

## DOCUMENT RESUME

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[Pricing of Firm Fixed-Price Noncompetitive Contracts with R. L. Polk and Co.]. PSAD-77-144; B-114860. July 22, 1977. 5 pp.

Report to Patricia K. Harris, Secretary, Department of Housing and Urban Development; by Henry Eschwege, Director, Community and Economic Development Div.

Issue Area: Federal Procurement of Goods and Services:  
Reasonableness of Prices Under Negotiated Contracts and Subcontracts (1904).

Contact: Community and Economic Development Div.

Budget Function: Community and Regional Development: Community Development (451).

Organization Concerned: R. L. Polk & Co., Detroit, MI.

Congressional Relevance: House Committee on Banking, Currency and Housing; Senate Committee on Banking, Housing and Urban Affairs.

An examination of the pricing of two firm fixed-price noncompetitive contracts, H-3837 and H-2605, awarded by the Department of Housing and Urban Development (HUD) to R. L. Polk and Company, showed that contract H-3837 was overpriced by more than \$734,000. This occurred because cost data available prior to contract negotiations were not used by the contracting officer to negotiate the contract price, and cost or pricing data were not obtained to support the price proposed for contract H-2605. Findings/Conclusions: Although the HUD auditor and the price analyst questioned cost data in the proposal for contract H-3837, the contracting officer disregarded their recommendations and accepted the contractor's negotiation position that the price proposed was reasonable. The contracting officer for contract H-2605 did not comply with the regulations in that he did not require Polk to submit cost or pricing data in support of its cost proposal. He also did not request a preaward audit of the proposal. Recommendations: The Secretary of HUD should: emphasize to contracting officials the importance of obtaining, evaluating, and using cost or pricing data to negotiate noncompetitive contract prices, including prices proposed on the basis of commercial catalogs where it is determined that the catalog prices are not reasonable; determine whether the Government is entitled to a price adjustment under contract H-3837; and take action to provide sufficient leadtime for proper evaluation of contract prices before contract award. (SC)



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UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

IN REPLY REFER TO: B-114860

02960 COMMUNITY AND ECONOMIC  
DEVELOPMENT DIVISION

JUL 22 1977

The Honorable Patricia R. Harris  
The Secretary of Housing  
and Urban Development

Dear Mrs. Harris:

As part of our survey of negotiated noncompetitive contracts awarded by selected civil agencies, we examined the pricing of two firm fixed-price noncompetitive contracts, H-3837 and H-2605, awarded by the Department of Housing and Urban Development (HUD) to R. L. Polk & Co., Detroit, Michigan. Contract H-3837, dated May 21, 1975, for \$1,579,610, was for statistical information on changes in housing in 318 cities. Contract H-2605, dated September 30, 1976, for \$135,020, was for housing vacancy data in 144 cities.

With certain exceptions, Federal Procurement Regulations (FPR) requires that contracting officers obtain from contractors cost or pricing data to support proposed prices for negotiated noncompetitive contracts expected to exceed \$100,000. Contractors are required to certify that cost or pricing data used as a basis for negotiating contract prices is accurate, current, and complete. A clause is inserted in the contracts giving the Government a right to recover from contractors any amount by which the contract price is overstated because of its reliance on inaccurate, noncurrent or incomplete data (defective data).

Our objectives during this survey were to determine whether (1) contracting officers obtained cost or pricing data to support the proposed contract prices, (2) data obtained was evaluated and relied on in negotiating the contract prices, and (3) the prices negotiated were reasonable in relation to cost or pricing data available.

In summary, we found that contract H-3837 was overpriced by more than \$734,000 because cost data available prior to contract negotiations was not used by the contracting officer to negotiate the contract price. We also found that cost or pricing data was not obtained to support the price proposed for contract H-2605.

PSAD-77-144

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Contract H-3837

On April 10, 1975, Polk submitted a proposal and supporting cost data in the amount of \$2,001,606. Subsequently, Polk reduced the proposed price to \$1,579,610 by reducing the cost proposed for "survey and data preparation" to about \$600,000. The initial proposal and proposal as revised by cost elements follow:

<u>Cost Elements</u>	<u>Initial proposal</u>	<u>Proposal as revised</u>
Cost for providing information on year-to-year changes in housing in 318 cities	\$ 712,462	\$ 712,462
Salary and travel	267,330	267,330
Survey and data preparation cost	1,021,814	599,818
Profit	-	-
Total proposed cost	<u>\$2,001,606</u>	<u>\$1,579,610</u>

The HUD auditor and the price analyst questioned the \$599,818 proposed for "survey and data preparation" because this was incurred in prior years in the development of other products and, therefore, was not a cost to Polk for this new effort. The auditor and price analyst recommended that the contracting officer negotiate a lower amount for this cost item. Disregarding these recommendations, the contracting officer accepted Polk's negotiation position that the price proposed was reasonable because it equated to 10 cents per household to be surveyed whereas sales of similar data to other customers equated to 15 cents per unit, and awarded the contract at the proposed price of \$1,579,610.

