

UNITED STATES OF AMERICA
GENERAL ACCOUNTING OFFICE
PROCUREMENT LAW CONTROL GROUP

IN THE MATTER OF THE)
NATIONAL FIRE PROTECTION ASSOCIATION)
(B-224221.1))

NFPA STAFF RESPONSE
CONCERNING FEMA RFP EMW-86-R-2277
and
COMPARING NFPA and TRIDATA PROPOSALS

DATE: November 18, 1986

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I. INTRODUCTION

In a letter addressed to NFPA dated August 16, 1986, NFPA was informed that its proposal in response to RFP #EMW-86-R-2277 for major fire investigations was determined to be "outside the competitive range" due to technical factors. Further, the letter stated that "even with extensive modification, your proposal would not have a reasonable opportunity for selection." The letter was authored by Patricia A. English, FEMA's Contracting Officer. Since NFPA has had a long history of conducting major fire investigations of the type requested by FEMA in the RFP, and since for ten years it has been involved as a contractor to FEMA, NFPA immediately requested a detailed explanation of the vague wording used in Ms. English's August 18th letter. This debriefing took place on October 27, 1986 at FEMA's headquarters in Washington, D.C. During this debriefing session, NFPA learned of several alleged deficiencies in its response to the RFP and heard FEMA's opinion that the proposal was "weak and poorly presented," and that it "lacked detail and description." The areas of deficiency were then reviewed by FEMA's Mr. Coyle who presented some vague generalities regarding NFPA's proposal. Later these alleged deficiencies were also listed in a letter from FEMA's General Counsel, Spencer W. Perry, to the Honorable Charles A. Bowsher of the General Accounting Office.

This NFPA staff response addresses these allegations on a point-by-point basis by presenting specific portions of NFPA's proposal that directly responded to the requirements of FEMA's RFP. NFPA has also compared the purported deficiencies of the NFPA proposal on these points with the allegedly satisfactory proposal of TriData Corporation, the winning offeror. These comparisons are especially instructive. They show that, time and again, the TriData Corporation proposal used as its guidepost prior NFPA procedures and practices. For this reason, it is indefensible that the derivative TriData proposal should have been scored higher at all, much less evaluated as the only proposal in the competitive range.

A review of this report will show that each and every allegation made by FEMA lacks support and that FEMA's evaluations were clearly arbitrary and capricious. The report will also show that sufficient details and descriptions were provided in the NFPA proposal for a fair and unbiased evaluation; however, for some unknown reason the evaluation board apparently did not spend sufficient time or energy to appraise the specific details that were provided in the NFPA response and therefore determined the NFPA response to be "technically unacceptable." Further, this report will illustrate that the technical and management approaches reported in the successful TriData proposal were of no greater detail and description than provided in the NFPA proposal. Finally, NFPA will cite areas of the TriData Proposal that apparently responded to areas of bias of the Technical Review Panel, which only added to the unbalanced, unfair and unjust determinations reached by the panel.

The detailed review and analysis of both proposals has led the NFPA staff to conclude that there was not and is not any basis upon which a reasonably prudent person with technical understanding of a major fire investigations program could conclude that the TriData proposal was technically superior, while the NFPA proposal was technically unacceptable. It seems clear that a pre-selection bias influenced the evaluation process.

A. Understanding of the Program Requirements (20 points)

FEMA COMMENT: - previous work lacked detail and description, i.e., failure to present what major fires are all about.

NFPA RESPONSE: - In Appendix B-1 of the Response, NFPA provides FEMA with a listing of NFPA's Fire Investigative Reports dating from 1977 to 1986. The investigations cover a wide range of areas (occupancies, incidents, etc.) of intensified investigation by the NFPA. In total, nearly two hundred (200) investigative reports are cited. Most were investigated under contract, delivered and accepted by FEMA. Also, B-1 provides a description of other published reports, recent technical papers, technical information bulletins, films and slide packages that were produced as a result of NFPA's involvement with these investigations and made available to the fire community. Further, in Appendix B-2 NFPA provides a comparison of FEMA's criteria for investigation to completed NFPA investigative reports that satisfy the criteria. Also provided were actual examples of each type of investigative report required by FEMA. Each was written by a member of the investigative team. The reports contain the data elements cited as important to FEMA in their RFP.

