

1990-19(I)

## South Carolina Procurement Review Panel

HON. GRADY L. PATTERSON  
SEN. GLENN F. MCCONNELL  
REP. GEORGE H. BAILEY

SUITE 506, EDGAR A. BROWN BUILDING  
1205 PENDLETON STREET  
COLUMBIA, SOUTH CAROLINA 29201  
(803) 734-0660  
TELECOPIER (803) 734-1427

HON. JULES J. HESSE  
HON. ROY E. MOSS (GEN. RET.)  
HON. KIFFEN R. NANNEY  
HON. GUS J. ROBERTS  
HON. CAROL BAUGHMAN

ROBERT E. DAWKINS  
ADMINISTRATIVE ASSISTANT TO THE PANEL

FAYE A. FLOWERS  
ATTORNEY FOR THE PANEL



SEN. HUGH K. LEATHERMAN  
CHAIRMAN

February 1, 1991

George C. Leventis, Esq.  
Deputy General Counsel  
Department of Education  
1429 Senate Street  
Columbia, S.C. 29201

Senator Joe Wilson  
606 Gressette Building  
Columbia, S.C. 29202

Representative David Wright  
Room 323-D Blatt Building  
Columbia, S.C. 29201

Re: Department of Education Bus Purchases

Dear Gentlemen:

Pursuant to your requests that the Procurement Review Panel look into certain allegations made in a lawsuit involving Navistar International, Joe Bales, and Crandall Corporation, the Panel instructed its counsel to gather and review all available relevant information and report back to the Panel. In response to this direction, our attorney has reviewed bus purchase vouchers, documents contained in General Services' bid files, the depositions of Jack Faulk, David Houser, Joe Bales and David Garvin, and certain other correspondence.

Based on the review and report of our attorney, the Panel finds no justiciable procurement issues in the allegations raised in the referenced lawsuit. Specifically, those allegations are that, in 1986 and 1987, an employee of Navistar International required a subcontractor, Crandall Corporation, to add two or three dollars to its invoices for installation of fuel filters and used the extra money to provide a speaker and fishing trips to Department of Education employees.

Messrs. Leventis, Wilson and Wright  
February 1, 1991  
Page Two

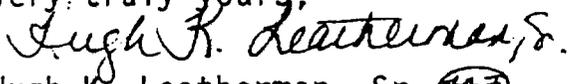
The surcharges did not affect the price to the State because the State's contract was with Navistar only and the price was fixed prior to the surcharges. General Services handled the original bus procurements, not the Department of Education, and the contracts were awarded to the low bidder in a public bid opening after competition. No allegation exists that any employee of General Services was offered or accepted any trips or other gratuities.

Further, Department of Education employees, including Joe Bales, had only advisory roles in drafting the specifications with the ultimate authority reserved to General Services. Prior to releasing the specifications, General Services received input from all of the vendors bidding on the contracts.

Because no allegation or evidence exists that the surcharges and/or trips affected or influenced the procurement of the buses in any way, the Panel lacks jurisdiction to hear this case. Section 11-35-4410 empowers the Panel to review any "decision, policy or procedure arising from or concerning the expenditure of state funds for the procurement of any supplies. . . . in accordance with [the Code] . . . ." The only decision concerning the expenditure of state funds in this case was the award by the State of the bus contracts to Navistar. As stated earlier, the formal bidding procedure was followed in awarding the contracts and Navistar was the legitimate low bidder.

Although no justiciable procurement issues exist, the allegations of the surcharges and the trips may well raise ethical and other issues which are beyond the purview of the Panel. It is the Panel's understanding from published reports that the FBI and SLED are investigating certain aspects of this case.

If you would like any further information, please feel free to contact the Panel's attorney.

Very truly yours,  
  
Hugh K. Leatherman, Sr. (HAF)

cc: Richard W. Kelly  
Helen Zeigler