



NUTDOCS
RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA — 90-11

RESPONSE TYPE

FINAL PARTIAL

DATE

FEB 7 1990

DOCKET NUMBER(S) (if applicable)

REQUESTER
Mr. James Bickman

PART I. — AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

No agency records subject to the request have been located.

No additional agency records subject to the request have been located.

Requested records are available through another public distribution program. See Comments Section.

Agency records subject to the request that are identified on Appendix(es) _____ are already available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20555.

Agency records subject to the request that are identified on Appendix(es) C are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

Agency records subject to the request that are identified on Appendix(es) _____ may be inspected and copied at the NRC Local Public Document Room identified in the Comments Section.

Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

Agency records subject to the request are enclosed.

Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.

You will be billed by the NRC for fees totaling \$ 65.08

In view of NRC's response to this request, no further action is being taken on appeal letter dated _____, No. _____

PART II. A — INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, sections B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

COMMENTS

The fees associated with the processing of your FOIA request are as follows:

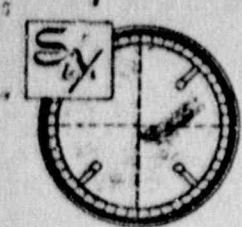
Professional Search/Review - 1 hour = \$24.88
Reproduction of Records - 201 pages = \$40.20
Total = \$65.08

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

9002150276 900207
PDR FOIA
BICKMAN90-11 PDR

APPENDIX C

1. Package of Electrical Drawings and Technical Data (57 pages)



Stocker & Yale, Inc.

P.O. BOX 494
ROUTE 128 AND BRIMBAL AVENUE
BEVERLY, MASSACHUSETTS 01915-0344
TEL: 508-927-3940 FAX: 508-927-8756

January 4, 1990

Mr. Steve Baggett/Mr. Tom Rich
Nuclear Regulatory Commission
7735 Old Georgetown Road
Bethesda, MD 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-90-11
Rec'd 1-10-90

Gentlemen:

Enclosed please find a copy of S&Y protest of award to the Marathon Watch Company.

Under the Freedom of Information Act please furnish us copies of the following regarding Marathon Watch Company:

1. Copy of any NRC license issued to them.
2. Copies of any license application package that they might have submitted to the NRC--on watches and/or compasses.
3. Copies of any correspondence relative to the above.

We look forward to your response and thank you in advance for your kind attention.

Sincerely,

STOCKER & YALE, INC.

James Bickman
James Bickman
President

JB/khs

Enclosure

9002020257 (4pp)



Stocker & Yale, Inc.

P.O. BOX 494
ROUTE 128 AND BRIMBAL AVENUE
BEVERLY, MASSACHUSETTS 01915-0344
TEL: 508-927-3940 FAX: 508-927-8756

January 4, 1989

Comptroller General of the United States
General Accounting Office (GAO)
Washington, D.C. 20406

Reference: Solicitation No. FCGA N3-126-9-13-89
GSA Notice of Award to Marathon Watch Company

Gentlemen:

We have been notified by letter of December 22, 1989 from General Services Administration, Federal Supply Service, Washington, D.C. 20406, that award for Wrist Watches under the above referenced solicitation has been made to:

Marathon Watch Co. Ltd.
67A Steelcase Road W.
Markham, Ontario L3 R 2M4
CANADA

The letter says that they were the lowest responsive responsible offeror (a copy is attached).

Stocker & Yale, Inc. (S&Y) protests and objects to award of a contract to Marathon based on the following:

1. The solicitation says (Page 3): Watch, Wrist
"In accordance with Type 1 of Military Specification MIL-W-46374E, dated May 31, 1989."

