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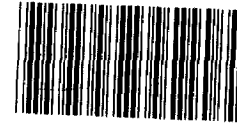
HUMAN RESOURCES
DIVISION

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SEPTEMBER 28, 1981

B-197003.2

The Honorable Howell Heflin
United States Senate



117105

Dear Senator Heflin:

Subject: Review of Pension and Fringe Benefits for Contractors' Employees at ~~the~~ National Aeronautics and Space Administration's Marshall Space Flight Center (HRD-81-142)

In response to your June 27, 1980, request and subsequent discussions with your office, we have reviewed the allegations made in a June 1, 1980, letter to you by Mr. Irving S. Sainker, a professional employee at the National Aeronautics and Space Administration's (NASA's) George C. Marshall Space Flight Center (Marshall) in Huntsville, Alabama. On September 27, 1979, NASA selected Kentron International, Incorporated, to provide certain institutional support services at Marshall. The Hayes International Corporation had held the contract to provide these services since 1971.

In his letter, Mr. Sainker 1/ stated that, as a result of the contractor changeover from Hayes to Kentron, professional employees at Marshall, in particular members of the engineering group which he chaired, lost pension and fringe benefits. Specifically, he stated that the professional engineering employees (1) received the same salaries as Hayes paid them, but they had not received a cost-of-living allowance promised by Kentron, (2) received fewer fringe benefits from Kentron than they received

1/Mr. Sainker formerly worked for Hayes and Kentron. In September 1980, he left Kentron to work for NASA at the Marshall facility.

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from Hayes, and (3) after 8 years of service with Hayes lost their vested rights and benefits in that company's pension plan, even though NASA made contributions to the plan.

Mr. Sainker also stated that the professional engineers believe the method used by some "low bid" service contractors is a covert example of wage busting. 1/

We found that Kentron offered to pay professional engineers salaries and to provide fringe benefits that are equal to those they received from Hayes. A later review by NASA confirmed that Kentron did not reduce any of the professional salaries during the phase-in and operation of the contract. Thus, we found no evidence that Kentron was guilty of wage busting the engineering employees at Marshall. In addition, Kentron has a merit promotion plan under which 28 of 34 former Hayes professional employees hired by Kentron--including Mr. Sainker--received salary increases from 3 to 10 percent on the basis of their performance in 1980.

We found Kentron provides the professional employees at Marshall a pension plan at no cost--that meets the minimum participation and vesting requirements of the Employee Retirement Income Security Act (ERISA). However, Mr. Sainker's statement that some professional engineers lost pension benefits and vesting rights because of the contract changeover is correct.

BACKGROUND

Marshall is one of NASA's principal field installations and has a major role in the agency's manned and unmanned space flights and spacelab missions. Since 1965, private firms under Government contracts have provided support services for Marshall, and Hayes had held the contract since 1971. On February 20, 1979, NASA recom-peted the contract and issued a Request for Proposal (No. 8-3-9-AS-00057). The Request for Proposal required the contractor to furnish personnel and materials to (1) provide telecommunications services, including operating systems for the facility's missions, (2) develop scientific and technical graphic arts, models, and exhibits on space-related subjects, and (3) operate Marshall's central repository for drawings, specification standards, reports, and related technical documents generated by the center and Government agencies or contractors.

1/Wage busting is the practice of lowering employee wages and fringe benefits by incumbent or successor contractors (to be low bidders or offerors on Government service contracts) when the employees continue to perform the same jobs.

The Request for Proposal stated that the contract was subject to the Service Contract Act of 1965 (SCA), as amended (41 U.S.C. 351), 1/ and, as required by SCA, NASA would include a Department of Labor wage determination in the contract. SCA provides labor standards protection to service contract employees of contractors furnishing services to Federal agencies. The act requires that service employees receive minimum wages no less than those specified in the Fair Labor Standards Act of 1938, as amended (29 U.S.C 201). For contracts exceeding \$2,500, SCA requires the Secretary of Labor to establish the minimum wages and fringe benefits based on rates Labor determines as prevailing for service employees in the locality of the contract.

SCA also protects from wage busting all contractor service employees except bona fide executive, administrative, and professional employees. Professional employees working on service contracts are protected from wage busting by an Office of Management and Budget's Office of Federal Procurement Policy Letter 78-2 issued on March 29, 1978. This directive declares that (1) it is the Federal Government's policy to fairly and properly compensate all service employees, including professional employees, employed by contractors providing services to the U.S. Government and (2) Federal agencies shall develop procurement procedures to assure equitable compensation for all such employees.

