

FOIA — 90-312

RESPONSE TYPE

 FINAL PARTIAL

DATE

JAN 30 1991

DOCKET NUMBER(S) (if applicable)



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

REQUESTER

Mr. Joseph R. Smagala

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

<input type="checkbox"/>	No agency records subject to the request have been located.
<input type="checkbox"/>	No additional agency records subject to the request have been located.
<input type="checkbox"/>	Requested records are available through another public distribution program. See Comments Section.
<input type="checkbox"/>	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.
<input checked="" type="checkbox"/>	Agency records subject to the request that are identified on Appendix(es) <u>A</u> 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 the FOIA number and requester name.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input type="checkbox"/>	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.
<input checked="" type="checkbox"/>	Agency records subject to the request are enclosed.*
<input type="checkbox"/>	Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
<input checked="" type="checkbox"/>	You will be billed by the NRC for fees totaling \$ <u>20.00 (duplication)</u>
<input type="checkbox"/>	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

<input checked="" type="checkbox"/>	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 *During a telephone conversation on December 14, 1990, between Marshall Sapperstein and Nina Pugh of our offices, it was agreed that you would revise your FOIA request to now accept a non-proprietary version of the winning technical proposal for Sol. RS-IRM-89-148, with the understanding that you may at a later time resubmit a new FOIA request requesting the proprietary version of this technical proposal. In this conversation it was also agreed that you would withdraw your request for a copy of the winning cost proposal, however, you wished to receive documentation reflecting those vendors submitting proposals for this solicitation along with their relative rankings. Copies of the records identified on enclosed Appendix A and copies of the releasable portions of the records identified on enclosed Appendix B are enclosed as being responsive to your request. For your information, since this was a negotiated contract, no abstract, as such, was written. However, the offerors prices are as follows:

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLIC AFFAIRS/ICES

Donna H. Kinsley

9102200272 910130
PDR FOIA
SMAGALA90-312 PDR

PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) B are being withheld in their entirety or in part under the Exemptions and for the reasons set forth below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(c) of NRC Regulations.

- 1. The withheld information is properly classified pursuant to Executive Order (EXEMPTION 1)
- 2. The withheld information relates solely to the internal personnel rules and procedures of NRC (EXEMPTION 2)
- 3. The withheld information is specifically exempted from public disclosure by statute indicated (EXEMPTION 3)
 - Sections 141-145 of the Atomic Energy Act which prohibit the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165)
 - Section 147 of the Atomic Energy Act which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167)
- 4. The withheld information is a trade secret or confidential or financial information that is being withheld for the reason(s) indicated (EXEMPTION 4)
 - The information is considered to be confidential but not proprietary information.
 - The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
 - The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
- 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation (EXEMPTION 5). Applicable Privilege:
 - Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney Work product privilege (Documents prepared by an attorney in contemplation of litigation)
 - Attorney-Client privilege (Confidential communications between an attorney and his/her client)
- 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy (EXEMPTION 6)
- 7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated (EXEMPTION 7)
 - Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow them to take action to shield potential wrongdoing or a violation of NRC requirements from investigators (EXEMPTION 7(A))
 - Disclosure would constitute an unwarranted invasion of personal privacy (EXEMPTION 7(C))
 - The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources (EXEMPTION 7(D))
- OTHER

PART II C - DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25(c) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			SECRETARY	EDO
Timothy F. Hagan	Acting Director, Division of Contracts and Property Management, ADM	App. B		X

PART II D - APPEAL RIGHTS

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified in that section. Any such appeal must be in writing and must be made within 30 days of receipt of this response. Appeals must be addressed as appropriate to the Executive Director for Operations or to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

\$343,051.
321,997.
282,185.
247,946.
128,975. (24 port) same vendor
127,835. (16 port)

Please note that there is no correlation between the listing of prices and any listing of offerors in the text of these records. This listing of prices is being supplied in order to provide you with the range of prices submitted by the vendors for this solicitation. We are unable to provide a direct correlation between the vendor and their best and final offer as such information would fall under Exemption 4 of the FOIA. Also, your company's cost has not been disclosed as these records are being made publicly available at the NRC's Public Document Room. This completes NRC's action on your FOIA request.

APPENDIX A

RECORDS MAINTAINED IN THE PDR UNDER THE ABOVE REQUEST NUMBER

NUMBER	DATE	DESCRIPTION
1.	9/25/89	VSSI Technical Response to NRC's Solicitation RS-IRM-89-148, (33 pgs.).
2.	1/30/90	Best and Final Offer Response for RS-IRM-89-148, "Acquisition of a Voice Mail System," to the NRC from VSSI, (51 pgs.).

APPENDIX B

DOCUMENTS BEING RELEASED IN PART

NUMBER	DATE	DESCRIPTION
1.	Undated	Identity, Ranking, and Prices by All Offerors, (1 pg.). - EXEMPTION 4
2.	1/12/90	Memorandum, subject: "Competitive Range Recommendation Report for Solicitation RS-IRM-89-148, 'Acquisition of a Voice Mail System' (VOM)," (6 pgs.). - EXEMPTIONS 4 AND 5
3.	5/8/90	Memorandum, subject: "Response to Request for Best and Final Offer II Under Request for Proposal RS-IRM-89-148," - (5 pgs.) - PORTIONS OUTSIDE SCOPE OF REQUEST
4.	5/24/90	Memorandum, subject: "Final Evaluation Recommendation Report for Proposals Submitted Under RFP 90-206, Purchase of Voice Mail System," (4 pgs.). - EXEMPTIONS 4 and 5