Lamar not be given the award.

Notwithstanding the no-award recommendation, on March 25, 1968, contract F34601-68-R-3496 was awarded to Lamar on the basis of its \$4,255 bid and a determination by the PCO of Lamar's responsibility. In his determination statement of March 21, 1968, the PCO cited the OCAMA technicians' report recommending a complete award to Lamar. This determination statement cited, among other things, that Lamar's management and administrative system deficiencies would be overcome because OCAMA

technicians would be dispatched after the award of the contract to assist Lamar in correcting procedures and because OCAMA technicians would ensure that any functional operation required for contract performance would operate smoothly.

We were advised that, in the past when problems were encountered, Oxwell also had cooperated with OCAMA in ensuring that its contract performance would operate smoothly. OCAMA production personnel, on FSC 1660 items, advised us that the only production problem encountered had occurred about December 1967 and that the problem had been caused by an influenza epidemic at the Oxwell plant. They stated that several of OCAMA's production personnel met with Oxwell and DCASO officials at the Oxwell plant and worked out a weekly production schedule which brought Oxwell's production to a current status within a short period of time.

Because the NORS problem was cited in the OCAMA technicians' report as a significant factor, we asked the OCAMA production chief about this. He said that Oxwell had always been very cooperative with OCAMA and had willingly reduced production on some contract items to expedite production on items contributing to NORS conditions at OCAMA.

In his determination statement of March 21, 1968, finding Lamar to be responsible, the PCO referred to DCASO's PAS report 68-2-6 and stated in pertinent part:

"Based on the information obtained by the Pre-Award Survey Team, the Contracting Officer determines that the cited deficiencies are not due solely to inadequate 'Capacity' as defined in ASPR, but are deficiencies resulting from the Contractor's failure to apply the necessary tenacity and perseverance to do an acceptable job."

We noted that this sentence in the statement finding Oxwell nonresponsible is identical to one in the statement finding Lamar responsible.

On March 20, 1968, another PAS, 68-3-6, was conducted at Oxwell's plant, concerning a subsequent RFP, F346C1-68-R-2233, for FSC 1650 items. This PAS also was made by a joint OCAMA/DCASO team. It disclosed that Oxwell's December 1967 delivery delinquencies were, for the most part, recovered by January 10, 1968, and that contractual delivery requirements on the FSC 1650 items for January, for February, and as of March 20, 1968, had been met or had been exceeded. Both OCAMA technicians and DCASO representatives recommended complete award to Oxwell. The dates of these events indicated that PAS 68-3-6 was performed at Oxwell's plant 5 days prior to the date of contract award to Lamar on March 25, 1968.

RFP F34601-68-R-2219

On December 22, 1967, OCAMA issued RFP F34601-68-R-2219 to 11 prospective contractors. Three responsive price proposals were submitted on this RFP, with Oxwell, Inc., proposing the lowest price. DCASO was requested to make a PAS of Oxwell. Because this request for PAS was issued by OCAMA about 3 days after its request on RFP 2216 discussed above, DCASO made a combined PAS covering both Oxwell proposals. (See p. 5.) Separate reports were issued for each proposal; however, both reports contained the same recommendation. Based on the same PAS negative recommendation, Oxwell was held to be nonresponsible; and, on February 28, 1968, contract F34601-68-D-3354 was awarded to Eberline Instrument Company, the second low bidder, on the basis of its bid of \$1,256.

RFP F34601-68-R-2220

On January 5, 1968, OCAMA issued RFP F34601-68-R-2220 to 19 prospective contractors. Three responsive price proposals were submitted on this RFP, with Oxwell, Inc., proposing the lowest price. However, because the date of the proposed award was subsequent to the negative PAS recommendation of Oxwell and prior to the March 31, 1968, resurvey date recommended by the DCASO Pre-Award Survey Board, Oxwell was held to be nonresponsible. (See p. 9.) On March 11, 1968, contract F34601-68-D-3451 was awarded to AirCor Industries, Inc., which had proposed the second lowest price.

RFP F34601-68-R-2221

On January 5, 1968, OCAMA issued RFP F34601-68-R-2221 to 27 prospective contractors. Four responsive price proposals were submitted on this RFP, with Oxwell, Inc., proposing the lowest price. However, because the date of the proposed award was again subsequent to the negative PAS recommendation and prior to March 31, 1968, Oxwell was again held to be nonresponsive. OCAMA then requested a PAS of the second lowest price proposal. A no-award recommendation was reported by the Garden City, New York, DCAS office, and this prospective contractor also was held to be nonresponsive.

DCASO was requested to make a PAS of Lamar Electro-Air, Inc., which had made the third lowest price proposal. Because it received three requests for PASs of Lamar at about the same time, DCASO made a single combined PAS and issued separate reports in reply to each request. These reports recommended that no award be made to Lamar. However, on March 27, 1968, contract F34601-68-D-3550 was awarded to Lamar on the basis of its bid of \$10,944 and a determination of contractor's responsibility. The PAS and the PCO's findings were previously discussed in conjunction with RFP 2216. (See pp. 9 and 10.)

RFP F34601-68-R-2223

On January 12, 1968, OCAMA issued RFP F34601-68-R-2223 to 29 prospective contractors. Six responsive price proposals were submitted on this RFP, with Lamar Electro-Air, Inc., proposing the lowest price. The DCASO was requested to make a PAS of Lamar. On the basis of the PAS discussed under RFP 2216, DCASO recommended that no award be made to Lamar. (See p. 9.) On March 27, 1968, contract F34601-68-D-3565 was awarded to Lamar on the basis of its bid of \$1,733 and a determination of contractor's responsibility. The PAS and the PCO's findings were previously discussed under RFP 2216. Oxwell, Inc., did not submit a proposal in response to RFP 2223.

DISCUSSION WITH AGENCY OFFICIALS

At the conclusion of our review, we contacted the responsible procurement officials at OCAMA to determine what reviews they had made of these procurement actions. These officials advised us that, to their knowledge, no special reviews were made of these procurement actions. They stated that procurement organization at OCAMA provided for review of subordinate actions at each level. The PCO stated that he had kept his superiors advised of all developments on a day-to-day basis. In the opinion of OCAMA's Director of Procurement, these regular reviews provided adequate safeguards.

