



State of Louisiana

OFFICE OF

STATE INSPECTOR GENERAL

FIRE TRUCKS

Report by

Inspector General Bill Lynch

Prepared for

Governor M.J. "Mike" Foster, Jr.

February 18, 1998

File No. 1-98-0004



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

Fire Trucks

January 14, 1998

Report by

A handwritten signature in cursive script, appearing to be "BL", written over a horizontal line.

Inspector General Bill Lynch

Approved by

A handwritten signature in cursive script, appearing to be "M.F.", written over a horizontal line.

Governor M.J. "Mike" Foster, Jr.

File No. 1-98- 0004

FIRE TRUCKS

Local governmental agencies acquiring used fire fighting equipment with federal Community Development Block Grant funds are inhibiting competitive bidding, which normally brings lower prices, by using restrictive and convoluted bid practices, at a cost of thousands of dollars to the taxpayers.

In several instances fire officials determined in advance which vehicles they wanted to purchase from those available. Specifications and the bidding process were conducted in a way designed to achieve that end.

In one instance, for example, an addendum to specifications was issued four days before bids were to be received requiring substantially increased insurance for product liability, an action which effectively limited the bid to one company.

Background

The Louisiana Office of Community Development receives funding from the Federal government to administer grants to parishes, incorporated cities, towns and villages with residents numbering less than 50,000, and with parishes less than 200,000. Louisiana has four program categories which qualify for funding, housing, public facilities, economic development, and demonstrated needs.

Water projects are included in the public facilities category and allow for the purchase of fire fighting equipment both new and used. Water projects are limited to a maximum of \$600,000 per grant.

Applications for grants include various details which describe the project, and number of residents who will benefit from the project. In addition, the application must include a detailed cost estimate prepared and signed by a state licensed architect or engineer. If the application is approved for funding the applicant may include the cost of the architect or engineer as a part of the grant.

The Office of Community Development approved 16 grants which included fire fighting equipment for fiscal years 1995 and 1996. These grants totaled approximately \$4.3 million for fire fighting equipment.

Eight bid specification packages and contract awards for the fire fighting equipment were reviewed by this office.

Convoluting Bidding Process

The process for acquiring used fire fighting equipment can become extremely complicated at times as demonstrated by the procedure used by the Bienville Parish Police Jury in buying 12 fire trucks, including four tankers and eight pumpers to be used in two fire districts. The process for buying new equipment is quite different, since the market for used equipment depends entirely on what is available at the moment.

Fire District officials were shown used fire trucks that were available and selected those they wanted for their stations. Specifications were prepared by the engineer written to fit the particular trucks wanted. The effort to assure that the desired trucks were purchased resulted in the convoluted bidding process that was used.

Three separate categories were established -- A, B, and C.

For category A, bids were asked on four trucks, two pumpers and two tankers. The specifications for the pumpers were written around a specific brand truck and those for the tanker required a 4,000 gallon tank.

Only David Cook Trucks and Equipment bid on the entire package in category A, while Southern States Fire Apparatus Manufacturing, Inc., bid on the pumpers only. Because bidders were required to bid on the package of four, Southern States was disqualified. In any case, Southern's bid at \$80,000 each on the two pumpers was higher than the \$55,000 each bid by David Cook Trucks for those items. Cook was the only bidder on the tankers in this category, bidding \$80,000 each.

For category B, bids were asked on eight trucks, which included two tankers and six pumpers. Only Deep South Truck and Equipment Sales, Inc. and Southern submitted bids on this category. Deep South's bid on the 2,000 gallon tankers was \$21,700 each and on the six pumpers, \$40,665. Southern bid \$80,000 each for two pumpers.

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For category C, bids were asked on two tankers and six pumpers, with David Cook submitting the only bid for the entire package. Cook bid \$35,000 each for the tankers and \$37,500 for the pumpers. Southern only bid on one pumper at \$49,500.

The Police Jury decided to accept David Cook's bids on both category A and C.