The contracting officer apparently based his decision on price reasonableness on prior commercial sales of the same data. Although, the HUD auditor verified that Polk had prior sales of similar data and that 3 of these sales were at 15 cents per unit, we believe the contracting officer erred in his assumption that these sales justified the reasonableness of the price proposal.

To justify not basing the price on supporting cost data, the FPR states that the price of proposed items must be based on established catalog or market prices of commercial items sold in substantial quantities to the general public. We found that the three sales verified by the HUD auditor were not made to the general public but were to state and local governments under HUD and the Department of Transportation grants. Further, notwithstanding the existence of commercial sales, the FPR provides that cost data may be obtained and used to establish a reasonable price where the contracting officer determines that the price proposal is not reasonable. In this case the contracting officer was placed on notice by the cost data furnished by the contractor and an audit of that data that the price proposed was not reasonable.

In addition, because the price negotiated was not based on available cost data, no attempt was made to reduce the \$267,000 proposed for "salary and travel" cost--primarily for a liaison officer. We found that Polk's proposal included an annual cost to maintain the liaison office whereas the HUD contract period was for 6 months. We also believe that some of the cost proposed for "salary and travel" was unreasonable. For example, this item of cost included a salary cost for the liaison officer which was nearly twice as much as the salary of his supervisor. Had the cost or pricing data been used to negotiate the contract price, we believe the contracting officer would have had a reasonable basis for reducing the cost proposed for "salary and travel" by at least \$134,000, or the equivalent of 6 months' cost.

#### Contract H-2605

When awarding contract H-2605, the contracting officer did not comply with the regulations in that he did not require Polk to submit cost or pricing data in support of its cost proposal; neither did he request a preaward audit of the proposal. Because of this lack of information, we could not make an assessment of the reasonableness of the price negotiated.

On August 26, 1976, the HUD program office requested the procurement office to award a contract to Polk. According to the contracting officer, a heavy workload prevented him from requesting a proposal from Polk until September 24, a month later. As the funds for this procurement had to be obligated by September 30, the end of the fiscal period, the contracting officer told us that he orally requested a proposal from Polk.

To comply with this request, Polk, on the same day, submitted a proposal for \$151,900 to provide housing vacancy data on 144 cities. The proposed price was broken down on a single-sheet format, but the bases for the cost elements and the supporting data were not provided as required by the regulations.

The HUD price analyst received the proposal on September 27 and based his evaluation on phone calls to Polk and data obtained nearly 18 months previously when contract H-3837 was being negotiated. The price analyst recommended that proposed overhead and general and administrative costs be reduced. Although the regulations require a preaward audit of proposals in excess of \$100,000, the contracting officer did not have sufficient time to obtain an audit verification because of the September 30 deadline for awarding the contract.

Negotiations were concluded on September 30 and a contract was awarded for \$135,020. The reduction in price was based on the price analyst's recommendation. A certificate of current cost or pricing data was executed by Polk.

As the proposal submitted to HUD lacked adequate support, we attempted to review the proposal at Polk. However, a Polk official told us that due to the haste in preparing the proposal, there was a lack of adequate data to support the proposal. Consequently, we were unable to evaluate the basis or reasonableness of the negotiated price.

The contracting officer said he did not comply with the regulation in the award of contract H-2605 because there was not sufficient time to obtain a formal proposal, supporting cost or pricing data, conduct formal negotiation, and still award the contract before the end of the fiscal year. He said that if the contract had not been awarded, the funds would have been lost.

#### Conclusions and Recommendations

The negotiation of the prices of contracts H-3837 and H-2605 indicated weaknesses in obtaining, evaluating, and using accurate, current and complete cost or pricing data. These weaknesses resulted in the price of contract H-3837

being overstated by more than \$734,000 and the lack of cost or pricing data to support the price of contract H-2605.

Accordingly, we recommend that you

- emphasize to contracting officials the importance of obtaining, evaluating, and using cost or pricing data to negotiate noncompetitive contract prices, including prices proposed on the basis of commercial catalogs where it is determined that the catalog prices are not reasonable,
- determine whether the Government is entitled to a price adjustment under contract H-3837, and
- take action to provide sufficient leadtime for proper evaluation of contract prices before contract award.

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We are sending copies of this report to the Chairmen of the Senate and house Committees on Government Operations, and Appropriations. We are also sending copies to the House Committee on Banking, Currency, and Housing, Senate Committee on Banking, Housing and Urban Affairs, Office of Procurement Policy of the Office of Management and Budget, and R. L. Polk and Company.

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House and Senate Committees on Government Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We would appreciate receiving your comments on these matters and would be pleased to discuss any questions that you may have.

Sincerely yours,



Henry Eschwege  
Director