OCAMA officials disputed the statement in the DCASO survey that Oxwell was not delinquent at the end of January 1968 and agreed to submit figures showing delinquency at that time. To obtain this delinquency information from OCAMA records, D/MM personnel had to make a detailed analysis of 149 line items. This analysis was presented to us 1 week later. It showed that Oxwell might have been delinquent on eight line items. However, a definite determination could not be made from OCAMA's records. Our review of this analysis showed that Oxwell was not delinquent on any line item at January 30, 1968. This was supported by the joint OCAMA/DCASO team's PAS report 68-3-6, which indicated that Oxwell had met or exceeded its contractual delivery requirements for January, February, and March 1968 on FSC 1650 items.

Because of the question raised by OCAMA procurement personnel, we revisited DCASO to verify the basis for its statement that Oxwell was not delinquent at the end of January 1968. The staff member who compiled the delinquency information was firm in his position and stated that he had rechecked his figures and furthermore had checked them against Oxwell's records.

Although officials at both OCAMA and DCASO informed us that a personality conflict existed between the PCO and Oxwell's president, the PCO denied this. To what extent this reported personality conflict may have influenced the procurement actions on FSC 1650 parts is a matter of

conjecture. We were advised that, as part of a July 1968 reorganization at OCAMA, the PCO no longer had responsibility for FSC 1650 parts. Finally, we have been informed by OCAMA officials presently responsible for FSC 1650 and FSC 1660 parts that Oxwell is now considered a good contractor.

AGENCY COMMENTS

Oxwell's objections to its treatment in connection with these contract awards were forwarded by us to the Department of the Air Force for comment prior to our field investigation. The Air Force statement in response is included as appendix II.

Air Force comments on our draft of this report are contained in its letters of March 10 and 27, 1969, and are included as appendixes IV and V, respectively. In accordance with our discussions with Senator Pearson's staff, we have not presented our evaluation of those comments. However, appendix V does indicate the Air Force's intention to correct, where appropriate, its PAS practices.

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APPENDIXES

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QUESTIONNAIRE RESPONSES BY
DCASO, WICHITA, PERSONNEL WHO
PARTICIPATED IN PREAWARD SURVEYS AT
OXWELL INC., WELLINGTON, KANSAS

DCASO personnel: Mr. Paul H. Newberry--Administrative
Contracting Officer
Mr. Paul N. Graebner--Industrial
Specialist
Mr. Harry Darter--Preadward Monitor in
January 1968

Question 1. Did Oxwell, Inc., receive an affirmative on
the preaward survey on RFPs -2216, -2219,
-2220 and -2221?

Messrs. Darter and Graebner stated that PASs were made of Oxwell on RFP F34601-68-R-2216 and -2219 but not on -2220 and -2221. The PAS on both -2216 and -2219 were made at the same time and two surveys were made on each. The first PAS resulted in an affirmative recommendation and the second in a negative recommendation. The second PAS recommended that no new PASs be made of Oxwell before March 31, 1968, which would allow Oxwell time to correct its problems. RFP -2220 and -2221 fell within this time frame and, according to Mr. Darter, was probably the reason no PASs were made.

Messrs. Darter and Graebner provided the PAS register which disclosed the following on PASs of Oxwell, Inc.:

<u>RFP No.</u>	<u>PAS serial Number</u>	
	<u>First</u>	<u>Second</u>
2216	68-1-4	68-2-2
2219	68-1-7	68-2-3
2220	No review	No review
2221	No review	No review

APPENDIX I
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Mr. Darter stated that the first PAS was made by DCASO and OCAMA technical personnel. He stated that he was somewhat disappointed in the OCAMA personnel's actions during the review in that only Mr. Harville worked with the DCASO people during the entire review. The other OCAMA personnel were engaged in checking on the status of various parts in the production line a good share of the time during the PAS review. He said that he questioned the OCAMA personnel as to their position on the review and that they assured him that they agreed with the DCASO team members and that the report should be affirmative in its recommendation. Mr. Darter stated that he waited several days for the written input from the OCAMA team members so as to incorporate their comments in the report. He said that, when the reporting date, January 19, 1968, imposed by the requesting agency was reached, he was instructed by Mr. R. A. Perry, Deputy Chief, Wichita DCASO, to prepare the PAS report without the OCAMA team members' written input. Mr. Darter said that he did this and that an affirmative recommendation was made in the PAS.

Messrs. Graebner and Newberry stated that they and Mr. R. Valliere made a trip to OCAMA on January 22, 1968, to discuss Oxwell, Inc., with various OCAMA officials. They stated that they hand-carried the Oxwell PAS report to OCAMA with them. Mr. Newberry stated that they met with the OCAMA officials on January 23, 1968, and that the PAS report was given to the PCO, John Schultz, at that time. He stated also that the OCAMA team members' report was given to Mr. Graebner at the same time that the PAS report was given to Mr. Schultz. Mr. Newberry said that Mr. Schultz inquired as to the DCASO recommendation in the PAS and, when told it was affirmative, questioned DCASO's recommendation without reading the PAS report. Mr. Schultz cited the OCAMA team's report which recommended that Oxwell be given a negative. Messrs. Graebner and Newberry stated that DCASO had been unaware that OCAMA team members had any intention of making a negative recommendation. Mr. Newberry stated that subsequent review of the OCAMA team's report disclosed that one team member, the one who had participated fully with DCASO personnel in the PAS review at

Oxwell, had refused to sign the OCAMA team's negative report. Mr. Graebner stated that Mr. Schultz prepared a series of questions in writing and requested DCASO to supplement its PAS review by answering the questions. Mr. Graebner said that he hand-carried the letter to DCASO on January 24, 1968.

Messrs. Darter and Graebner stated that DCASO personnel performed the supplemental review and replied to the PCO on February 5, 1968, reconfirming the affirmative recommendation which DCASO had stated in the PAS report. Mr. Graebner stated that Mr. Thiemann, Mr. Valliere and himself made the supplemental review.

Mr. Darter stated that he was called to Mr. Perry's office to participate in a telephone conference between Mr. Perry and the PCO. Mr. Darter stated that the call was routed through Mr. Perry's loud speaker, which permitted people in Mr. Perry's office to participate in the telephone conversation without need for individual telephones. Mr. Darter said that, during this telephone conference, Mr. Schultz stated that he wanted a negative PAS recommendation which would teach Mr. Thompson (President, Oxwell, Inc.) a lesson and that he wanted Mr. Perry to get on the bandwagon with him and make another PAS. Mr. Darter stated that Mr. Perry told Mr. Schultz that he wanted to help Mr. Schultz but that it would take a little time to do another PAS. Mr. Darter said that Mr. K. Groskinsky of DCASO was present in Mr. Perry's office during this telephone conference. Mr. Darter could not recall the date on which this conversation took place.