Another wrinkle to the bid process is that although Deep South submitted a bid that was lower in total when comparing category B to category C, the specifications also called for additional equipment such as hoses which Deep South excluded from its bid, while David Cook included the additional equipment in his bid.

Restricting Competition

The procedures used by some communities for the solicitation of bids on used fire fighting equipment severely limit the opportunity for competition. Competition was limited by:

- Detailed specifications written targeting specific trucks.
- Addenda to specifications being issued relatively close to bid dates.
- Issuing addenda which could be met by only one bidder.

Upon approval of the application by the Office of Community Development the engineering firm hired by the applicant to prepare the application cost estimate prepares a bid specification package. The bid package will include all requirements for the potential bidders and specifications for the equipment.

Employees of the Office of Community Development are neither required nor review the bid specification package and have not developed a standard product description. Federal rules require the grantee to monitor the grant and subgrant supported activities to assure compliance with applicable general requirements.

Many of the specifications as written in the bid package detail a particular truck. These specifications include the brand of truck, year, model number, and in some cases the serial number. Specifications often include minute details such as color of the seats, dimension of

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the storage compartments, and the size of the chrome mirrors. For example one set of specifications describe a tool box located in the bumper which is 19 inches long by 10 inches wide and 9 inches deep. Specifications for one vehicle routinely include four pages of detail.

Water tanks on the trucks are written equally as detailed. For example one bid specification required the tank have two pull hooks located 87 inches and 132 inches from the rear of the tank, each hook being 7 inches wide x 4 inches high and .25 of an inch thick.

Interviews conducted with several of the engineers indicate that fireman for the community, most of whom are volunteers, inspect the available used fire trucks. Once a suitable truck is located the dealer prepares a specification sheet. The engineer uses the specification sheet as a guide in preparing the bid specifications.

The engineer usually inserts an "or equal clause" or the words "or equal" in the bid specifications. An "or equal clause" states the equipment identified on the plans including the manufacturer's name and catalogue numbers are merely used to establish a standard. However, the final decision to accept any deviation from the specifications is made by the Architect/Engineer.

Bid specification packages reviewed indicate the engineers often issue addenda to the bid package which can radically alter the bid process. The addenda are often issued to prospective bidders a few days before the bid opening and change specifications for the trucks and additional equipment required. Addenda are also used to change qualification requirements for the potential bidders.

For example: the Village of Spearsville, located in Union Parish, advertised for three used pieces of equipment, one pumper truck and two tanker trucks. The original bid specification package is dated February, 1997. The bid package is extremely detailed specifying a 1975, Mack CF 600 or newer pumper truck, and a 1986 or newer Mack Econodyne R6865ST, 4,000 gallon tanker truck. To demonstrate the extent of detail, a copy of the bid specification is attached.

The bids were scheduled to be opened Tuesday, June 24, 1997. An addendum was issued on Thursday, June 19, 1997, three business days prior to the scheduled bid opening. The addendum changed the following items:

1. The pumper specifications to a 1985 or newer Mack CF688F truck.

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2. Addition of one truck mounted radio and one portable radio to each of the two tanker trucks.
3. Product liability insurance in the amount of \$5 million.
4. "Any deviation from these Fire Apparatus Specifications, no matter how slight, must be indicated with this bid and clearly marked, 'Exception Taken' on the outside of the bid envelope."

A second addendum was issued Monday, June 23, 1997, one day before the scheduled bid date which changed the bid opening to Tuesday, July 1, 1997.

There was only one bidder. The bid package contained three separate bids listing combinations of different equipment.

Bid No. 1 One 1985, Mack CF600, pumper, \$48,000
 Two tankers, 1988, Freightliners, \$50,000 each
 Total \$148,000

Bid No. 2 One 1985, Mack CF600, pumper, \$48,000
 Two tankers, 1990, Peterbilts, \$55,000 each
 Total \$158,000

Bid No. 3 One 1985, Mack CF600, pumper, \$48,000
 Two tankers, 1986, Mack R686, \$85,000 each
 Total \$218,000

The Village of Spearsville choose bid No. 3, for a total cost of \$218,000.