- Page iv, Paragraph 2 -- "When major fires are investigated, the close working relationship between the investigators and NFPA fire data analysts helps the investigators to place the circumstances of the fire in historical context, while the close working relationship between investigators and NFPA codes and standards committee staff liaisons helps to pinpoint key factors in preventable fire development. When data on the fire experience of vulnerable populations is analyzed, NFPA's experience with public fire education programs provides insight into which patterns in experience hold the most potential for shaping successful programs and actions."
- Page 1-2, Paragraph 1 -- "NFPA will not only screen those events that result in major losses but will also identify success stories (i.e. lives saved because of a fire protection system operation, for example) that USFA may also want to make available to the National Fire Academy (NFA), other federal authorities, and parties interested in the nation's fire problem and related matters."
- Page 1-3, Paragraph 1 -- "The NFPA program is unique among private sector investigation programs because its reports are independent and objective and are actively disseminated to the fire community. NFPA's investigations are public because they are conducted to benefit all parties concerned with fire safety, not just one interested party. This makes for greater objectivity and is one reason why NFPA investigators are able to obtain the cooperation of local officials and property owners and managers without the compulsion of regulatory power or right of legal discovery."

- Page 1-18, Paragraph 1 -- "The NFPA maintains a close working relationship with the state and local fire marshals through the NFPA's Fire Marshals Association of North America (FMANA) and routinely communicates with them and other members of the fire community regarding important fire protection lessons learned as a result of NFPA's on-going fire investigative program."
- Page 1-21, Paragraph 2 -- "During a recent FEMA contract with NFPA for the investigation of major fires, candidate fire reports were routinely transmitted to FEMA to provide early-on facts of interest to the Agency well within the time frames specified by the FEMA RFP and analyzed in order to recommend program changes to FEMA."
- Page 1-32, Paragraph 3 -- "The investigative reports produced by the NFPA are continually used by the fire community for redirecting the course of fire protection throughout this country. NFPA fire investigations are looked upon by the fire community as the most objective accounts of major fire incidents."
- Page 1-32, 1-33, Paragraph 4 -- "This system has been used to deliver high quality, useful, and timely investigative products to the government and fire community."
- Page A-8, Paragraph 2 -- "The Fire Investigation and Applied Research Division conducts investigations of major fires of technical or educational interest. Important lessons learned from the fires provide input to NFPA Technical Committees and technical programs and are distributed to the fire community. The Division conducts applied research projects to further the fire safety technical knowledge base. A computer fire simulation

model is available. It can predict fire development, spread of combustion products, and people movement in a residential occupancy. Further, the Division conducts human behavior studies of fire victims."

TRIDATA'S RESPONSE: - TriData presents in its background section on page 5 a general discussion of their understanding of the program requirements. Also on Page 5 they cite their understanding of what could be performed by making reference to NFPA's investigations (although NFPA authorship is not cited by TriData) as evidence of their understanding of the work to be performed, and uses NFPA results as examples of reductions in hotel fire safety. TriData, on Page 7 of its proposal, uses an inappropriate application of major fire programs as an example of the purpose that the program can serve.

CONCLUSION: NFPA's proposal clearly demonstrated its understanding of the program requirements; it is apparent that TriData knows and understands NFPA's success in this program area since TriData references reports produced by NFPA and goals and objectives accomplished by NFPA's program. The derivative TriData proposal must be considered weaker than NFPA on this issue.

B. Project Organization and Management (25 points)

FEMA COMMENT: - Methodology for accomplishing work was lacking.

NFPA RESPONSE: - Page 1-21 "NFPA's standard format for investigative data retrieval will be used by the investigator to insure no important incident details are lost." These features are expected to be in such areas as automatic sprinkler and/or fire detection performance, human behavior data, fire department tactics, fire death and injury details,

EMS and firefighter operations. In conducting investigations under contract, NFPA investigators will use a standard data collection format for documenting incident details and for insuring that important data is collected and forwarded to FEMA in a timely manner. Some specific component of NFPA's overall methodology is included in Appendix B-3 and B-4.