Mr. Newberry stated that the PCO contacted him by telephone and requested that Oxwell, Inc., be given a negative PAS recommendation. He stated also that he had informed Mr. Schultz that Oxwell, Inc., had been given an affirmative recommendation in the last PAS and that the affirmative was based on the opinion of DCASO's technical staff. Mr. Newberry stated further that he had told Mr. Schultz that, as the PCO, he (Mr. Schultz) could ignore the recommendation in the PAS and not award

APPENDIX I

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the contract to Oxwell, Inc., if he so desired. Mr. Newbeiry stated that this telephone call occurred around February 12, 1968, but that he could not be sure of the exact date.

Mr. Graebner stated that about February 12, 1968, he was called at Oxwell, Inc., by Mr. Perry, and was requested to gather contractor's records on certain contracts which the OCAMA 1650 group (Mr. Schultz is PCO for FSC 1650 items) had cited as having line items in a delinquent delivery status on the basis of AFLC Form 392. Mr. Graebner stated also that Mr. Perry said he wanted the records to evaluate past delinquencies by Oxwell under these contracts. Mr. Graebner said that he brought the records to DCASO and that the following day he was told by Mr. Perry to run a desk audit of the records to evaluate Oxwell's past performance and ability to meet schedules. Mr. Darter who had monitored the first PAS review was not asked to do this audit. Mr. Graebner said that he was told to restrict his review to specific FSC 1650 contracts and line items cited in the OCAMA team's report on the first PAS. Mr. Graebner said that this review was restricted at Mr. Perry's direction to a comparison of forecast production to actual deliveries shown on AFLC Form 392. He said also that this review gave no consideration to possible differences between monthly forecasts and contract delivery requirements. Mr. Graebner said further that this approach did not reflect Oxwell's overall performance or give consideration to past performance under individual completed contracts. Mr. Graebner stated that he was unaware that this work would be done under a new PAS serial number until he was handed two new report forms showing new numbers. He said that he submitted the results of his review with the new reports which bore PAS serial numbers 68-2-2 and 68-2-3. Mr. Graebner stated that, during the Pre-Award Survey Board's review of these reports, he was called to Mr. Perry's office and asked how he could be assured that corrective actions then being taken by Oxwell, Inc., would correct its delivery delinquency problems. Mr. Graebner stated that he informed the board and others present in the office (Messrs. Groskinsky, Allen, Pryor, and Thiemann and Major Creswell) that he knew Oxwell's

management officials and Oxxwell's internal systems and felt that the corrective actions could be readily accomplished without major problems to Oxxwell. Mr. Graebner stated that Mr. Perry said that he had been dealing with Oxxwell for 8 years and was prejudiced against the contractor's ability to readily change.

Messrs. Darter and Graebner stated that, on the basis of this second PAS which was limited to two of 13 rating factors cited in the survey forms, the Pre-Award Survey Board at DCASO recommended that Oxxwell, Inc., not be awarded contracts under RFP -2216 and RFP -2219. They further stated that the board was split in its decision, with Contract Division representative, Mr. Jim Pryor, taking exception to the recommendation. Messrs. Darter, Graebner, and Newberry stated that the Pre-Award Survey Board makes the final decision on all negative recommendations and can make recommendations contrary to the PAS teams' conclusions if it believes such recommendation is warranted.

Question 2. If Oxxwell received an affirmative, on what standards was the affirmative based?

Mr. Darter, the preaward monitor during the first PAS review, stated that the affirmative recommendation was based on Oxxwell's technical ability, including tooling, personnel, experience, quality assurance, and ability to meet schedules. He said that the review was made in accordance with PAS requirements contained in DSA Production Manual 8300.1, DCRS regulation 8305.1, ASPR appendix K (K100-K304) and ASPR part 9, paragraph 1-900 to 1-907.

Mr. Graebner stated that the second PAS, resulting in a negative recommendation, was based solely on Oxxwell's past delivery performance and ability to meet schedule of FSC 1650 only without considering Oxxwell's performance under other FSC contracts or Oxxwell's overall performance as a Government contractor.

Question 3. What Air Force personnel were on the panel or committee?

Mr. Darter stated, and the OCAMA team members' report supported the fact, that the following Air Force personnel participated in the PAS:

Mr. Alton G. Savage	-	OCNNPA
Mr. Raymond J. Peters	-	OCNNTA
Mr. James Finch	-	OCNNTA
Mr. Charles Harville	-	OCPWDA

Question 4. Did Mr. Schultz question the original affirmative recommendation?

Messrs. Graebner and Newberry stated that Mr. Schultz questioned DCASO's affirmative recommendation, when given the PAS at OCAMA, before he had read the PAS report. Mr. Graebner stated that a supplemental review was made, PAS 68-1-4 and 68-1-7, because Mr. Schultz questioned the affirmative recommendation given to Oxwell, Inc., by DCASO.

Mr. Newberry stated that, during a meeting at OCAMA on January 23, 1968, Mr. Robert Valliere and he heard Mr. Schultz question the integrity of Oxwell officials. He stated that, when Mr. Schultz made this statement, Mr. Valliere asked Mr. Schultz if he was aware of the meaning of the word integrity. Mr. Newberry said that Mr. Schultz stated that he knew the meaning of integrity but that he still questioned Oxwell's integrity.

Question 5. Did Mr. Perry of DCASO substantiate the affirmative by any correspondence after being questioned by Mr. Schultz?

Messrs. Darter and Graebner said that Mr. Perry signed the DCASO reply to Mr. Schultz's request for supplemental review under the first PAS and that the answer reconfirmed the affirmative recommendation for Oxwell, Inc.

Question 6. Were any DCASO personnel, including yourselves, advised by Mr. Schultz that he was out to give Oxwell, Inc., a negative on the above RFP's, and that he wanted Mr. Perry to support him on this decision?

Mr. Darter stated that he was told this during the telephone conference cited under question 1. Mr. Newberry stated that on February 16, 1968, while attending a training course at OCAMA, he overheard a telephone conversation between Mr. Schultz and Mr. Perry of DCASO. He said that Mr. Schultz asked Mr. Perry where the negative PAS report was, that it was due at OCAMA on February 16, 1968, per their agreement. He stated that Mr. Schultz asked Mr. Perry to "get in bed with him" on the matter of a negative PAS recommendation for Oxwell.