The engineer states, the Village of Spearsville wanted Mack brand trucks. The Freightliner and Peterbilt trucks offered in bid No. 1 and 2 did not meet the specifications. The project file maintained by the engineer did not contain a written comparison of the trucks offered to the bid specifications.

Three fire truck dealers which routinely bid on used fire trucks were contacted concerning the \$5 million product liability insurance coverage. Two of the three dealers were insured for \$1 million product liability. The third dealer carried \$5 million product liability insurance.

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While the comparison of used fire trucks is difficult, we found that bid prices range as much as \$15,000 higher on similar trucks when there is a lack of competition.

For example: the successful bidder on the Spearsville trucks bid \$85,000 each for the two tanker trucks required. Both trucks were Mack R686, 1986 model with 300 horse power engines and six speed transmissions. Both trucks were equipped with 4,000 gallon elliptical tanks and 1,000 gallon per minute pumps.

The same fire equipment dealer bid \$64,000 each for two tanker trucks in August, 1997, when bidding against a competitor. Both trucks were 1985 Macks with 4,000 gallon elliptical tanks and 1,000 gallon per minute pumps. A second bidder offered two 1989 Mack trucks with 300 horse power engines and six speed transmissions with 4,000 gallon elliptical tanks and 1,000 gallon per minute pumps for \$62,000 each. These trucks did not include additional equipment required in the Spearsville specifications. The cost of the required equipment if purchased new would add approximately \$5,500 per truck.

The federal guidelines governing purchases made with Block Grant funds require the fire truck purchases to be made in accordance with the applicable state and local laws, provided that the purchases also follow the federal guidelines.

The Louisiana Public Bid Law, La. R.S. 38:2212, governs the fire truck purchases. It allows use of brand name specifications only where it is "clearly in the public interest." It further limits the use of brand name bid specifications, stating, in part:

"Wherever in specifications the name of a certain brand, make, manufacturer, or definite specification is utilized, the specifications shall state clearly that they are used only to denote the quality standard of product desired and that they do not restrict bidders to the specific brand, make, manufacturer, or specification named; that they are used only to set forth and convey to prospective bidders the general style, type, character, and quality of product desired; and that equivalent products will be acceptable. It shall be the responsibility of the professionally employed architect or engineer to determine what is considered an equivalent product on any and all projects in which he has been legally employed to perform his professional services."

In addition, the federal guidelines require that brand name specifications allow an "or equal" product to be offered, and that the specifications describe "the performance and other relevant requirements of the procurement."

Although the specifications used by Spearsville contained an "or equal" clause, the pages of specifications were so intricately detailed as to render the clause meaningless.

On Nov. 6, 1996, the Director of the Office of Community Development issued a memorandum to block grant fund recipients, advising them of complaints that specifications for used fire trucks were being prepared with specific trucks in mind, thereby precluding some suppliers from submitting bids or being awarded contracts. The memo advised this practice would not be allowed, and that reimbursement of funds spent using such practices would be expected.

Despite this memorandum the practice continued.

Conclusions:

1. Competitive bidding was restricted for the purchase of used fire trucks by:
 - Specifications written for a particular truck.
 - Addendums issued close to bid deadlines changing the trucks, additional equipment, or bidder requirements.
2. Specifications written which detail specific trucks after Nov. 6, 1996, were in violation of the memorandum issued by the Director of the Office of Community Development.

Recommendations:

1. The Office of Community Development should insure competitive bidding to save taxpayer dollars by establishing procedures which include but not limited to the following:
 - Written justification for brand names used in bid specifications.
 - Written justification for addendums.

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- Require bid documents be structured in a manner which will require acceptance of the lowest qualified bid for each truck.
 - Written justification when low bid is rejected.
2. The Office of Community Development should apply the requirements cited in its Nov. 6, 1996, memorandum when monitoring grants involving fire equipment purchased after Nov. 6, 1996.

