



Department of Energy

Bonneville Power Administration
P.O. Box 3621
Portland, Oregon 97208-3621

CORPORATE

November 25, 2002

In reply refer to: LC-7

Debra D. West
Director of Contracts
Applied Technology Group
Anteon Corporation
3420 Camino del Rio North
San Diego, CA 92108

Dear Ms. West:

This letter responds to your Freedom of Information Act (FOIA) request dated October 16, 2002, referenced as FOIA #03-006.

Specifically, you asked for a copy of the "audits and evaluations" related to the contract awarded under Bonneville Power Administration (BPA) Solicitation No. 00010771RFP. You clarified your request for "audits and evaluations" to include the government's evaluation of the contractors bidding on the RFP as well as documents that summarize the government's award decision. You also asked for a copy of the contract signature page and the page that cites contract value.

Enclosed in its entirety is a copy of the Contracting Officer's Document of Award Decision (DAD). This document constitutes the BPA decision-maker's reasons for the contract award. Also enclosed a copy of the contract signature page, including the page that cites contract value. However, BPA has determined that the remainder of the documents it collected in response to your request should be withheld under 5 USC § 552(b)(5) of the FOIA, as more particularly described below.

Reasons for non-disclosure under Exemption 5

Exemption 5 protects inter or intra-agency documents that would normally be privileged in the civil discovery context. One of the privileges incorporated within Exemption 5 is the deliberative process privilege.

BPA asserts the deliberative process privilege to withhold documents that were a part of the decision maker's predecisional deliberation. These documents include information such as the analysis and assessment of the strengths and weaknesses of each offeror's technical and cost proposals, an analysis of contractor risk assessment, numerical scores given to the offerors by

internal evaluation team members and their report to the contracting officer outlining team recommendations and opinions.. There are no reasonably segregable portions of these documents appropriate for release.

The information contained in these documents is exempt from disclosure because it is both predecisional and deliberative. This information is internal to BPA and has not been disclosed outside the executive branch of the government. The information is deliberative because it represents the evaluation team members' analyses and expressions of opinion to the Contracting Officer concerning the strengths and weaknesses of each offerors' proposal. These analyses and opinions are predecisional because the information was prepared prior to the contract award and does not represent the Contracting Officer's final decision. The evaluation team members are not responsible for making the final decision on the contract award, but rather are responsible for providing their opinions and/or recommendations to the Contracting Officer who is the ultimate decision maker.

BPA has determined that a discretionary release of these withheld documents would not be in the public interest. One of the purposes of the deliberative process privilege is to protect the free flow of information within the government and to encourage open, frank discussions between staff and decision makers. The ability and willingness of BPA employees to serve on evaluation teams and make honest and open recommendations to the Contracting Officer could be compromised if they knew that this type of information would be released. If employees were to become inhibited in their opinions and recommendations, the agency would be deprived of the benefit of open and candid opinions.

If you are dissatisfied with this determination, you may make an appeal within thirty (30) days of your receipt of this letter to Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, Washington, D.C. 20585. Both the envelope and letter must be clearly marked "Freedom of Information Act Appeal."

Sincerely,



Gene Tollefson
Freedom of Information Act Officer

Enclosures

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bcc:

G. Tollefson – CILR-4

Barnes – CP-4

J. Bennett – LC-7

C. Jacobson – LC-7

Official File – CILR (EX-13-13, 03-006)