Question 7. Did Mr. Schultz ask any of you, or any Government personnel of DCASO, to destroy the records of the affirmative PAS, and come in to him with a negative after the 2nd evaluation?

Messrs. Darter and Graebner said they had not been asked to do this. Mr. Newberry stated that he had not been asked either; however, he believed that the assigning of a new PAS serial number and the creation of a second PAS package would serve to isolate the previous affirmative PAS from consideration.

Question 8. Were any of you requested by Mr. Perry to reevaluate Oxwell, Inc., and recommend a negative? If so, what contracts and what items did he request you to base your opinion on? Were you instructed to choose the only contracts and items that might be delinquent, and use only those, rather than an overall evaluation of all contracts and all items as you had done in the past, and advised Oxwell, Inc., that they were an 85 to 90 percent contractor? In your opinion, was this a means of evaluation requested by Mr. Perry to satisfy Mr. Schultz and to document Mr. Perry's records?

Mr. Graebner stated that, on February 13, 1968, he was requested by Mr. Perry to reevaluate Oxwell's performance and ability to meet schedule (factors 12 and 13 on DD Form 1524) on the basis of only those FSC 1650 contracts and line items cited as problem items in the OCAMA technical representatives' report on the first PAS. Mr. Graebner stated that his evaluation was restricted to those line items for the period February through August 1967 but was expanded to all active FSC 1650 contracts and line items for the period September 1967 through January 1968. Mr. Graebner provided information showing that his review of January 1968 activities covered 61 of a total 564 active line items at Oxwell. These 61 line items represented all FSC 1650 active line items at Oxwell during January 1968. Mr. Graebner said that he believed that this reevaluation was made to satisfy Mr. Schultz. Mr. Graebner stated that he did not know the effect of this on Mr. Perry's personal records.

Question 9. Did Mr. Perry call new members to the panel after Oxwell was reevaluated? If so, did all members vote negative and why? If he called or appointed new members to the panel, could it be that these were people that could be influenced by Mr. Perry, regardless of their personal opinion?

Messrs. Darter, Graebner, and Newberry stated that the membership of the Pre-Award Survey Board is established by internal directive and remains fixed for the most part because provision is made for alternate members in the case of absence of an assigned board member.

Mr. Darter stated the board did not necessarily have to pass on an affirmative PAS. The first PAS was signed by the Pre-Award Survey Board Chairman, Mr. Ed Dickmeyer. The supplement reply was signed by Mr. R. Perry. The second PAS was reviewed by the PAS Board:

Mr. E. K. Groskinsky	- Chairman
Mr. L. E. Allen	- Member (Quality control representative)
Mr. J. J. Pryor	- Member (Contract division representative)
Mr. Robert Perry	- Advisor, Small Business Administration Representative

Messrs. Darter and Graebner stated, and the PAS report showed, that Mr. Pryor did not concur in the negative recommendation given Oxwell on the second PAS. They also stated that they understood Mr. Allen had refused to vote for a negative but subsequently changed his position.

Question 10. After Oxwell, Inc., had been given the negative recommendation and a PAS was run on Lamar Electro-Air, how was this company evaluated? Were they evaluated by the same standards as Oxwell, Inc.? If so, what were the findings? Was an affirmative given by the Wichita DCASO or a negative? If a negative was given, did Mr. Schultz try to influence any one from DCASO to recommend an affirmative?

Messrs. Darter and Graebner stated, and the PAS file showed that the DCASO review team gave Lamar an overall affirmative, although Factor 12, performance, was unsatisfactory. They said that the OCAMA technical representatives also recommended an affirmative. Messrs. Darter and Graebner stated that DCASO's Pre-Award Survey Board unanimously recommended a negative award. This was true for the following PAS reviews:

<u>RFP No.</u>	<u>Pre-Award Serial No.</u>
2216	68-2-6
2221	68-2-11
2223	68-2-5

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Mr. Darter stated that Lamar Electro-Air, Inc., was evaluated by the same standards as those used in the Oxwell, Inc., PAS review. (See question 2.)

Messrs. Darter, Graebner, and Newberry stated that they did not have knowledge of any contact with DCASO by Mr. Schultz regarding the negative PAS recommendation for Lamar. They stated that the PCO ignored the negative finding and awarded contracts to Lamar under RFPs -2216 and -2221.

Mr. Graebner stated that Mr. W. Lantz (OCAMA) had told him that, after Oxwell was given a negative recommendation, the second low bidder (a New York firm) also was given a negative and that, by the time Lamar was considered, OCAMA was hurting for parts.

Question 11. Have any of you heard Mr. Schultz question the integrity of Oxwell, Inc., or any of the officers? Do you think Mr. Schultz let personalities enter into his decisions concerning the negative for Oxwell, Inc.?

Mr. Newberry stated that he had heard Mr. Schultz question Oxwell's integrity at a meeting at OCAMA on January 24, 1968. (See question 4.) Mr. Newberry stated that Mr. Schultz had questioned Oxwell's officers' salaries and types of cars owned by them at various negotiation meetings. He stated that he had heard Mr. Anderson (OCAMA quality technician) tell Mr. R. Perry (DCASO) that personalities were definitely involved in Mr. Schultz's actions regarding Oxwell, Inc.

Messrs. Darter, Graebner, and Newberry stated that they believed Mr. Schultz did let personalities enter into his decisions concerning the negative recommendation for Oxwell, Inc.

Question 12. Have you heard Mr. Schultz discuss salaries of officers of Oxwell, and state that they were just bleeding the company, and would eventually sell it out?

Mr. Newberry said that he had (see question 11) and that he had heard Mr. Schultz state that Oxwell's owners were just lining their pockets. He stated that Mr. Schultz has also complained on various occasions that Oxwell's bids were too low, which seemed inconsistent with his other statements.

Question 13. Did any of you hear Mr. Schultz make the statement that he was going to keep Oxwell, Inc., from getting any more contracts?

Messrs. Darter, Graebner, and Newberry stated that they had not heard Mr. Schultz make this statement.

Question 14. Why do you think Mr. Schultz would override the negative given by DCASO and award the contracts to Lamar if both companies were evaluated equally?