NASA's procurement regulations include procedures to carry out the requirements of Policy Letter 78-2. As a result, NASA's Request for Proposal contained provisions which stated that it is in the best interest of the Government that the contractor properly and fairly compensate professional employees. The proposal also required offerors to submit a total compensation plan--covering salaries and fringe benefits for professional employees.

NASA sent the Request for Proposal to 40 firms on February 20, 1979, and by April 12, 1979, it had received proposals from 4 firms. In accordance with NASA's procurement regulations, Marshall appointed a Source Evaluation Board (the Board) to evaluate the procurement and proposals. The Board developed detailed evaluation criteria and a numerical system for scoring the firms' (1) suitability to perform the contract's support services mission, and (2) total compensation plan for professionals. It evaluated the firms' compensation plans to determine whether they enhanced recruitment and retention of professional personnel and whether they were realistic and consistent with the firms' total plans for compensation (both salaries and fringe benefits).

1/SCA authorizes service contracts for any term of years not exceeding 5, but many contracts are recompeteted more often.

On the basis of its initial evaluation, the Board determined that three firms were within the competitive range and the fourth did not have a reasonable chance for selection. Marshall told the fourth firm that its proposal was outside of the competitive range and would not receive further consideration.

The three other firms were Hayes, Kentron, and the Radio Corporation of America (RCA) Service Company. On the basis of its final evaluation, the Board ranked Hayes first for mission suitability, followed by Kentron, and RCA. The Board's evaluation of experience, past performance, total compensation, and other factors--such as financial condition, stability of labor management relations, and equal employment opportunity compliance--showed no significant differences.

The Board's evaluation of the cost factors showed, however, that Kentron had the lowest cost, as follows:

<u>Contractor</u>	Final adjusted cost proposals (<u>note a</u>)
	(000 omitted)
Hayes	\$15.2
RCA	13.9
Kentron	13.0

a/The cost proposals are for 3-year contracts.

On September 27, 1979, the Board reported its findings to the Director of the Marshall facility, the selecting official, and on the same day he selected Kentron. The Director, in a statement citing the reasons for selecting Kentron, stated that, in reviewing the Board's findings, he and the Board concluded that Kentron could perform the proposed support services in a satisfactory manner. Accordingly, because the Kentron proposal offered the lowest cost performance, coupled with a satisfactory mission suitability score, he selected Kentron for final negotiations leading to award of the contract.

On September 27, NASA verbally notified the firms of the selection and followed with teletype confirmations the following day. Hayes, on October 19, 1979, protested the contemplated award to Kentron through NASA's internal procurement protest procedures. Hayes contended that the Director erred in his judgment as to the relative quality, suitability, and probable cost to perform the Government's stated mission and in so doing departed from the evaluation criteria in the Request for Proposal.

Hayes' protest letter also requested that NASA hold negotiations with Kentron in abeyance until Hayes received a full written response on its protest. NASA was to award the contract to Kentron on November 1, 1979, but it withheld the award and extended Hayes' contract, pending resolution of the protest. After a review by Marshall and NASA's headquarters officials, on December 12, 1979, NASA denied Hayes' protest.

As a result of its decision, NASA awarded the contract to Kentron, and on January 1, 1980, Kentron took over the support services. The contract is a 1-year cost plus award fee, with two 1-year options for extensions.

Hayes, however, had also submitted an award protest to us on December 6, 1979. Under our office's Bid Protest Procedures in the Code of Federal Regulations (4 CFR Part 21) (1981), any firm may protest the award or the proposed award of a contract by an agency. In the protest, Hayes contended that NASA's selection of Kentron was contrary to its Board's evaluation.

The Comptroller General, in a June 5, 1980, decision, ^{1/} ruled that Hayes' protest did not have merit. The decision stated that, even though NASA evaluated Hayes' proposal technically higher, NASA selected Kentron because its proposal was satisfactory and its costs were lower by over \$1 million. The Comptroller General's decision also cited the provisions of NASA's Request for Proposal which stated:

"The importance of cost factors in the selection will depend on such considerations as the magnitude of the cost differentials between the proposers, the credibility of such differentials, the competition in Mission Suitability Factors, and the impact of Experience and Past Performance and Other Factors."

Under this provision, the Comptroller General's decision stated that the cost factors could be the overriding selection factor. Therefore, the Comptroller General's decision concluded that Marshall's selection officer (the Director) was not precluded from making an award on the basis of Kentron's lower cost, lower technical-scored proposal.