This specification says (page 4) paragraph 3.2.1.2:

"Nuclear Regulatory Commission License.
AT THE TIME OF CONTRACT AWARD, CONTRACTOR MUST POSSESS A VALID U.S.
NUCLEAR REGULATORY COMMISSION (NRG) or agreement Byproduct Material
License which authorizes possession of sufficient elemental tritium
to fulfill contract requirements and which authorizes manufacture
of radioactive instruments and articles (i.e., watches). THE CONTRACTOR
MUST ALSO POSSESS AN NRC LICENSE ISSUED PURSUANT TO 10 CFR 32 WHICH
AUTHORIZES MANUFACTURE AND DISTRIBUTION TO THE GENERAL PUBLIC OF
THE CONTRACTED WATCHES AS LICENSE EXEMPT ITEMS. A copy of these
licenses, with license application package, will be provided to
the contracting officer."

2. Stocker & Yale categorically states that Marathon does not possess the required license and therefore could not have provided same to the contracting officer, and therefore should not have been awarded a contract.

3. S&Y contends that Marathon deliberately perpetuated this very serious deception so as to receive a contract under false pretenses and that such an action borders on fraud.

Mr. Wien, the owner of Marathon, should know how to read a watch specification since he has bid on other watch procurements. Several years ago he was awarded a contract for watches by the Air Force. The specification called for the dial and hands to be self-luminous by the use of paint containing either Tritium or Promethium 147 radioisotopes.

S&Y procured two of his watches from the Bailment Program of the Defense General Supply Center and our examination revealed that they contained no such self-luminous material--even though the dial was marked with the radioactive symbol.

This is a clear violation of the labeling regulations of the Nuclear Regulatory Agency and of the specifications. The watches are identified as:

Watch Wrist - Marathon Model 211
NSN: 6645-00-066-4279 (by Gallet & Co. - Switzerland)

S&Y has recently notified the technical center at DGSC (Ms. J. Ramsey), Picatinney Arsenal (P. Tremblay) and the NRC (T. Rich) of this occurrence.

Such action is certainly not responsible by either Marathon or his supplier, Gallet of Switzerland.

4. The revision "E" version of MIL-W-46374 contains the requirement that the self-luminous sources of tritium be encapsulated in glass vials which are properly and carefully assembled into place on the delicate watch hands and dial so that there are 14 such tiny vials in the finished watch. The NRC regulations require that a license be issued by them when they can be assured that a particular product, properly identified, is so designed and manufactured as to be radiologically safe and that the containment of these vials is proper and can withstand prescribed testing so as to prove that the product would be no hazard to the general public--as the NRC valid license is intended to ascertain.

The use of these glass vials puts the watch into a different category than that used for the previously allowed self-luminous paints as controlled by the NRC. This fact is well-known to both Marathon and Gallet, and it was incumbent upon them, more so than the contracting officer, to state that they did not possess a valid license from the NRC.

Stocker & Yale, Inc.

5. While it is a fact that Marathon was put on the Qualified Products List on about December 20, 1989 and thus fulfilled one of the requirements (i.e. Par. 3.1) for receiving an award, they did not possess the valid license as per 3.2.1.2.

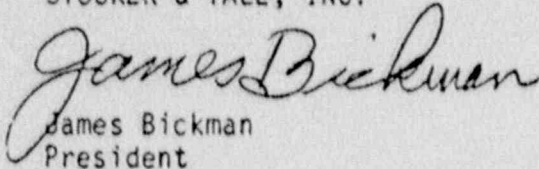
Accordingly, whereas the contractor erred and Marathon did indeed engage in deliberate deceit, the award should be set aside. Furthermore Marathon should be permanently barred from bidding on any future U.S. Government procurement.

Please note that although the letter from GSA was dated December 22, 1989, S&Y did not received it until January 2, 1990.

We look forward to your favorable reply and would be glad to answer any questions.

Sincerely,

STOCKER & YALE, INC.


James Bickman
President

JB/khs

cc: Marianne Cole (CPPD)/Mary Cunningham - GSA
Attorney Stewart Cable, Goodwin, Procter & Hoar
Congressman Nicholas Mavroules, Washington D.C. & Salem Office
Mr. Baggett/Mr. Rich - Nuclear Regulatory Commission
Mr. Paul Tremblay, SMCAR-BAC-S, Picatinny Arsenal