Messrs. Darter, Graebner, and Newberry said that it was probably due to a pressing need for parts. Mr. Newberry said that another consideration could be that the OCAMA technical representatives had given Lamar an affirmative.

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DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON, D.C.



REPLY TO
ATTN OF:

AFSPPCA

18 JUN 1968

SUBJECT:

Protest of Oxwell After Award of Contracts
-2219, -2220, and -2221

TO:

Honorable Elmer B. Staats
Comptroller General
of the United States

Dear Mr. Staats:

1. This is in response to letter B-164153, dated 9 May 1968, requesting a report on subject protest. Enclosed with that letter was a list of 14 questions forwarded by Senator Pearson. He asked that they be answered by Mr. Newberry and Mr. Graebner, both employees of the Defense Contract Administration Services Office (DCASO) at Wichita, who were involved in PreAward Surveys (PAS) of Oxwell. Note that they are not Air Force personnel.
2. The protester contends that the Oklahoma City Air Material Area (OCAMA) rejected the low offer of Oxwell, in each of the subject cases, in favor of higher offers without good cause during the early months of 1968.
3. Our review of this matter discloses that during the first half of CY 1967, Oxwell performed very poorly with respect to deliveries of one group of overhauled products, namely, FSC (Federal Supply Class) #1650 Hydraulic Aircraft Accessories required under an Air Force contract. In fact, Oxwell shipped during that July, only 18% of the items Oxwell had forecasted on Oxwell's June AFLC (Air Force Logistics Command) Form 392 (Monthly End Item Report). This is extremely serious when combat planes are not operationally ready because of a shortage of these overhauled accessories.
4. A team from OCAMA found that part of Oxwell's difficulties were due to Oxwell's haphazard receipt, inspection, and storage of GFP (Government Furnished Property) and

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failure to adequately maintain a "clean area." While Oxwell's prices were attractively low and the work very satisfactory, these other factors concerning timely delivery were most important. Consequently Oxwell was invited to OCAMA for a thorough discussion of these matters early in September. At this meeting, Oxwell promised to take corrective action immediately in the form of hiring one additional employee to handle GFP, improving maintenance of a "clean area", and arranging to tighten management controls of forecasted delivery schedules as represented in its AFLC Form 392 reports. Based on these promises, an award was again given to Oxwell.

5. In December 1967, a review was undertaken and it was found that Oxwell had not made any great improvement. Oxwell's reports reflected 38% delinquent deliveries for November and 34% for December. As stated above, such a delinquency is a serious matter.

6. In preparation for the awards of the subject series of contracts for the overhaul of FSC #1650 hydraulic accessories, the contracting officer on 8 January 1968 sent a formal request to the DCASO at Wichita for a PAS on Oxwell. The regular DD Form 1524 was used which serves as both a request and a basic report form. It carried a notation to the effect that an OCAMA team desired to participate in the survey and suggested 16 January 1968 as a tentative date for the visit to Oxwell so that a report could be completed and mailed by DCASO on 19 January 1968. The Contracting Officer indicated that the following factors were to be checked, -- technical capability, production capability, plant facilities and equipment, quality assurance capability, labor resource, performance record, and ability to meet required schedule. Item 11, Labor Resource, had an asterisk which referred to the following notation:

"Labor resource should be adequate and qualified in sufficient quantity to meet required delivery output set forth in PART IX of the schedule with consideration given to contractor's present and proposed workload."

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Unfortunately, nothing was said about the immediate past experience with Oxwell deliveries of overhauled FSC #1650 accessories. As a result the factors were evaluated by DCASO on the overall capability and past performance of Oxwell and special attention was not directed to the delinquencies in delivery of FSC #1650 items.

7. On 22 January 1968, DCASO completed the DD Form 1524 and mailed a full report to the Contracting Officer. Since it was a general survey, DCASO found Oxwell satisfactory and recommended complete award. The participating OCAMA team made a separate report to its own office, but it was not mailed to DCASO until 23 January 1968. This OCAMA survey report dealt primarily with Oxwell's inability to make dependable delivery forecasts (AFLC Form 392) and failure to properly manage GFP. Consequently this latter report recommended a negative PAS.

8. On 24 January, the Contracting Officer was in possession of the two conflicting reports and he wrote to DCASO requesting a supplemental PAS to reflect DCASO's consideration of the OCAMA team report. Additionally, he asked for comments on a number of specific questions relating primarily to management of GFP and deliveries. He did not suggest a change in recommendation. A DD Form 1524 was again used but the only factors checked were performance record and ability to meet required delivery schedule.

9. Upon reconsideration, with the addition of the OCAMA team report, the DCASO four members of the survey team were not in agreement as to the proper recommendation. However, in accordance with established procedures, DCASO formally recommended that no award on FSC #1650 items be made to Oxwell for the time being.

10. It must be recognized that PAS recommendations, or those of other similar surveys, are not binding on the Contracting Officer. He must exercise his own judgment in the light of all available information and that includes informal oral reports as well as the Contracting Officer's personal observations. The Contracting Officer must make a determination as to a prospective contractor's probable performance as required by ASPR 1-902. When

deliveries are of paramount importance to the flying mission, prices alone are not controlling. We are of the opinion that the Contracting Officer was justified in not making awards to Oxwell for overhauling FSC #1650 hydraulic accessories during the time period in question. The Contracting Officer's adverse decision was no reflection upon the ability or integrity of the Oxwell firm or its personnel.

11. Subsequently, Oxwell was again the lowest of several bidders by a considerable margin. Accordingly, the Contracting Officer sent the following telegram to Oxwell on 8 April 1968:

"Subj RFP F34601-68-R-2233. Bids on subj RFP have been received and evaluated indicating your firm as low bidder. Comparison reveals your bid appears to be excessively low. Request you verify the prices quoted by return msg no later than 12 Apr 68.

John W. Schultz
Contracting Officer
Directorate, Procurement & Production"

The foregoing action is required by ASPR 2-406.1 and 406.3 (e)(1) whenever the Contracting Officer believes a bidder may have made an error in a bid or quotation. He would be remiss in his duty if he fails to require confirmation of a very questionable price. In this instance, Oxwell confirmed the validity of its bid by return wire on 9 April 1968.

12. A LAS performed jointly by the same DCASO and an OCAMA team late in March 1968, in connection with award under the above mentioned RFP F34601-68-R-2233, disclosed that Oxwell had made substantial and very evident improvements in its management of GFP and in its "clean" areas. Deliveries were also on schedule. Consequently, Oxwell was awarded the contract under this RFP.

