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

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RELEASED

JUN 25 1974

B-180531

The Honorable Gilbert Gude
House of Representatives

Dear Mr. Gude:

This is in response to your January 29, 1974, request that we look into allegations regarding a contract awarded by the Department of Commerce to OMNI Research Incorporated to perform trace chemical analyses of fish and fish product samples for the Department's National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration. The allegations were that OMNI had not met the qualification requirements of the request for proposal (RFP) or the performance requirements of the contract. In accordance with your request and subsequent discussions with our representatives, information on both these areas follows.

We reviewed pertinent records and documents concerning the solicitation, award, and performance under the contract. We gave NMFS officials the opportunity to review the report and they agreed with its content. As you requested, we did not obtain comments from OMNI.

BACKGROUND

On March 24, 1972, the Department of Commerce issued a RFP for performing trace chemical analyses of fish and fish product samples. The RFP, as amended, solicited bids for the chemical analyses of samples for as many as 15 elements.

Twenty-six firms responded to the solicitation but only 20, including OMNI, submitted bids to perform analyses for all 15 elements in 15,000 samples--a total of 225,000 analyses. OMNI, which submitted the only bid within the \$155,000 allocated for the contract, was awarded a 1-year contract for \$96,000 on June 28, 1972; the contract was amended for additional work and to extend the time for completion. The other 19 firms' bids ranged from about \$204,000 to about \$864,000.

PREAWARD VISITS

Before the award of the contract, NMFS officials visited the laboratories of 5 bidders, 3 of whom, including OMNI, had submitted proposals to perform analyses for all 15 elements while the other 2 bid on only 12 of the 15 elements. The purpose of the visits was to evaluate the bidders' facilities, ability to meet required delivery schedule, manpower availability, management controls, and financial strength. NMFS officials said OMNI was better qualified to perform the analyses than were the other four bidders.

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OMNI'S QUALIFICATIONS

During its preaward visit, NMFS found that (1) OMNI had the equipment on hand needed to perform the required analyses for all 15 elements, (2) its personnel appeared qualified, (3) its laboratory could handle the workload required under the contract, and (4) its proposed procedures to analyze the samples would probably yield good results.

To further evaluate OMNI's capability and competence, NMFS furnished 2 standard samples to OMNI and required that they be analyzed for the 15 elements shown in the contract. However, the results submitted by OMNI on the two samples contained information on only 13 elements; results for molybdenum and antimony were not furnished. Since these 2 elements were considered less important than the other 13, NMFS officials disregarded this omission.

OMNI was required to represent that, within 2 years previous to its proposal date, it had performed tests on fish and fish products or comparable protein-containing substances similar to the tests required under the contract. The Department did not require OMNI to submit evidence that it had made such analyses during the 2 years. According to NMFS records, OMNI had performed tests only for mercury (1 of the 15 elements) during the 2 years.

CONTRACT PERFORMANCE

The contract required OMNI to perform, for each sample, all the trace chemical analyses called for (detected down to 0.1 parts per million (ppm)) and furnish the results to NMFS within 30 calendar days after the sample was delivered to OMNI. NMFS was to pay OMNI \$6.40 per sample. Subsequently, it was mutually agreed that payments would be made on a test completion basis, rather than on a sample basis, at \$0.4267 per test. Payments were not made until acceptable test results had been received. As of February 20, 1974, OMNI had been paid about \$63,000.

Although OMNI furnished acceptable test results for 13 elements, for the most part it did not furnish them within the 30 days. OMNI did not furnish acceptable test results for arsenic from the time of the first shipment of samples by NMFS in August 1972 until August 1973. As of February 1974, OMNI had not furnished any acceptable tests for selenium and had a backlog of about 8,850 arsenic tests.

An NMFS official visited OMNI's laboratory in October 1972 and February 1973 to ascertain why OMNI was not performing in accordance with the contract. The official found that (1) the method used for multi-element analysis (simultaneous testing for all 15 elements) was more

difficult than OMNI had originally anticipated, (2) OMNI had used sample sizes too small to detect down to the 0.1-ppm requirement levels, and (3) OMNI, in increasing its workload, had sacrificed quality for quantity. The official stated that while at OMNI she tried every way possible to assist OMNI in overcoming its difficulties but did not actually perform analyses for OMNI.

In March 1973, the Department notified OMNI of its failure to comply with contract requirements. The Department did not terminate the contract but instructed OMNI to take immediate steps to remedy the deficiencies. OMNI was informed that such action was not a waiver of the Department's right to terminate.

According to an NMFS official, the above actions were taken because NMFS agreed with OMNI that it was more technically advantageous to analyze a sample for 10 elements and follow up on the remaining 5 instead of simultaneously testing for 15 elements. The contract was not amended to show the changes in performance requirements. Also the contracting official reviewing the contract stated it was the Department's policy to assist small business in any way possible.

OMNI informed the Department that it had initiated (1) new quality control methods and (2) new methodology for those samples not being reported at the required levels (0.1 ppm) and was purchasing additional equipment to help meet future delivery requirements.

NMFS recognized that OMNI could not complete the work required within the original contract time frame and extended the time for an additional year beginning June 29, 1973.

The amendment also authorized OMNI to perform analyses on 3,000 additional samples to obtain more information on 6 of the 15 elements. This additional work was also to be completed within the 1-year extension at an additional cost of \$30,000. NMFS officials informed us that, on the basis of test results obtained under the original contract, concentrations of these six elements were present in certain fish species and that the information obtained from these analyses would be useful. However, when the contract was amended, data required to be submitted under the original contract had not been furnished for two (arsenic and selenium) of the six elements.

In July 1973 OMNI hired a consultant to:

- "Trouble shoot" the arsenic and selenium determinations.
- Help OMNI's chemist optimize the productivity of the atomic absorption laboratory.

--As necessary, run the technical side of the atomic absorption laboratory in the absence of OMNI's chemist.

The consultant's technical report to OMNI presented recommendations for improving OMNI's methodology in testing for arsenic and selenium and other laboratory operations. He also suggested that operators be better trained in the principles and operation of the instruments and that certain safety precautions be taken.

One of the allegations was that the Food and Drug Administration, Department of Health, Education, and Welfare, was or is being used to develop a suitable method of selenium analysis. The Food and Drug Administration said its work on selenium analysis was not to assist OMNI.

AGENCY PLANS

In March 1974 NMFS officials informed us that about 80 percent of the work required under the original contract had been completed and that it would be impossible to complete the other 20 percent before June 28, 1974. Because of this and the fact that no work had been performed on the 3,000 additional samples to obtain more information on 6 of the 15 elements, NMFS was considering extending the contract completion time.

CONCLUSION

The contract was awarded to OMNI although it did not fully comply with all the qualification requirements set forth in the RFP. OMNI's performance under the contract appears less than satisfactory. OMNI, for the most part, did not furnish test results for 13 of the 15 elements within the 30-day time frame. Data required to be submitted for two chemical elements under the original contract had not been furnished when the contract was amended.

NMFS' award and administration of the contract were less than satisfactory. Also, NMFS' decision to amend the contract for additional in-depth analysis of 3,000 samples seems questionable in light of OMNI's inability to perform satisfactorily under the original contract. NMFS, however, has not suffered any monetary loss as it has paid only for acceptable, completed tests.

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As your office agreed, we are releasing copies of this report to Senator William Proxmire.

B-180531

We do not plan to distribute this report further unless you agree or its contents are publicly announced.

As requested, we are returning the enclosure from your letter.

Sincerely yours,


Acting
Comptroller General
of the United States

Enclosure