BL/GD/fs

1-98-0004



State of Louisiana
DIVISION OF ADMINISTRATION

OFFICE OF COMMUNITY DEVELOPMENT

M. J. "MIKE" FOSTER, JR.
GOVERNOR

MARK C. DRENNEN
COMMISSIONER OF ADMINISTRATION

December 24, 1997

Mr. Bill Lynch
Inspector General
Office of State Inspector General
P. O. Box 94095
Baton Rouge, La. 70804-9095

RE: Your File No. 1-97-0004

Dear Mr. Lynch:

We have received and reviewed your findings and recommendations relative to the purchasing practices of some of our grantees with respect to used fire trucks. We were first made aware of the fact that there were some concerns about restrictive bid specifications in the fall of 1996. Our assessment of the situation resulted in a memorandum being issued to all grantees advising them that bidding practices determined to be restrictive may result in disallowed costs.

In general, we agree with the recommendations made in the report and have already instituted new procedures that should serve to alleviate some of the future problems in this area. Letters were sent to all 1996 and 1997 fire protection grantees apprising them of the new procedures (see letter attached) that would have to be strictly adhered to in order to let bids on new and used fire trucks and equipment. These procedures will become a permanent part of all future grants in this area. Although these procedures will aid in reducing the problem as a whole, these local governing bodies will continue to purchase used equipment with local, state, and federal funds as identified in your report.

It should be noted that the initial complaint received on questionable bidding practices was forwarded to the HUD Inspector General for investigation. This is our standard procedure and in accordance with federal regulations. The results of the investigation by the HUD IG's office was that there was no fraud involved and that any questions about the specifications was a State procurement issue. The plans and specifications of all of the cases reviewed by your office were also reviewed by several other agencies, including the State Attorney General's Office, various Parish District Attorney's offices, and our own office. In each case, the various offices had differing opinions regarding the bid process, restrictions in the specifications, and overall bid procedures undertaken.

In addition to the recommendations outlined in the report, we also feel that some comments should have been made concerning the unique problems encountered in bidding on used

Inspector General Bill Lynch

December 24, 1997

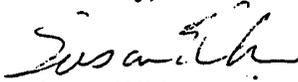
Page 2

equipment, especially used vehicles. The argument presented by many of our grantees expresses concern for obtaining the best possible vehicle for the limited funds available. As any prudent person purchasing a used car would attest, it is always best to know what you're getting for your money, and whether or not it will serve its intended purpose reliably.

State purchasing requirements relating to the acquisition of used equipment differs dramatically from those standards imposed on general units of local government. Under state requirements, all that is necessary to purchase used equipment is to justify the need and negotiate the price. No bids are taken, because often the item is one of a kind. In order for any changes to be made in the procurement of used equipment utilizing federal funds, we would first have to obtain approval from federal sources to insure the procurement meets the requirements of OMB Circular A-102. Also, the bid law relative to local governing bodies would have to be changed.

This office will strictly review all FY 1996 and FY 1997 fire protection grants not already monitored to insure no restrictive practices are utilized. I have assigned two members of my staff, Henry Sheffield and Keith Gautreau to assume the responsibility of insuring our new procedures are followed.

Sincerely,



Susan Elkins
Director

SE/HHS/al

bc: Herman Dubon
Dotty Tapscott
Henry H. Sheffield
Keith Gautreau

Police Jury of Bienville Parish

TOMMY THOMPSON - District 7
President
BEN WIGGINS - District 5
Vice President
BILL SIMS - District 1
HUEY P. VERNON - District 2
LEE THOMAS - District 3
TOMMIE UZZLE - District 4
MIKE MCCARTHY - District 6



JAMES W. MARTIN
Secretary - Treasurer

KEN SINGLETON
Road Superintendent

TELEPHONE
(318) 263-2019

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100 Courthouse Drive, Room 108
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Arcadia, Louisiana 71001