- Table 1, Pages 1-5 thru 1-8 -- Portrays the diversity of NFPA's experience in investigating all types of fires of interest to FEMA and cites specific example of multiple incidents that the investigative team has in each of FEMA's areas of interest.
- Page 1-24 -- "NFPA investigators will work primarily with the fire department jurisdiction having regulatory authority to conduct the investigation. Through this network the investigators will gain access to the scene and will be able to collect the needed data requested by FEMA. Other officials within the jurisdiction, such as the building official, will also be contacted, allowing the investigator to expand the depth of the data collection effort."
- Page 1-24, 1-25 -- "NFPA investigators will use the latest techniques in fire loss analysis in conducting the investigation and have experience in conducting and writing reports of this type of investigation (see Appendix B-2)." Appendix B-2 demonstrates NFPA's knowledge of the methodology for conducting major fire incident investigations by providing a comparison of FEMA's criteria to an actual investigation conducted by a member

of the investigative team. Further, B-2 includes additional reports authored by the investigative team which demonstrated their individual understanding of the methodology.

- Page 1-20 -- "The NFPA is experienced in communicating with the fire service personnel regarding fire incident details and has a standardized format in use to collect data while expending a minimal effort in the collection process." The specific component of NFPA's methodology is included in Appendix B-3 and B-4.
- Page 1-3 -- "This makes for greater objectivity and is one reason why NFPA investigators are able to obtain the cooperation of local officials and property owners and managers without the compulsion of regulatory power or right of legal discovery. Further, the NFPA is an organization that is well known to these groups and others involved in fire loss analysis and whose mission and objectives are known and understood."
- NFPA's methodology for accomplishing the work is presented on pages 1-12 through 1-29 and provides specifics on how the work is to be accomplished and by what mechanisms the work will be accomplished. In addition, NFPA included in Appendices B-3 and B-4 sample data retrieval forms that are in place and currently being used by the NFPA staff to document candidate, limited-scope and full-scale investigative details.
- On pages 1-12 through 1-29 NFPA demonstrates its understanding and familiarity with the details requested by FEMA by citing that NFPA's investigators are currently involved and experienced in the investigative reporting desired by FEMA. Further, NFPA

demonstrates its ability to draw from its in-house technical experts when complex incidents require coordination and demonstrates its ability through its proven methodology to analyze complex fire incidents and to clearly communicate the results to the fire community. Finally, NFPA demonstrates its ability to produce investigative reports of the type required by FEMA in a timely professional manner. Examples:

1. Notification of Candidate Fires page 1-21
2. Communication with FEMA's COTR page 1-5
3. Decision making page 1-15
4. Technical and editorial review page 1-30

TRIDATA'S RESPONSE - TriData's RFP on page 9-15 portrays their ability to accomplish work and assure completion of a task. TriData uses an approach similar to the successful NFPA program and mimicks NFPA's approach very closely; however, the TriData approach lacks the diverse approach to access local officials presented in the NFPA response.

CONCLUSION: - NFPA's response specifically and in detail satisfies the FEMA RFP criteria. The TriData response uses NFPA's long established, successful fire investigations program as a model and uses some of its successful contacts and approach; however, TriData's proposal lacks the technical resources presented in the NFPA response, such as NFPA's 36,000 members. Clearly the TriData proposal should have been scored lower than NFPA's proposal on Project Organization and Management factors.

C. Experience and Qualifications of Key Staff (45 points)

1. FEMA COMMENT: - The proposal did not specifically address the ability to access key officials for fire investigations.

NFPA RESPONSE: - The response detailed specifics and demonstrated its ongoing ability to access key officials for fire investigations and proposed that it would strengthen these lines of communications through currently established liaisons with the Fire Marshal's Association of North America and the International Association of Fire Chiefs. Further, NFPA's access to key officials for fire investigations was cited in the response through NFPA's mention of its on-going coordination of fire investigations with the three model building code groups throughout this country. NFPA also demonstrated that its strength in gaining access to key officials was present in that the NFPA program is known and well understood by such individuals and whose goals and objectives were also well understood. The NFPA has unparalleled experience, and their fair and accurate reporting of fire incidents is well known by these individuals.