13. You will find that the above historical review contains the answers to most of the specific questions submitted by Senator Pearson. We do not believe that any useful purpose would be served by having the DCASO employees, designated by the Senator, personally answer these questions

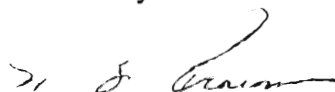
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on an individual basis. In fact, any attempt along that line would tend to generally suppress future free expression by them and others in the performance of their duties. Such a result would be most unfortunate. As noted in one of the upper paragraphs, PAS panels are not expected to always act in unanimity. Some difference of opinion is very beneficial and is to be encouraged, not discouraged.

14. In conclusion, we recommend the protest be denied. If you desire any additional information or comments, we shall be pleased to furnish them, on request.

Sincerely



1 Atch
Protest File

W. F. KRAEMER
Deputy Chief, Procurement Operations Division
Directorate, Procurement Policy, DCS/S&L

CONTRACTING OFFICER'S STATEMENT ON QUESTIONS

SUBMITTED BY SENATOR PEARSON

REF: RFP's -2216, -2219, -2220 & 2221

21 MAY 1968

1. QUESTION:

Did Oxxwell, Inc. receive an affirmative on the PAS on the above RFP's?

ANSWER:

Oxxwell, Inc. received a PAS complete award recommendation on RFP 2216 on 22 JAN 68. Information contained in the PAS was in contradiction to information supplied by the OCAMA Technical Team and also to knowledge acquired by the Contracting Officer and industrial specialist during prior investigation of Oxxwell's delinquent contracts. This contradiction concerned primarily the evaluation factor of "Satisfactory previous Performance".

2. QUESTION:

If so, on what standards was the affirmative based?

ANSWER:

A meeting was held at OCAMA 23 JAN 68 to discuss Oxxwell's overall performance as a responsible contractor. This meeting was requested by DCASO, Wichita and attended by the Contracting Officer and industrial specialist. Mr. Graebner was questioned as to the criteria he applied in determining that the contractor had a satisfactory past performance record. He replied that he was unsure what criteria to use due to the interrelationship of serviceable output and reparable generations with adequate M & O support parts. Guidance was requested from the procuring activity personnel.

3. QUESTION:

What Air Force personnel were on the Panel - or Committee?

ANSWER:

No Air Force personnel were on the PAS Board. The OCAMA Technical Team acted in an advisory capacity only.

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was of poor quality.

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4. QUESTION:

Did Mr. Schultz of OCAMA question the original affirmative?

ANSWER:

The Contracting Officer in performing his evaluation of the PAS information did question the PAS recommendation of a satisfactory performance record in light of the known poor past performance of Oxxwell. Copies of correspondence concerning delinquencies are contained in the OCAMA Technical Team report under the PAS for RFP -2216. These reports date back to July 1967.

5. QUESTION:

Did Mr. R. Perry of the Wichita Office substantiate the affirmative by any correspondence after questioned by Mr. Schultz?

ANSWER:

The original PAS on RFP -2216 was dated 22 JAN 68 and did not reflect any consideration of the OCAMA Technical Team recommendations which were not available until 23 Jan 68. The Contracting Officer by letter 24 JAN 68, requested a supplement to the PAS after full consideration was given to the OCAMA report and also full consideration to the information obtained by DCASO personnel at the 23 JAN 68 OCAMA meeting (See 2 above) which cast serious doubts as to the contractor applying the necessary tenacity and perseverance to successfully complete his contractual responsibilities in a timely manner. A confirmation of the original affirmative PAS was received 5 Feb 68. However the complete information requested by the Contracting Officer in his letter of 24 JAN 68 was not furnished and has not been furnished as of this date.

6. QUESTION:

Were any of the Wichita Air Force Personnel, including either of yourselves, advised by Mr. Schultz that he was out to give Oxxwell, Inc. a negative on the above RFP's and that he wanted Mr. Perry to support him on this decision?

ANSWER:

This is a baseless charge which is not supported and is in direct contradiction to the actions and the time expended by the Contracting Officer in properly evaluating Oxxwell's responsibility.

7. QUESTION:

Did Mr. Schultz ask either of you, or any Government personnel of the Wichita Office, to destroy the records of the affirmative PAS, and come into him with a negative after second evaluation?

7. ANSWER:

The answer to this is a simple and emphatic NO. The contract files on all subject RFP's contain copies of the complete PAS reports on RFP's -2216 and -2219.

8. QUESTION:

Were either of you requested by Mr. Perry to re-evaluate Oxxwell, Inc. and recommend a negative? If so, what Contracts and what Items did he request you to base your opinion on? Were you instructed to choose the only Contracts and Items that might be delinquent, and use only these, rather than an over-all evaluation of all Contracts and all Items as you had done in the past, and advised Oxxwell, Inc. that they were an 85 to 90% Contractor? In your opinion, was this a means of evaluation requested by Mr. Perry to satisfy Mr. Schultz and to document Mr. Perry's records?

ANSWER:

The re-evaluation of Oxxwell was requested by the Contracting Officer in his letter of 24 JAN 68 to resolve inadequacies in the original PAS. Mr. Newberry's and Mr. Graebner's evaluation of Oxxwell as an 85 to 90% Contractor using the criteria discussed at the 23 JAN 68, meeting, is open to much questioning since the criteria used is faulty.

9. QUESTION:

Did Mr. Perry call new members to the Panel after Oxxwell was re-evaluated? If so, did all members vote negative, and why, if he called or appointed new members to the Panel, could it be that these were people that could be influenced by Mr. Perry, regardless of their personal opinion?

ANSWER:

No comment appropriate.

10. QUESTION

After Oxxwell, Inc. had been given the negative, and PAS were run on Lamar Electro-Airo, how was this Company evaluated? Were they evaluated by the same standards as Oxxwell, Inc.? If so, what were the findings? Was an affirmative given by the Wichita Office or a negative? If a negative was given by the Wichita Office, did Mr. Schultz try to influence any one from the Wichita Office to recommend an affirmative?

ANSWER:

The discussion of Lamar Electro-Air is not germane to a determination of responsibility on Oxxwell.