December 17, 1997

Mr. Bill Lynch
Inspector General
State of Louisiana
P. O. Box 94095
State Capital Annex
Baton Rouge, LA 70804-9095

RE: File No. I-97-0004

Dear Mr. Lynch:

We have reviewed the draft report from your office regarding the purchase of fire fighting equipment. You point out in the first full paragraph on page 2 that the bid process for used equipment "can become extremely complicated...". I believe that statement sums up this entire matter most accurately. The difficulty faced by parishes and towns in this program is to get as much as we possibly can with the funds we have available.

The actions taken by the police jury in this matter were done in an effort to improve the fire ratings of two fire districts. We were told what equipment it would take to get a lower fire rating by the Property Insurance Rating Bureau. We knew how much money was available from the block grant to purchase that equipment. The police jury did its best to provide the equipment required by the Property Insurance Rating Bureau, wanted by the Fire Districts, and that the funds available from CDBG would pay for. That was no easy task.

We do not take particular exception to your comments in the draft report. The only area I feel may be unclear is on page 3 the third paragraph. It appears to imply that we accepted a higher bid unnecessarily, in fact, the bid from Deep South did not meet specifications because it did not include the equipment required on a fire truck to make it a Class A pumper. Other than that area, we have no disagreement with your report.

Mr. Bill Lynch
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I think from this process your office has seen that there is no easy way to deal with this situation. There are no clear guidelines in the law for bidding used equipment. Our parish is willing to work with you and the Division of Administration to improve the process in whatever way is necessary. However, I feel compelled to say that the actions we have taken have been in an effort to help the people in our parish. If there is a better way to do that, we will be happy to try it.

Thank you for the opportunity to respond to your report. We appreciate your efforts to improve this program. Thank you also for sending Gordon Devall to our parish to hear our position. He was very professional and fair minded in his review of our information.

Please feel free to contact me again should you require further information. I would like also to be apprized of any further action in this matter.

Sincerely,



Tommy Thompson
President

VILLAGE OF SPEARSVILLE

SPEARSVILLE, LOUISIANA 71277

12/19/97

Bill Lynch
Inspector General
State of Louisiana

We, the Village of Spearsville is in need of lower insurance rates, which is the whole purpose of applying for a grant. As Mayor, this is my first and last dealing for blocks grants. I live across the street from our present fire station and my homeowners costs 85.00 dollars per month. I knew nothing of procedures after a grant was received for us. I thought everything had to be approved by someone before each step was taken. We wanted Mack trucks for our department and I assumed the choice was ours to make but it is very clear now that was not true. I had nothing to do with specifications for fire fighting equipment. When it came time to open bids and only one person submitted a bid I thought this was simple. There were three different bids in one. The bid I chose was the highest one of the three. The engineer asked me which one I wanted and I said bid C. He got his calculator out to see if our money was enough to secure this bid. He advised me it was and we awarded that bid. I told someone from your office per phone conversation the reason for me taking this bid was it contained 3 Mack trucks. We are going to have the upkeep on this equipment from here on and on our budget and the type roads these trucks will be traveling the Mack truck is what we needed. I was told later that the other 2 bids did not meet specs. If taking the high was wrong on my part it was not because of anything except we wanted Mack trucks. If I was supposed to have control of other things that went on I assure you I was not aware of that.

A. J. Lynch

DENMON ENGINEERING COMPANY, INC.

Engineers and Surveyors

Terry D. Denmon, P.E. & P.L.S.
Terry W. Lewis, P.E.

Thomas M. Bonnette, P.E.
Chris W. Patrick, P.E.

December 17, 1997

Mr. Bill Lynch, Inspector General
Office of State Inspector General
State Capitol Annex
P. O. Box 94095
Baton Rouge, Louisiana 70804-9095

RE: File No. 1-97-0004

Dear Mr. Lynch:

In response to your letter of December 10, 1997, I offer the following information and comments.

