



U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

For Immediate Release

Wednesday, March 24, 2004

Grassley Questions Commerce Department About Problems With \$4.5 Million Contract

WASHINGTON — Sen. Chuck Grassley is asking the Commerce Department about mismanagement of a \$4.5 million contract that involved acquisition of defective equipment needed to protect weather data during power shortages.

Grassley's inquiry is based on a report issued last September by the Inspector General for the Commerce Department. "I'm asking questions on behalf of the taxpayers," Grassley said. "It's a matter of making sure those responsible for the bad management in this case are held accountable and making sure that changes are made by the Commerce Department to prevent repeat scenarios with other contracts."

The text of Grassley's letter to Commerce Secretary Don Evans follows here.

March 24, 2004

Mr. Donald L. Evans
Secretary
Commerce Department
14th & Constitution Avenue, NW
Washington, DC 20230

Dear Secretary Evans:

The purpose of this letter is to express my considerable unease regarding the findings in the Department of Commerce (Commerce/Department), Office of Inspector General (OIG), Final Inspection Report No. OSE-15676, dated September 2003. It appears that at a minimum, gross negligence occurred during the execution of the Acquisition of Next Generation Weather Radar (NEXRAD) Transition Power Source (TPS) contract.

The TPS contract was designed to procure equipment that would provide uninterrupted power to NEXRAD sites. This was important to accomplish due to the fact that power losses to NEXRAD caused critical data losses, shortened the lifespan of equipment, and increased maintenance costs. However, many problems surfaced with this contract.

The OIG report identified numerous "management, technical, and contractual problems" including, but not limited to, purchases of equipment outside the scope of the contract, missing and/or incomplete files, lack of investigation into TPS alternatives, and "insufficient management oversight." As a result of this systemic failure with regard to that particular contract, the OIG wrote, in significant part that, "NOAA Did Not Receive "Best Value" Due to Poor Contract Negotiations and Lack of Oversight," and "NOAA Paid for Defective TPS Units."

Specifically problematic is that the OIG estimates NOAA paid \$4.5 million for "defective" equipment. At the conclusion of the inspection, the OIG was unable to determine who agreed to the final negotiations. Interestingly, the contract officer who signed the final document stated during interviews with the OIG that he did not know who negotiated the agreement. Additionally, for several months leading up to the final contract modification agreement, the General Counsel's Office (GC) wrote numerous warnings about a "potential claim situation" regarding this contract. A counsel within the GC's Office also wrote that the contractor "appears...bent on passing along almost all increased costs resulting from its non-compliance to the Government."

Interestingly, however, during the OIG inspection, the same GC counsel admits that although he originally had concerns regarding the contract modifications, he subsequently changed his mind and supported the contract modification agreement. Unfortunately, this same counsel cannot now locate any written documentation supporting his change in opinion.

I am troubled by the unacceptable outcome of this contract. In addition, I am having a difficult time trying to understand how and why \$4.5 million dollars of taxpayer funds was so mismanaged. As a result, I request that Commerce provide detailed and specific responses to the following questions regarding the TPS contract. When preparing these responses, please be sure to re-write the question and then set forth the Department's response:

- 1) Has anyone been held accountable for the significant losses to the government that resulted from this contract? If so, please identify the individual(s) and explain what actions were taken. If not, what is the justification for nothing being done about the situation?
- 2) What efforts, if any, have been initiated to renegotiate the contract in question so it more balanced in favor of the government? If efforts have been initiated, what are their status and/or outcome?
- 3) What efforts, if any, have been taken to ensure that the contractor is held accountable for its action(s)? If efforts have been initiated, what are their status and/or outcome?
- 4) What efforts, if any, have been made to ensure that other government agencies that have business with the same contractor are aware the situation at Commerce?
- 5) Since the OIG inspection left some very serious questions unanswered, (i.e. who negotiated the contract modification, why were contract files missing or incomplete, why the government paid for defective equipment) why did the inquiry end with the OIG inspection as opposed to being pursued further by Commerce? Was the option of a criminal referral stemming from the OIG

inspection of this contract ever discussed? If so, please provide me with a status of the referral. If not, why not?

Coupled with the above, the OIG inspection report states that "unclear accountability and inadequate oversight were significant contributors" to the problems associated with the TPS contract. If the TPS contract was simply the result of lax management and oversight as proposed by the OIG, then I would appreciate knowing what review, if any, was conducted to ensure that the other contracts managed by the same contracting team at NOAA, did not also result in similar significant losses to the U.S. Government? That question in turn, raises several additional questions that I would like to have answered in detail by the Department:

- 6) Is the problem of "unclear accountability and inadequate oversight" also manifested in other contracts managed by this same group of NOAA employees?
- 7) Have other contracts managed by the same NOAA contracting team been inspected or audited? If so, please detail which contracts were reviewed, the Department's findings in each of those reviews and any action(s) taken as a result of such findings.
- 8) If problems were identified during the contract reviews, did the government suffer any monetary losses as a result, and if so what were the totals of those losses.
- 9) If problems were identified during the contract review(s) that resulted in losses to the government, was anyone held accountable? If so, how? What actions were taken to recover the losses to the government?

I am confident that you are as concerned as I am about the facts surrounding the TPS contract. In closing, I look forward to receiving the Department's responses to my inquiries by April 23, 2004. If you have any questions or concerns regarding this letter, your staff may contact Emilia DiSanto or Mark Ouellette at (202) 224-4515. All correspondence should be sent via facsimile to (202) 228-2131 and original by U.S. mail.

Thank you in advance for your assistance.

Sincerely,
Charles E. Grassley
Chairman

Cc Inspector General