

July 14, 2000

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SENIOR VICE PRESIDENT

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SUBJECT: Letter Advisory Report - Review of Minority
Contracting Opportunities Under Advertising
Contracts (Report Number CA-LA-00-001)

This report presents the results of our review of the Postal Service's efforts to provide opportunities for minority companies to compete for advertising contracts (Project Number 00HR002CA000). The review was initiated when a member of Congress requested we conduct a preaward audit of the advertising contracts and review the Postal Service's efforts to include minority vendors as part of these contracts.

Results in Brief

The review disclosed that Postal Service Purchasing officials had taken steps to provide opportunities for minority companies to compete for Postal Service advertising contracts. During the review the Postal Service also agreed to require companies awarded advertising contracts to submit a plan showing how they planned to subcontract some of the advertising work. Subcontracting should provide minority companies additional opportunities to provide advertising services to the Postal Service.

In addition, Postal Service officials advised us that \$7.5 million, about 5 percent of the \$150 million in planned advertising contract funds, were to be allocated to the multi-cultural marketing portion of the advertising contracts. However, we noted that the Postal Service had initially set aside the multi-cultural contract work for minority-owned companies, but removed this requirement when Postal

Service Purchasing officials discovered it was contrary to a 1995 court decision. Regardless, Purchasing officials advised us the multi-cultural work would likely be awarded to minority companies.

We noted the Postal Service's defined "minority owned" business as a business, that is 51 percent owned and operated by a minority, which is consistent with the federal government's Small Business Administration's definition of minority. Furthermore, we noted that all companies were allowed to submit proposals on any of the advertising contracts; however, minority-owned firms only submitted proposals on the multi-cultural portion of the contracts.

Finally, we have arranged to audit the companies' proposals for the advertising contracts and the contracting officer agreed to use the results of the audits to establish fair and reasonable prices with companies that are awarded contracts. As a result, this report does not contain suggestions.

Background

For fiscal year 2001, the Postal Service budgeted an estimated \$150 million to be spent on advertising contract needs. The Postal Service Advertising and Promotion Department plans to use these funds to award contracts to develop integrated marketing communications across designated communication channels for the Postal Service's products and services under the masterbrand – *The United States Postal Service*. The solicitation for these contracts stated indefinite quantity contracts would be awarded in five functional communications modules: (1) Strategy, Creative Integration, and Production; (2) Media Planning and Buying; (3) Direct Marketing and Sales Materials; (4) Retail - Point of Sale (In-Store Promotion); and (5) Multicultural Marketing Communications.

Selection of companies to perform contract work was to be accomplished in three phases. In phase I, the Postal Service issued a solicitation to companies to prequalify for one or more of the five contract modules. In addition, prospective companies were requested to specify the ethnic market they wanted to work with as part of their submission for the multi-cultural contract; i.e. African-American, Asian American and/or Hispanic markets. Phase II required prequalified companies to provide additional information

specified by the Postal Service. This information was used to select those companies that were invited to respond to the contract solicitation. Phase III would consist of selecting the companies for each contract module.

**Objectives, Scope,
and Methodology**

The objectives of our review were to determine whether the Postal Service's advertising contracts solicitation adhered to minority subcontracting requirements, contained a 51 percent minority ownership threshold and how "minority" was defined in the solicitation. In addition, we were to determine the estimated funding to be allocated to the multicultural marketing contract module and whether companies were limited in submitting their proposals during the prequalification phase of the contracting process. To address our objectives, we conducted interviews with Postal Service personnel and reviewed the contract solicitation and related vendor proposal files.

This review was conducted during the months of June and July 2000 in accordance with the President's Council on Integrity and Efficiency, Quality Standards for Inspections. We discussed our conclusions and observations with appropriate management officials and included their comments, where appropriate.

**Adherence to
Subcontracting
Requirements**

The initial advertising and promotion solicitation did not contain a requirement for contractors to submit a subcontracting plan. Subcontracting plans require companies to show the efforts they propose to subcontract with small, minority, and woman-owned businesses. According to the Postal Service contracting officer, he did not include subcontracting plan requirements because he believed that the contracts were exempted from this requirement by Postal Service policy.