Convolutd Bidding Process

I agree that the process for acquiring used fire fighting equipment is extremely complicated especially when working with local fire fighting personnel who do not understand the process involved in purchasing equipment under the bidding guidelines.

The process involved in purchasing the twelve (12) used fire trucks for Bienville Parish Police Jury was no exception. Two separate fire districts were included which could not agree on what they wanted and/or needed. We tried to explain to them our recommendations on fire apparatus and equipment with little success. Upon talking to the different used fire equipment suppliers, it was quickly realized that only one supplier could supply all twelve (12) fire trucks which was David Cook Trucks and Equipment which would have effectively eliminated all other bidders. No other supplier had or could obtain enough apparatus and/or equipment to supply all twelve (12) fire apparatus. For this reason, three categories were established to try and make the bidding process open to all suppliers and dealers and to try and achieve the best possible bid price for the Bienville Parish Police Jury.

Apparently, some of the used fire equipment suppliers did not fully understand the bidding process as is evident by only bidding one (1) or two (2) of the trucks out of a package and not bidding on the equipment as was required by the specifications. The Division of Administration allows the purchase of certain fire equipment under the Block Grant guidelines and this equipment is necessary for the fire districts to obtain a fire rating by the Property Insurance Association. Without the purchase of this equipment, the fire districts would not have been able to achieve an adequate rating on these apparatus and therefore have no chance for lowering the Class Rating for these particular districts. In addition, the fire districts nor the Police Jury had or have sufficient funds for the purchase of this additional equipment.

Restricting Competition

According to the office of Community Development procedures, there is a 10-day call to issue an addendum to any project for any wage rate decision changes. It is a common practice to limit the issuance of addendums on any project to avoid confusion; therefore, we waited until the 10-day period to have the Administrative Consultant request any wage rate decision changes and to issue an addendum for such wage rate changes and to include any changes to the technical provisions of the plans and specifications in this same addendum. The Addendum #1 was issued 5 days prior to the Bid Opening. This Addendum included the new wage rates, new pumper specifications as requested by the Owner, new insurance requirements contained in the special conditions and additional equipment for the tanker trucks.

Mr. Glen Dakote, with Attorney General's Office, called concerning the wording of the apparatus specifications and concerning the issuance of addendum in less than the time frame specified by the State Bid Law (3 days). It is our understanding that the State Bid Law does not stipulate whether the 3 days are calendar days or business days; therefore, calendar days are assumed. To avoid further confusion we recommended that the Owner issue another addendum which extended the bid date by 1 week, which was accomplished by Addendum #2. This Addendum #2 changed the bid date and included the phrase "This apparatus shall be as specified below or approved equal", in both the pumper and tanker specifications, as per phone instructions from Mr. Dakote. This Addendum was also faxed to Mr. Dakote on June 23, 1997 for his review and comment. None were received.

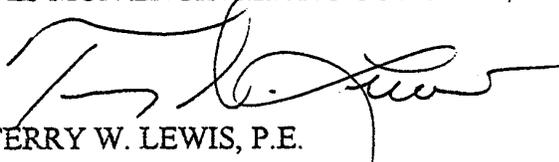
It is our understanding that Mr. Dakote was also aware of the insurance provisions contained in Addendum #1, and Mr. Dakote did not address that issue, only the wording of the "or equal" clauses.

The insurance requirements on all LCDBG projects are furnished by the Project Administrative Consultant and included in the Engineers specifications. In this particular project, the increased insurance requirements contained in Addendum #1 was provided by this project's Administrative Consultant. There were three prospective bidders who picked up specifications on the fire apparatus portion of this project. It is our understanding that two of the three met the increased insurance requirements and only one of the three actually bid on this project.

I hope this information is sufficient for your needs, but should you have any questions or need any additional information, please contact this office at any time.

Sincerely,

DENMON ENGINEERING COMPANY, INC.



TERRY W. LEWIS, P.E.

TWL/an