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11 & 12. QUESTION:

Have either of you heard Mr. Schultz question the integrity of Oxwell, Inc. or any of the Officers? Do you think that Mr. Schultz let personalities influence his decision? Have either of you heard Mr. Schultz discuss the salaries of the Officers of Oxwell, and state that they were just bleeding the Company, and would eventually sell it out?

ANSWER:

In the meeting held at OCAMA 23 JAN 68, many comments were made by all personnel concerning their experience with Oxwell as a responsible supplier. When a contractor has a poor record of past performance and when specific discrepancies are called to his attention and adequate corrective action is not taken immediately by the contractor, then rightfully the integrity of Oxwell should be questioned. ASPR 1-903.1(iv) requires that prospective contractors have a satisfactory record of integrity. Mutual responsibility and integrity is a fundamental in the relationship between the Air Force and its contractors if we are to accomplish our tasks in the most effective manner. This reference to integrity was discussed only at the closed and confidential meeting between D/MM, D/PP and DCASO to evaluate Oxwell's responsibility and could only become known to the Contractor through unauthorized disclosure by personnel attending this meeting. This is a violation of ASPR 1-907 regarding the disclosure of Pre-Award Data outside of the Government. The informant(s) were obviously unfamiliar with the definition of the word integrity as applied to a business since it concerns only the soundness of its management policies - especially strictness in the fulfillment of contracts. The question of any individual's integrity was not discussed. Any comments made on officer's salaries, selling out, etc., were made in the context of discussion on possible motives which might account for the contractor's persistent refusal to honor his contractual obligations. The Air Force is not required nor do we expect to deal with marginal contractors. To do so indicates a failure of the Contracting Officer to exercise his responsibilities and compromises our prime objective of reliable support.

13. QUESTION:

Did either of you hear Mr. Schultz make the statement that he was going to keep Oxwell, Inc. from getting any more Contracts?

ANSWER:

This statement is unfounded and easily disputed by the record. Follow-on orders under existing contracts were placed with Oxwell during the JAN thru MAR 68, period and a new award has been made to Oxwell on Contract F34601-68-D-3802, dated 10 APR 68, based on a favorable Pre-Award Survey indicating that Oxwell was making satisfactory progress in correcting their management deficiencies.

14. QUESTION:


Why do you think Mr. Schultz would over-ride the negative given by the Wichita Office, and award the Contracts to Lamar if both Companies were evaluated equally?

ANSWER:

The evaluation of Lamar was conducted LAW ASPR 1-PART 9 just as the evaluation of Oxwell was conducted. Each prospective supplier must stand on his own record of responsibility.

GENERAL COMMENTS:

The protest file contains documented evidence of Oxwell's poor past performance and management deficiencies. Although these deficiencies have been repeatedly called to the contractor's attention in both personal conferences and correspondence, Oxwell has never submitted any evidence to the Contracting Officer repuditating these deficiencies nor has he contacted the Contracting Officer in any way to demonstrate that he intends to apply the necessary management planning to successfully meet his contractual obligations. The contractor gives the impression that contrary to ASPR 1-902 he is not required to demonstrate responsibility but that the Contracting Officer must prove that he is not responsible. This poor attitude might account for the fact that more administrative time is expended in managing contracts with this contractor than can reasonably be expected of the Air Force.


JOHN W. SCHULTZ
Contracting Officer

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DEPARTMENT OF THE AIR FORCE
WASHINGTON

OFFICE OF THE SECRETARY

MAR 10 1969

Dear Mr. Bailey:

The Secretary of Defense has asked me to reply to your letter of January 6, 1969, providing copies of your draft report to the Congress on "Review of Award of Contracts for Overhaul of Aircraft Parts at Oklahoma City Air Materiel Area, B-164153." (OSD Case #2878)

We have reviewed the subject report. This case presents two separate questions. First, was Oxwell improperly denied award of the contracts in question? Second, was the contracting officer biased against Oxwell?

With respect to the first question, the Air Force has little to add to its letter to Mr. Staats, dated June 18, 1968, set forth as Appendix II to your report. We would deal with the few discrepancies between the report and our referenced letter as follows.

First, we believe references to the affirmative pre-award survey should be tempered by greater reference to the contracting officer's personal experience with Oxwell during CY 1967 as discussed in paragraphs 3, 4, and 5 of our letter. For example, DCASO's reliance on Oxwell's promised correction to eliminate further delivery delinquencies on FSC 1650 items, referenced on page 7 of your report, should be considered in context of the disappointing experience the contracting officer himself had had with similar promises by Oxwell during the latter months of 1967.

Second, page 11 of your report states that "PAS (No. 68-3-6) was performed at Oxwell's plant five days prior to the date of contract award to Lamar on March 25, 1968." The report should also point out, however, that the PAS report was not received from DCASO by the contracting officer until March 27, 1968. Paragraphs 6-10 of the Air

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Force letter of June 18, 1968, on the matter to Mr. Staats explains the sequence of events that preceded this controversial contract award. The contracting officer's decision not to make an award to Oxwell was based on facts and information available to him before the DCASO conducted the March 1968 review of their earlier PAS. Time delays in processing the contractual document for mailing resulted in a formal award date to Lamar which preceded the receipt of the new PAS report by only two days.

The decision to award the contract to Lamar Electro-Air, despite the negative PAS by the DCASO board, was supported by the fact that the OCAMA team members considered this firm responsible and the DCASO team members had individually recommended an affirmative reply. The paragraph quoted on page 11 of your report was included in the Contracting Officer's determination through error; the immediately preceding paragraph of the determination adequately supports the conclusion in the immediately following paragraph of that document.

In conclusion with respect to the first question, we believe it important that the report clearly point out that, under ASPR, the responsibility and duty of making the decision as to whether the prospective contractor is responsible or nonresponsible on each separate procurement, rests squarely and solely on the contracting officer. Such decisions are a matter of judgment, and due to the nature of the criteria to be considered, individuals may reasonably differ in their conclusions. PAS recommendations are advisory only. In the light of continuing Oxwell delivery delinquencies during 1967, the failure of Oxwell to promptly make corrections as promised, and the "no award" recommendations of the OCAMA team participating in the PAS, we would not conclude that the contracting officer was acting in bad faith when he decided Oxwell was nonresponsible insofar as FSC 1650 items were concerned.

