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

JUL 28 1972

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Dear Senator Tower:

On April 28, 1972, you referred to us a letter from Mr. A. A. Martin, president of Marcon Industries, Inc., and requested that we review contract bids submitted by Marcon Industries in competition for three Federal contracts. Mr. Martin charged that there were questionable circumstances concerning the evaluation of the proposals, the manner in which the specifications were written, and the award of the contracts. Mr. Martin charged also that the actual procurements and the advertisement for such procurements were not compatible.

We reviewed the manner and rationale used by the three Government agencies for evaluating and awarding the contracts. We also reviewed records and documents and discussed the awards with agency officials. It appears that each of the three Federal agencies involved issued a request for proposal (RFP) in an appropriate manner, provided prospective offerors with an equal opportunity to prepare and submit proposals, carefully considered and analyzed proposals received, and thereafter awarded the contract to the lowest acceptable offeror.

The following information has been developed on Marcon Industries' unsuccessful offers for three contracts issued respectively by the Department of Health, Education, and Welfare, Office of Education (OE); the Department of Labor; and the Department of Transportation.

OFFICE OF EDUCATION

On October 5, 1971, OE advertised an RFP for a readership survey for American Education, the official magazine of OE. The purpose of the survey was to identify users of the magazine and potential demand and to examine various approaches to expanding paid subscriptions. Proposals were submitted by 26 firms.

An 11-member review team consisting of members from OE's Office of Public Affairs and members of the American Education

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editorial staff evaluated the proposals in accordance with criteria provided by the editor of American Education. The procedures and criteria for review of the proposals were set forth in the RFP. OE's contracting officer advised us that, because the Office of Public Affairs wanted to insure that the proposals were evaluated on soundness before price became a consideration, the proposed costs were not revealed to the reviewers.

Each proposal was independently evaluated and rated by two review team members. Reviewers' scores were totaled to give each firm a single score ranging from 0 to 140. Actual scores ranged from 15 to 138; Marcon ranked 17th with a score of 80.

The two reviewers who evaluated the Marcon proposal gave it the following ratings.

	Technical adequacy (each <u>rating 0-35)</u>	Contractor capability (each <u>rating 0-35)</u>	Overall rating (each <u>rating 0-70)</u>
First reviewer	25	15	40
Second reviewer	<u>20</u>	<u>20</u>	<u>40</u>
Total	45	35	80

Although Marcon's survey design was good and its approach to the project was satisfactory, the procedures it proposed to accomplish the work were not clear cut, according to the first reviewer's evaluation report. The report noted that Marcon was a technology-oriented organization and had limited experience in survey work. According to the second reviewer's report, Marcon had an orderly proposal but lacked experience in survey work.

OE's contracting officer told us that a contractor without previous experience in the survey field would be hindered in conducting the readership survey required under the contract.

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After the review team rated the 26 proposals, a panel consisting of the editor of American Education and three members of his staff examined the four top-rated proposals, again, according to the editor of American Education, without knowledge of the prices. The panel's consensus was that all four proposals were sound and that the award should be made to the contractor submitting the lowest price. At this point the contracting officer provided the panel with prices and ABT Associates, Inc.--the lowest offeror at \$24,796--was selected for the contract award. The ABT offer, as well as that of several other firms, proposed using the Federal Telecommunications System for its communications, a practice which, according to the contracting officer, is contrary to Federal regulations. All such offerors were allowed to amend their offers to include the cost increase. The final award price of \$29,713 to ABT was the lowest of the four top-rated firms.

#### DEPARTMENT OF LABOR

On September 15, 1971, the Department of Labor issued an RFP for a survey to determine the availability of job opportunities for professional and technical personnel in the area of environmental control and protection during calendar years 1972 through 1975. The survey was to involve both Government and industry activities in the fields of air, water, solid waste, pesticide, radiation, and noise control and protection.

Litton Industries, in June 1971, had approached Labor and the Environmental Protection Agency (EPA) with a program to retrain displaced aerospace engineers and technicians to meet manpower needs in a wide range of environmental work activities. Because Labor and EPA had experienced difficulties in moving personnel into employment opportunities after training, the staffs involved in the discussions, including the Litton representatives, agreed that a logical first step would be a comprehensive survey of employment opportunities in both the public and private sectors. The survey would be used to ascertain immediate and potential job opportunities.

Litton offered to conduct such a survey at an estimated cost of \$165,000. Labor and EPA agreed to support such a

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study but believed Litton should not be awarded a sole-source contract. Use of sole source would be contrary to the Federal Procurement Regulations, and the involved Federal parties believed that, should Litton be selected to provide training services as a result of such a survey, it might be viewed as a conflict of interest.

Labor and EPA agreed to jointly develop an RFP that would be published and subject to open competition. On September 7, 1971, Labor sent a copy of the proposed RFP to EPA with a request that EPA review the RFP and notify Labor of concurrence, as soon as possible.

After obtaining EPA concurrence, Labor advertised the RFP in the Commerce Business Daily on September 16, 1971. The RFP went into considerable detail on procedures to be followed in carrying out the survey and required that "representative Federal Agencies" be contacted. Five such agencies were specified in the RFP, including EPA, which was the only agency cited as having already collected some data on actual hiring plans. The objective of the survey was to gather data to assist manpower agencies in determining the size and scope of training, retraining, and other programs to meet the needs of the environmental protection industry and the unemployed engineers and technicians.

By the closing date--October 15, 1971--30 firms had submitted proposals. The price spread for all offerors ranged from \$39,334 to \$395,180.

