

ERVIN and
ASSOCIATES

FT-193476

FAX
COVER

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To: Pat Morgan
From: David Ervin
Phone #: 301/469-3422

Date: 7/1
Pages: 35
(includes cover page)

COMMENTS:

Enclosed is one new FOIA request.

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**ERVIN and
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FE-193MM6

July 1, 1997

**Ms. Dolores Ammons Barnett
Contracting Officer**

Via Fax to (202) 401-2032 & U.S. Mail

**U.S. Department of Housing and Urban Development
Office of Procurement and Contracts
451 Seventh Street, SW
Washington, D.C. 20410-3000****Ms. Pat Morgan**

Via Fax to (202) 619-8365

**Director, Office of the Executive Secretariat
U.S. Department of Housing and Urban Development
451 Seventh Street, SW, Room 10139
Washington, D.C. 20410-0500**

Re: Financial Advisor #2 (DU100C000018419);
Outstanding Request for Debriefing (January 29, 1996) and
Freedom of Information Act Request

Dear Ms. Ammons-Barnett and Ms. Morgan:

On March 28, 1997, we submitted an appeal to HUD's denial of our Freedom of Information Act request (FI-151314) regarding the above-referenced procurement (Exhibit 1). George Weidenfeller, who at the time was Deputy General Counsel for Operations, issued a denial of this appeal on May 5, 1997 (Exhibit 2) in which he intentionally ignored the highly suspect circumstances surrounding this procurement and instead justified withholding all information based on pretextual reasons and overly broad applications of Exemptions. Since Mr. Weidenfeller has previously informed us that "Under the Department's FOIA regulations, there is no provision for a follow-up appeal after the appeal official has issued his administrative appeal decision," we understand that his position is that our only recourse regarding this decision is through Judicial Review in the U.S. District Court.

We fully intend to pursue this denial in front of Judge Bryant through our count on FOIA and through discovery once the stay regarding this procurement, which was requested by the U.S. Attorney due to their parallel criminal investigation, is lifted. However, we are also legally entitled to receive this information through a debriefing which HUD has refused to provide.

In the hope that Secretary Cuomo's administration will not choose to carry on the cover up of illegal activity that occurred under the previous administration, we are therefore again requesting that HUD comply with our debriefing request of January 29, 1996, and submitting a new FOIA request to be processed by the new administration.

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Outstanding Debriefing Request

On January 29, 1996, Ervin and Associates requested a debriefing on this procurement from Ms. Barnett (Exhibit 3). Although HUD awarded contracts and task orders based on the pre-corrective action rankings (copy of Justification for Award Notwithstanding a Protest attached as Exhibit 4), HUD has since refused to provide the legally required debriefing regarding the initial awards. HUD has instead rationalized that these rankings, which were the sole basis for awarding over \$20,000,000 in task orders, some of which are still going on today, were somehow "predecisional" due to the corrective action best and final. Ervin and Associates strongly objects to this obstructionist position and demands that Ms. Barnett finally provide us with our debriefing, which is now 17 months past due, including the seven items (a-g) we requested in writing with our initial debriefing.

To schedule this debriefing which we are legally entitled to receive, Ms. Barnett should call John Ervin directly at (301) 469-3410.

New Freedom of Information Act Request Regarding DU-18419

Additionally, please provide us with the following information under the provisions of the Freedom of Information Act:

- The overall evaluated cost and technical rankings of each successful offeror and Ervin and Associates upon which the initial contracts were let (Cushman and Wakefield, DU-18419, 1/24/96; Hamilton Securities, DU-18505, 1/24/96; Merrill Lynch, DU-18504, 1/24/96; and C.S. First Boston, DU-18506, 2/16/96).
- Any documentation regarding Helen Dunlap's involvement in this procurement while it was in process, including but not limited to cc: mail messages. Please note that Helen Dunlap was not approved to be involved in this procurement (Exhibit 5), and therefore any documentation of such involvement would document illegal activity and under the crime fraud exemption, cannot be withheld. Additionally, *U.S. News* has reported that Hamilton did not make the best and final range until Dunlap intervened, so we would expect a good faith search to provide documentation of this intervention.
- Any documentation that would explain why C.S. First Boston's contract was awarded over one month after the initial three contracts and not disclosed upon initial notification of unsuccessful offerors, including but not limited to the involvement of Nic Retsinas, as Source Selection Officer, to override or influence the recommendations of the SEB so that an award would be made to C.S. First Boston);
- The justification for the Crosscutting task order, including but not limited

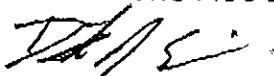
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to any contracting documents requesting such a task order be issued and the anticipated fees for such a task order.

Please note that the information requested is not for profit making activities. Considering this, Ervin and Associates should be considered a non-commercial requester and any fees assessed should be subject to the limitations on fees for non-commercial requesters.

Ervin and Associates agrees to pay up to \$100 for the processing of this request. If the anticipated fees exceed \$100, please call me at (301) 469-3422 so I may have the opportunity to reformulate the request.

Very truly yours,
ERVIN and ASSOCIATES, INCORPORATED



David J. Ervin