

final report



COMMONWEALTH of VIRGINIA

Joint Legislative Audit and Review Commission
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Philip A. Leone
Director

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August 4, 1988

MEMORANDUM

TO: Philip A. Leone, Director
FROM: Barbara A. Newlin, ^{CAW} Division Chief
SUBJECT: Software Maintenance Contracts at the State Corporation Commission

JLARC staff recently received a letter expressing concerns about software maintenance contracts for two new computer systems at the State Corporation Commission (SCC). The two systems are the Corporate Information System (CIS) in the Clerk's Office and the Agent's Licensing System (LEAP) in the Bureau of Insurance. The letter appears to be generated by someone outside the SCC who has access to inside information concerning SCC procurement activities.

The primary statements and/or questions set forth in the letter are:

- Two software maintenance contracts have been awarded on a sole source basis,
- One of the primary reasons the SCC promoted the new technology (ADABAS/Natural) was that it would open up the SCC to more competition. How then can sole source for software maintenance be justified?
- It is customary for software development vendors at the SCC to give a 30 to 90 day warranty covering any new software that is developed. Why then have maintenance contracts already been put into effect?

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- It is well-known at the SCC that both these new systems development projects are behind schedule and over budget.

I have researched these items and my findings are outlined below. Before going into the findings, I would like to make one observation. The statements contained in the July 11 letter, as with many of the other letters that have been forwarded to us, are factually accurate on some counts. However, as with the other letters, I have found many of the facts and interpretations to be distorted and inaccurate. I have not been able to make any assumptions regarding the validity of the statements in the various letters, and have had to verify a lot of facts to determine the true picture in most instances.

Sole Source Award of Two Maintenance Contracts

The SCC has made one sole source award and is anticipating making a second. The SCC has awarded the CIS software maintenance contract to the software developer on a sole source basis. The maximum dollar value of the one year contract is \$25,000. A sole source statement has been prepared explaining the reason for the noncompetitive selection.

A final decision has not yet been made by the SCC concerning the LEAP software maintenance contract. According to the SCC Director of Planning and Development, the software developer, Price Waterhouse, is agreeable to providing maintenance for a one year period. A proposed contract and sole source statement are being generated at this time and will be reviewed by the SCC Commissioners and counsel in the near future. The maximum dollar value of this one year contract is \$65,000.

Justification for Sole Source

The July 11 letter asks how sole source for these awards can be justified. It then goes on to state that one of the prime reasons for the ADABAS/Natural requirement in the original procurement was to open up the SCC to more competition. My earlier research indicates that open competition was not one of the primary motivations specified by the SCC for ADABAS/Natural. The

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rationale, as set forth by the SCC for the requirement, was:

- Complete compatibility of database structure and accessibility between new systems,
- Ability to move systems between the DIT mainframe and inhouse computer resources,
- Provision of high performance but low support requirements for the database system,
- Wide State acceptance and use of database and development tool,
- Significant pool of adept software consultants, and
- Demonstrated track record for the development vehicle and tool.

The first two points above have been repeatedly cited by the SCC as the primary motivation for the requirement.

Interviews with SCC staff, in conjunction with a review of the sole source statement, identified the following specific reasons for why the SCC proceeded on a sole source basis for CIS maintenance:

- This type of sole source procurement is in accordance with Section III.E of the SCC Planning and Development Contract Procurement Policy Manual, which provides that "A system maintenance task order may be awarded to the contractor who completed the development of the system or systems to be maintained if such award can be justified under the "sole source" exception to the Act described in Section III.B.2 ..."
- Arthur Young developed the system software, and consequently has the best knowledge of and experience with this system. Contracting with them is the most cost effective approach to fulfill the maintenance function.
- Arthur Young will be continuing to provide enhancements to the CIS system, and it would be more efficient to have just one vendor working on the system at this time.

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Because the LEAP information is still being compiled, it is not available for review at this time.

Software Warranties

According to the SCC Director of Administration, the statement in the letter concerning warranties is not accurate. He does not recall software developers ever offering warranties. Prior to 1985, however, the SCC issued "post-implementation task orders" which allowed software developers to fix problems that occurred after implementation. These services were not rendered on a warranty or free basis. The vendors were paid for the work performed under the task orders.

The letter further questions why the maintenance contracts have been put into effect at this time. According to the Director of Planning and Development, the CIS system is parallel processing at this time and the SCC has not yet signed off on the system. Problems which develop at this time are still the vendor's responsibility to correct. The contract, however, is incident report driven, and no charges can be made against the contract until the system is accepted and incident reports are generated. The SCC finalized the contract at this time because it wanted to ensure maintenance coverage and was not sure of the exact date upon which the system would be fully accepted.

As previously stated, arrangements for LEAP software maintenance have not yet been finalized or approved. A contract is therefore not in effect for this system.

Projects Behind Schedule and Over Budget

A review of project documentation and interviews with SCC staff indicate that neither project is behind schedule or over budget. However, because of the way the CIS project was initially undertaken, a contract enhancement was made at the request of the system users. This does not appear to have been caused by any deficiency or performance problem on the part of the vendor. The enhancement work is proceeding according to schedule.

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Conclusion

The SCC has awarded the CIS software maintenance contract on a sole source basis to the vendor which developed the system . It appears the SCC anticipates doing the same with LEAP maintenance. Reliance on sole source procurement in instances such as these limits competition within the SCC, and may not be in accordance with the spirit of the Public Procurement Act.

However, a case can also be made for sole source procurement for CIS maintenance. The dollar value of the contract is relatively low and it is likely that the developer knows the system better than other potential maintenance vendors. The SCC may be able to save time and money by sole sourcing. In addition, limiting involvement to one vendor at this time would appear to be less confusing and more efficient than having two vendors involved with the system. Further, according to the Department of Information Technology, agencies can usually make a strong case for sole sourcing to the software developer in this type situation, and very few requests come through DIT for this type of procurement.

Recommendation. The SCC should make every effort to comply with the provisions of the Public Procurement Act by seeking competition to the maximum feasible degree. Sole source procurement for nonprofessional services should be kept to a minimum, and used only in strict accordance with Section 7.1d of the Agency Procurement and Surplus Property Manual.

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