The contracting officer told us that, because Labor and EPA jointly developed the requirements for the RFP, they both assumed responsibility for evaluating the proposals.

A four-member review panel consisting of two Labor officials and two EPA officials evaluated the proposals in accordance with criteria provided by Labor and included in the RFP. Each proposal received an independent initial evaluation, including a numerical rating, by each panel member.

To convert the evaluations to the 100-point rating scale contained in the RFP, the reviewers' scores were totaled and divided by four to give each firm a single score ranging from 0 to 100. The scores ranged from 7.5 to 86.8. Marcon ranked 21st out of 30 with a score of 33 and was one of the 21 firms considered by the reviewers to have submitted an unacceptable proposal.

One reviewer's ratings indicated that Marcon's approach to the survey was good as was its understanding of the problem and intent of the RFP. His rating indicated, however, that Marcon had little experience in manpower surveys as well as little experience in survey work in general. Another reviewer commented that, although Marcon fully understood the problem concerning aerospace engineers, its understanding of the environmental aspect was weak. He pointed out that the company's staff was not experienced in the type of survey work required by the contract.

The panel recommended that the three top-rated firms be given the opportunity to reply in person to a number of questions which the panel developed. The rating panel's final recommendation was that VITRO Laboratories be awarded the contract.

The Chairman of the Proposal Steering Committee said that, during the evaluations, it was noted that VITRO, as well as five other firms, had submitted proposals in which the proposed fixed fee exceeded the 6-percent limitation specified in the RFP. These proposals were initially considered to be not acceptable. The contracting officer believed, however, that because 20 percent of the proposals exceeded the 6-percent limitation, either the intent was not clear or Labor had failed to highlight the limitation properly in the RFP.

The Labor Solicitor's Office was consulted, and it concurred that the six proposals should not be disregarded. The panel recommended that, when it met with the three top-rated firms, those exceeding the limitation would be given the opportunity to adjust their fees to meet the 6-percent limitation.

VITRO adjusted its fee and was officially awarded the contract on April 13, 1972, at a negotiated price of \$97,295. The negotiated price was the lowest of the three top-rated firms. If VITRO had chosen not to adjust the fee, its proposal would have been disregarded.

DEPARTMENT OF TRANSPORTATION

The Federal Aviation Administration (FAA) RFP No. WA5M-2-0210 for a contract to design, develop, test, and deliver a wind indicator suitable for installation at a heliport and for operation day and night under visual flight rules conditions was advertised in the Commerce Business Daily on September 27, 1971. FAA originally estimated the cost of this work to be \$15,000. Proposal packages were sent to 58 firms; four firms had submitted proposals by the closing date of November 4, 1971.

The RFP specified that the technical and cost proposals be submitted separately. The technical proposals were forwarded to FAA's Navigation Development Division on November 5, 1971, for evaluation. A four-member FAA review team evaluated the proposals in accordance with criteria previously developed by the project manager and included in the RFP. The technical evaluation was completed on November 17, 1971, and as a result three of the four offerors were qualified with a passing score of 75 percent or above.

	<u>Percent</u>
Marcon Industries, Inc.	90
Bendix Environmental Science Division	88
G Square Associates	81
Clark Instrument Company	55

Following completion of the technical evaluation, the cost proposals of Marcon, Bendix, and G Square were evaluated for acceptability of labor-hours, materials, and similar matters.

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Cost proposals of the three qualified offerors were as follows:

Marcon Industries, Inc.	\$96,824
Bendix Environmental Science Division	19,417
G Square Associates	19,407

According to FAA's evaluation, the Marcon proposal was deemed unacceptable because it "greatly exceeds FAA's original estimate and cannot be justified in light of other acceptable technical proposals."

A request for an analysis of labor and overhead rates on the Bendix and G Square proposals was also forwarded to the Contracts Division, Logistics Service, on November 19, 1971. Because Marcon's proposed costs were approximately five times greater than those of Bendix and G square, no cost analysis was requested.

It was decided at a prenegotiation meeting on December 10, 1971, that negotiations would be conducted with Bendix and G square; both companies qualified technically and were within the competitive price range. Marcon was not to be contacted because of its high costs.

Negotiations were conducted by telephone with Bendix on December 13, 1971. The schedule of work as set forth in the RFP was accepted in its entirety by Bendix. The negotiated costs were \$16,725, and the agreed fee was \$1,338 for a total estimated cost-plus fixed fee of \$18,063. An estimated price of \$600 was added for spare parts.

On December 14, 1971, negotiations were also conducted by telephone with G Square Associates. There were no exceptions to the RFP, and the schedule of work was also accepted in its entirety by G Square. The negotiated costs were \$17,643 and the agreed fee was \$1,411 for a total estimated cost-plus fixed fee of \$19,054.

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On the basis of the foregoing negotiations, Bendix was awarded the contract on January 27, 1972.

We discussed the Marcon proposal with the FAA project manager. He said that Marcon had submitted a proposal calling for more extensive research into the problem area than FAA had considered necessary to achieve the objective, whereas other offerors selected a specific approach. He stated the belief that Marcon overreacted to what FAA considered to be a relatively modest research problem. He did not believe that the RFP was misleading, as evidenced by the fact that the three other offerors submitted price proposals in the same price range whereas Marcon's price was about five times greater.

We trust that the information in this report will serve the purpose of your request. We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report. As you requested, we are also returning the data submitted to you by Marcon.

Sincerely yours,



Comptroller General  
of the United States

The Honorable John G. Tower  
United States Senate