- Page 1-3 cites the NFPA's experience in conducting over three hundred (300) major fire investigations throughout the United States and notes that the NFPA has obtained the cooperation of local authorities in conducting their onsite surveys for these incidents.
- "NFPA investigators will work primarily with the fire department jurisdiction having regulatory authority to conduct investigations. Through this network the investigator will gain access to the fire scene and will be able to collect the needed

data requested by FEMA. Other officials within the jurisdiction, such as the building official, will also be contacted, allowing the investigator to expand the depth of the data collection effort."

2. FEMA COMMENT - Staff lacked ability to integrate a concise overview of multiple activities.

NFPA RESPONSE: - The resume of each member of the project team was included in the RFP. Each resume cited the investigator's individual training and experience that uniquely qualify him to conduct investigations of the type required by FEMA. In addition, Section 3 - "Organization and Work Effort" cited a number of additional technical experts that were available to assist NFPA investigators in the documentation of a variety of incidents such as fire fighter health and safety, hazardous materials incidents, building construction and fire safety system performance, etc. In addition, this section cited that technical specialists could be used to investigate unique incidents, if necessary. No other organization in this country has such an on-board staff of diverse technical specialists to support an investigation program of this nature.

Further, the experience of the project manager to provide guidance to the principal investigators was cited as an additional advantage in documenting multi-disciplinary incidents. The project manager has had vast experience in documenting such complex events and would provide guidance to the principal investigators throughout the investigative process as was detailed in the response. NFPA's in-house "back-up" staff of technical experts were also included as resources that could be used if desired by FEMA's COTR.

3. FEMA COMMENT - Limited description of capabilities for editing, research and other project-related skills and internal technical reviews.

NFPA RESPONSE - In section 4 "Experience", NFPA included resumes for the staff assignments to the project which included technical editing, report writing and editing. In addition, NFPA presented that for each investigative report produced, the documentation would be reviewed by technical reviewers who have vast experience in editing investigative reports. Further, NFPA's in-house editorial staff would review each investigative report as detailed in its response.

4. FEMA COMMENT - Little time allocated for staff with strongest qualifications.

NFPA RESPONSE - Page iv of the response, NFPA presents its project manager for the project who has nearly two decades of experience in major fire investigations and a decade of involvement with the major fire investigation program, first with FEMA's U.S. Fire Administration, as a technical officer for the program, and then as a principle investigator for the contractor on the project (the NFPA). Further, NFPA cites the diverse educational and technical backgrounds of the principle investigators and cites their experience in fire protection and building code enforcement and their experience in conducting major fire loss investigations. Each principal investigator, as noted in his resume, has unique experience, training, education, and qualifications for his inclusion on this project. Each member of the investigative team is fully qualified to conduct investigations of the type specified in

the FEMA RFP. As noted in the organization and management section, they are supervised and supported by the project manager whose broad experience is cited in his resume. In addition the principal investigators are supported by technical experts who provide reviews of their conclusions and lessons learned. (See Section 3 "Organization Work Effect".)

5. FEMA COMMENT - Principal investigators lacked real-world experience in investigating major fires.

NFPA RESPONSE: - In addition to the resumes and special qualifications of each principal investigator, NFPA provides in Appendix B-1 specific investigative reports that have been authored by the principal investigators. In addition, on page 1-13 and continuing on page 1-14, NFPA provides FEMA with examples of the experience of its investigative team and cites the years of experience in enforcing building and fire codes by Mr. Klem and Mr. Kyte. In addition, NFPA cites its investigators' analytical capability and experience to access the fire incident data and determine, through analysis, the significant factors effecting the outcome of the incident and the lessons learned for loss prevention purposes. NFPA's investigative team is comprised of three individuals who have practical fire investigative experience, technical fire protection engineering backgrounds, experience in reporting major fire occurrences on a national scale, and each has worked on a past FEMA contract for the investigation of major fires.

- Page 3-3 - Provides the continued training of the investigative team specifically "Individuals who fill these positions have high technical experience and/or training in the fields of engineering, loss analysis, building construction, technical report writing, fire service, fire investigation and other related areas. The staff is currently fully trained in conducting the various tasks required in documenting major fire occurrences. Each staff member is experienced in working with a similar FEMA contract and has produced high quality investigative reports as a result of his involvement."
- Appendix B is provided to demonstrate NFPA's experience in the investigation of major fires. B-2, for example, provides sample investigative reports of each type of investigation required by FEMA, written by members of the investigative team.