Subsequent events have borne out the wisdom of the award to Lamar. We recommend that your report set forth the facts which substantiate this conclusion so as to place in full perspective all pertinent considerations bearing on the subject. For example, all items were delivered by Lamar under this contract on or ahead of

APPENDIX IV

Page 3

schedule. Furthermore, Oxxwell has now made proper changes in its organization and procedures and has become a good, low-priced supplier with timely deliveries of FSC 1650 overhauled parts.

The second problem presented by this case consists of the serious charges made against the contracting officer. Without exception, the contracting officer denies improper conduct. The charges of bad faith and arbitrary denial of a contract award are among the most serious that can be leveled against a contracting officer. While the remarks allegedly made by the Contracting Officer can be characterized as intemperate, we do not believe they constitute bad faith, or an unwillingness to consider each contract award on its merits. Awards to Oxxwell later in 1968 by this same Contracting Officer support this view.

Further, we can look at the overall record of the contracting officer in question. He has a college background in engineering and technical fields, with considerable experience in private industry. He recently completed the National Security Management Course, by correspondence, conducted by the Industrial College of the Armed Forces. He entered federal service in 1961 as a GS-9 Procurement Agent, was promoted to a GS-11 in 1962, and a GS-12 in 1964, serving in this grade to the present time. Supervisory personnel, who were in daily contact with this man during the events in question, have the highest regard for his integrity, impartiality, and competence. He has consistently discharged his duties in a professional manner and at no time have his supervisors had occasion to question the propriety and wisdom of his decisions. His official actions in this particular matter were sanctioned by management with a full awareness of the various factors concerned.

Reassignment of this contracting officer some months ago was the result of a Hq AFLC directed reorganization of the Directorate of Procurement and Production. Responsibility for overhaul was combined with spares procurement and he was selected to fill the position in the important B-52 Aircraft and Missiles Branch due to

his demonstrated abilities and past record. He is currently performing in an outstanding manner.

In view of the above circumstances, we strongly urge that your report be appropriately revised and particularly that Appendices I and III be deleted before public release. Publication of the report in its present form could adversely affect the professional career of this contracting officer. We believe that would be most unfortunate in this case where (a) he made sound decisions on the contract awards in question, (b) there is no evidence of impropriety, and (c) the contracting officer's record is otherwise excellent.

If additional information or clarification is needed, please let us know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Aaron J. Racusin".

AARON J. RACUSIN
Deputy Assistant Secretary
(Procurement)

Mr. Charles M. Bailey
Director, Defense Division
U. S. General Accounting Office
Washington, D.C.

DEPARTMENT OF THE AIR FORCE
WASHINGTON 20330

OFFICE OF THE ASSISTANT SECRETARY



MAR 27 1969

Dear Mr. Bailey:

In further reference to your draft report, entitled "Review of Award of Contracts for Overhaul of Aircraft Parts at Oklahoma City Air Materiel Area, B-164153" (OSD Case #2878), discussion was held at the Pentagon on March 25, 1969, with your representatives. At the request of Mr. James Hammond, we are enclosing copies of instructions recently issued on the matter of Pre-Award Surveys (PAS). This new emphasis by the Air Force on the use and conduct of such surveys is designed to correct the deficiencies noted in your draft report in that area.

Our most recent inquiries regarding Oxwell's relationship with the OCAMA buying activity fails to disclose any significant problems. Oxwell has received several rather large orders for contractual services during recent months and they currently have an RFP for future requirements.

We will be pleased to meet with you again if you consider that such is necessary to resolve any continuing problems relating to this case.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. F. Trimble".

Attachments

Mr. Charles M. Bailey
Director, Defense Division
U.S. General Accounting Office
Washington, D.C. 20333

ROBERT F. TRIMBLE
Colonel, USAF
Military Assistant to the
Deputy Assistant Secretary
(Procurement)

DEPARTMENT OF THE AIR FORCE
WASHINGTON

OFFICE OF THE ASSISTANT SECRETARY

15 JAN 1969

MEMORANDUM FOR GENERAL LINDBERG, AFSPP

SUBJECT: Pre-Award Survey Procedures

In two cases recently brought to my attention, there has been an apparent failure on the part of our buying activities to logically follow pre-award survey (PAS) procedures. One involved Adventureline Manufacturing Company in the procurement of munitions; the other involved Oxwell, Incorporated in the procurement of overhaul services for aircraft parts.

In both cases, the PCO after requesting a PAS was either constrained from or most reluctant to accept the findings of the contract administration office performing the PAS. I find from the evidence made available to my office relating to the two cases that there are some apparent difficulties in our PAS policies and procedures. My observations follow:

a. Rationale for requesting a PAS. The PCO should have in his possession sufficient information to satisfy himself that a prospective contractor currently meets the minimum standards set forth in ASPR 1-903 to perform under the requirements of the specific procurement being considered. (Ref ASPR 1-905.1(a)). If the information currently in hand definitively precludes an affirmative determination of responsibility, a PAS should not be requested. However, if the facts are not sufficiently persuasive to support a finding of non-responsibility by the PCO, yet of a nature to cast a doubt on the ability of a contractor to perform a contract successfully, ASPR 1-905.1(c) requires that the purchasing office notify the contract administration

office about the contractor's deficiencies. In any event, we do not see the logic in our PCO's requesting a PAS and then resisting acceptance of an affirmative finding based on information available to the PCO from sources other than that provided by the PAS survey.

b. Participation in the PAS by personnel from the buying activity. ASPR Appendix K-203.1(b) states that representatives of the purchasing office or other activities shall participate in pre-award surveys when requested by the contract administration office or as desired by the purchasing office. We should insure that our PCO's are being represented during the PAS for our critical procurements. In the two cases brought to my attention, the PCO was represented, but the representatives did not comment or otherwise assist the PAS monitor in making judgments on contractor responsibility. I consider this to be a very serious deficiency which must be corrected if such is a common practice.

c. Working relationship with DCAS. Both of the two cases referenced above indicate a lack of cohesiveness in the PAS team effort. The facts associated with the cases suggest that we need better understanding between Air Force and DCAS personnel regarding (i) the manner in which the surveys are conducted, (ii) the position and responsibilities of PCO representatives, and (iii) DCAS consideration of factors considered important by the PCO. I am confident that the DSA Deputy Director for Contract Administration is just as interested as we in working out mutual problems in this area.

Request that your staff take those actions deemed appropriate to insure the proper use of the PAS as an instrument in determining contractor responsibility.



AARON J. RACUSIN
Deputy Assistant Secretary
(Procurement)