We discussed the merits of including subcontracting plan requirements in the final contracts with the contracting officer and the manager, Advertising. Both stated that putting subcontracting plan requirements in the final contracts would not cause harm to either the Postal Service or the companies selected for the contracts and it would support the Postal Service's commitment to supplier diversity.

Subsequently, the vice president, Purchasing and Materials, advised us that Postal Service purchasing policy did not exempt the contracts from the subcontracting plan requirements and they should have initially been included in the solicitation.

**Multi-cultural
Allocation and 51
Percent Minority
Threshold**

The contracting officer and the manager, Advertising advised us \$7.5 million, about 5 percent of the \$150 million in advertising contract funds would be allocated to three minority firms to perform multi-cultural marketing work. We noted the initial prequalification solicitation stated " . . . a supplier of multi-cultural advertising services must be a member of that particular ethnic group for which they do work, and they must maintain a majority ownership of the company (51 percent) throughout the course of the contract."

However, during the question and answer phase of the prequalification phase, companies raised questions regarding the 51 percent ownership requirements. According to the contracting officer, based on the questions, the Postal Service realized this contract requirement was equivalent to a set-aside, which the Postal Service had decided not to provide. He stated the requirement had been included in the prequalification solicitation in error and prospective vendors were advised that it should be disregarded.

Subsequently, the Postal Service issued guidance, which stated ". . . the Postal Service cannot use . . . set-asides, preferences, or price and evaluation credits as ways of increasing contracts with minority and/or woman owned businesses." These requirements were written in conjunction with Postal Service Legal staff and were approved by the Legal staff, based on a 1995 Supreme Court decision. Our General Counsel reviewed the policy and determined it appears to be consistent with the court decision. However, we are currently reviewing this policy in more depth as part of an ongoing review of the Postal Service Supplier Diversity Program.

Definition of Minority

The Postal Service's definition of minority in the solicitation mirrors the federal government's Small Business Administration definition. Section L – Representations and

Certifications of the solicitation required vendors to self-certify their type of business organization status, including whether they are a small, woman-owned, or minority business concern. The solicitation provides definitions for each of the three listed categories to help vendors in their self-certification. The solicitation defines a minority business as a concern that is at least 51 percent owned by, and whose management and daily business operations are controlled by one or more members of a socially and economically disadvantaged minority group. Minority groups included U.S. citizens who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans.

For statistical reporting purposes, the Postal Service Purchasing Policy and Programs office classifies minority business, woman-owned business, and small business statistics as three distinct categories. However, a business could be included in the statistics for more than one category. For example, a small business owned by a minority, who was also a woman, would be counted in the statistics for each category—small, minority, and woman owned. Postal Service officials stated although a business may be included in each category, this approach did not result in double or triple counting of businesses in their statistical reporting. We will further address this area of statistical reporting in a separate ongoing review of the Postal Service supplier diversity program.

**Limitations on
Submitting Proposals**

Our review did not disclose any limitations on prospective companies rights to submit proposals on the advertising contracts during the prequalification phase. We noted, however, that even though they could have bid on any of the advertising modules, the minority companies only bid on the multi-cultural module.

**Audits of Advertising
Cost Proposals**

Our review of the contract files and discussions with the contracting officer determined that the Postal Service had not requested the Office of Inspector General to perform audits of the price proposals. However, we suggested and Postal Service purchasing officials agreed to allow us to audit the proposals for the contracts to be awarded. They agreed this would assist them in determining fair and

reasonable contract prices. We would be unable to complete the audits by contract award; therefore, the officials agreed to include language in the contracts, which would allow price adjustments based on the results of our audits.

**Management
Agreements**

As a result of our review, the vice president, Purchasing and Materials, agreed to:

1. Include a subcontracting plan clause in the advertising contracts.
2. Include language in the contracts allowing price adjustments, based on the results of the proposal audits.

As a result, this report does not contain suggestions or require a reply or further management action. However, if you have any comments on the report, please forward them to our office not later than July 21, 2000.

We appreciated the cooperation and courtesies provided by your staff during the review. If you have any questions, please contact [REDACTED], or me at (703) 248-2300.

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for Business Protection

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**Major Contributors to
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