6. FEMA COMMENT - Investigators lack Multi-disciplinary skills.

NFPA RESPONSE: - On Page 1-3 of the response, NFPA has demonstrated its success in obtaining cooperation of the local officials by its involvement in over 300 major fire investigations throughout the United States covering a diverse range of fire safety topics. On page 2-2 the multi-disciplinary skills of NFPA's principal investigators are supported by NFPA's use of back-up investigators who have unique qualifications in the many diverse fields, i.e. public protection, hazardous materials, flammable liquids, automatic sprinkler systems and life safety code expertise. Further, assuming that FEMA'S criteria represent the multi-disciplinary skills necessary, Table 1 on Page 1-5 through Page 1-8 cites specific examples of the investigative team's involvement in each of these

categories. It should be noted that the investigative team is cited on each of the thirteen (13) listed criteria either specifically in Table 1 or in the list of published and unpublished works in Appendix B-2.

7. FEMA COMMENT: - The appropriateness of principal investigators
NFPA RESPONSE: - In addition to the above noted qualifications of the principal investigators, on page 1-12, NFPA provides FEMA with specific examples of the principal investigators' abilities, as demonstrated through their past reports, how they address key issues and have communicated their findings, conclusions and lessons learned to the fire community. In addition, NFPA provided FEMA with specific reports authored by the principal investigators and included reports in Appendix B-2 of the response.
8. FEMA COMMENT - Staff was suppression oriented.
NFPA RESPONSE: - On Page 3-3 of NFPA's response, NFPA provides FEMA with descriptions of the diversity of the backgrounds, i.e., "the investigators have fire technology and fire protection engineering education and they have high technical experience and/or training in the fields of engineering, loss analysis, building construction, technical report writing, fire service, fire investigation and other related fields." Further, it is cited that the staff is currently trained in conducting the various tasks required and documenting major fire occurrences and that they are familiar with, and worked as investigators on, a similar FEMA contract and have produced high quality investigative reports as a result of their involvement with FEMA's contract. In addition, NFPA selected individuals who required no start-up training or field recruitment because they were

in-house personnel. NFPA also has its principal investigators actively participating in the New England Chapter of the Society of Fire Protection Engineers and participating in continuing education programs such as "Life Safety Seminars" and "Residential Sprinkler Workshop." Further, NFPA cited that each investigator reviews the technical literature circulated throughout the Division, researches technical issues surfaced during the course of an investigation and communicates on a daily basis with other highly trained, technically educated fire protection specialist that comprise the NFPA staff. Further, NFPA cites that two of the investigators participated in a three-day training program given by NBS Center for Fire Research on computer fire modeling.

TRIDATA RESPONSE: - Since the resumes of the key investigators included in the TriData response have not been provided to NFPA, it is impossible to respond to the specific experiences and qualifications of the submitted staff. However, it is known that TriData has no qualified full-time staff in its employ to perform fire investigations to meet the objectives of the Contract. Since NFPA's program for conducting major fire investigations is unique among the private sector organizations, we can unequivocally state that no other organization in the country is currently and routinely conducting investigations to meet the purposes requested in FEMA's RFP and therefore no one can demonstrate, as required by FEMA's evaluation criteria, their ability to investigate and analyze major fires in a timely manner and their ability to support their findings in narrative form.

NFPA investigators are thoroughly familiar with a fire investigations program similar to that requested by FEMA, display their ability to access key officials routinely, and are routinely dispatched to fire scenes within 24 hours as requested by FEMA. The proposed TriData "investigative team" members are not full-time staff of TriData and as a result can only respond to FEMA's needs for major fire investigations on an Ad Hoc basis. FEMA's needs for rapid response conflict with this managerial approach and it will not provide FEMA with the kind of response FEMA desires. Other duties of the key staff will likely preclude their proper response and attention. The NFPA investigators are full-time employees of NFPA and routinely respond to fire emergencies activated by the existing NFPA protocol.

CONCLUSION: NFPA's proposed staff and additional staff made available to FEMA through its "back-up" team are experienced and highly qualified to conduct investigations of the type requested by FEMA. The technical review panel apparently failed to recognize the experience of the staff proposed in NFPA's response. The education and experience of NFPA's team goes far beyond FEMA's arbitrary "suppression oriented" comment. The in-house personnel and resources on which NFPA draws for its fire investigations are simply unequalled by any other public or private organization. Clearly, NFPA had to score higher than TriData in this area.

D. Facilities and Equipment (10 points)

FEMA COMMENT: - Wasn't sufficient detail on equipment that would be used on the project: materials, research capabilities, visuals; reference to outside lab report.

NFPA COMMENT: - Page A-8 "NFPA also maintains the Charles S. Morgan Technical Library which was founded in 1945. The library, which covers all facets of the fire problem, comprises the largest fire protection collection in the United States, and is one of the world's finest English-language resources in its field. The technical and reference data contained in this continually expanding collection numbers approximately 5,000 books, 250 periodical titles, 12,500 technical reports, 13,000 pieces of microform, 275 film reels, 350 audiocassette tapes, 45 shelf-feet of voluntary industrial standards, and 200 shelf-feet of NFPA published archives dating back to 1896."

- Page 3-8 of the response cites specific equipment and details that are necessary to perform major fire investigations and to communicate the results, through investigative reports, to FEMA, satisfying their criteria.
- Listed on page 3-8 of the response are the tools which support the staff that include electronic typewriters, word processing, duplicating equipment and various other office equipment. In addition, it provides FEMA with the information that NFPA works with technical artists in illustrating key components of investigative reporting.

- Reference to NFPA's outside lab approach is cited on page 1-29 and demonstrates to FEMA the experience that NFPA staff members have in the collection of key components of an investigation and their familiarity with processing of those materials for identification and/or laboratory analysis. The NFPA response cites that the investigators will coordinate the identification and packaging of the materials with the Center for Fire Research for specific laboratory analysis.

TRIDATA'S RESPONSE: - Pages 49-53 of TriData's response presents a description of the facilities and equipment to be used in the contract.

CONCLUSION: - It is clear from the discussion above that NFPA demonstrated to FEMA in its proposal that it possessed diversified facilities and equipment for accomplishing the objectives of the FEMA Contract and that the facilities and equipment of the TriData response were clearly not superior to those facilities proposed by NFPA. Moreover, the text in NFPA's proposal logically links the support facilities and equipment to the proposed project performance. NFPA should have scored higher than TriData on Facilities and Equipment factors.

II. CONCLUSIONS

After a detailed review of the allegations made by FEMA in the October 27, 1986 debriefing session with NFPA, and FEMA's letter to GAO of October 30, 1986, and comparison of the NFPA proposal with what FEMA deemed "acceptable," the conclusion is compelled that the allegations cannot be supported, and in fact, completely sufficient detail and description were provided in the NFPA proposal. As a result, NFPA's proposal should not have been determined by FEMA to be "technically unacceptable." Further, NFPA's review and technical evaluation of the winning proposal from TriData indicate that the TriData proposal was modeled on NFPA's successful, long-standing and productive major fire investigations program and that the TriData proposal to FEMA was based upon the results of that successful program. For example, on page 7 of its proposal, TriData uses conclusions taken from NFPA investigations as examples of TriData's understanding of the purposes of a major fires program. It seems clear that even TriData recognizes the expertise of NFPA investigators, the thoroughness of their reports and displays, and the diverse audience that NFPA investigative reports reach. It seems equally clear that the TriData Proposal was inappropriately classified by the technical review committee as technically superior to NFPA's proposal. It is also clear to NFPA that NFPA's proposal was inappropriately determined by FEMA to be "outside the competitive range." In short, the TriData proposal's methodology was not superior to NFPA's in technology, scope or detail.

FEMA's Technical Review Panel is intimately familiar with NFPA's approach in the investigation of major fires and has first-hand knowledge of its success in the reduction of lives lost due to fire directly attributable to this program enhancement. However, with such understanding and

knowledge of NFPA's great success in providing investigative reports to FEMA for over 10 years, NFPA can only conclude that FEMA's approach to the evaluation of this contract was hurried, its Technical Review Panel lacked the technical background and experience to evaluate proposals for a major fires program, or that FEMA and the panel were influenced and biased in their evaluation of the NFPA proposal, for reasons not yet clear to the NFPA staff. In no other apparent way could the two proposals reviewed in this report be considered to have been so technically different from another.