^{1/} See Hayes International Corporation, B-197003, June 5, 1980, 80-1 CPD 390.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to review and determine whether, as Mr. Sainker alleged, professional employees at Marshall, including the engineering group Mr. Sainker chaired, had (1) received salaries and fringe benefits less than those paid to them by Hayes, (2) been subject to wage busting by Kentron, and (3) lost accrued pension benefits and vesting rights in the Hayes' pension plan, as a result of the contract changeover to Kentron. We also reviewed Kentron's policies for providing the professional employees' salary increases after the contract was in operation.

Our review was made at NASA's headquarters in Washington, D.C., and at the Marshall facility in Huntsville. At NASA's headquarters, we interviewed key officials familiar with the procurement, and we reviewed and evaluated relevant documents on the recompetition. These included the Request for Proposal and its amendments, Labor's wage determinations applicable to the procurement, Kentron's and Hayes' proposals (including their total compensation plans) the Board's Report of Findings on its evaluation of the proposals, the selecting official's statements, and several replies NASA submitted to two congressmen on Mr. Sainker's allegations. We also reviewed NASA and Marshall officials' reports and the Comptroller General's decision on Hayes' protest of the Kentron award. We did not, however, review the contract award to Kentron because the Comptroller General held that the award was valid.

At Marshall, our review included discussions with Hayes and Kentron officials and their pension plan administrators and employees regarding the pension programs. We also reviewed the contractors' and pension plan administrators' records to obtain data on the nature of their pension plans and the extent to which contractors' employees were entitled to benefits. Our objective was to evaluate the pension status of employees as a result of the contract changeover from Hayes to Kentron. We also had discussions with NASA officials who handled the recompetition.

We also interviewed by telephone (1) Mr. Sainker to obtain further information about his group's allegations and (2) Kentron's Industrial Relations Manager in Huntsville to obtain information on Kentron's merit/promotion plan.

We also reviewed pertinent sections of relevant legislation (SCA and ERISA and their amendments), the Office of Federal Procurement Policy Letter 78-2, and the applicable regulations issued by Labor and NASA.

KENTRON'S SALARIES FOR PROFESSIONAL
EMPLOYEES EQUAL TO THOSE OF HAYES

In the June 1, 1980, letter, Mr. Sainker stated that Kentron hired incumbent (former Hayes) engineers on a "same salary--take-it-or-leave-it basis," but it was understood that Kentron would examine and readjust salaries after 90 days. He said Kentron initially advised the engineers that providing cost-of-living allowances was company policy, but Kentron officials advised that this was a "mistake" and there would be none. He said after almost 5 months Kentron had made no salary adjustments.

When we interviewed Mr. Sainker in March 1981, we asked how Kentron officials made the salary and cost-of-living representations. He stated that the Kentron personnel officer made these offers orally, and he (Mr. Sainker) had no supporting documents. He told us that he did not fault NASA's procurement procedures in the recompetition and that NASA did not violate even the "letter of the law."

Our analysis

We found that Kentron offered to pay the incumbent professional employees the same or greater salaries than they received from Hayes and that NASA's review confirmed Kentron did not reduce any of the professionals' salaries during the phase-in and operation of the contract. Furthermore, Kentron has a merit promotion plan under which 28 of the 34 former Hayes professional employees hired by Kentron--including Mr. Sainker--received merit pay increases of 3 to 10 percent based on their performance in 1980.

As required by the Request for Proposal, Kentron submitted a total compensation plan and stated it recognized the importance of providing a plan for professional personnel that not only would motivate them to superior performance, but would also promote retention and continuity of services at Marshall. Kentron also said that it had made wage surveys in the Huntsville area and had maintained an engineering support staff of 40 to 60 professional personnel in Huntsville for more than 10 years. On the basis of these sources, Kentron believed it had a complete understanding of the total compensation needed to maintain a qualified and dedicated work force.

Kentron also said it planned to retain 85 percent or more of the incumbent professionals and would pay them a base salary at least equal to their current base salary and, dependent upon job responsibilities and classification with Kentron, the salary offer

may exceed the incumbents' current rates. Kentron said the professional employees would also be eligible for Kentron's fringe benefit program which it believed is one of the best in the service industry.

NASA's Board stated, in its September 1979 report, that in both its initial and final evaluations, it gave special attention to Kentron's total compensation for professionals. In its final evaluation, the Board concluded that Kentron proposed an adequate total compensation plan for professionals. The Board, however, noted that Kentron's plan did not provide equitable compensation for 8 of 21 former Hayes professionals it planned to hire. 1/ As a result, on the basis of Kentron's intent not to reduce the salaries of the incumbents, the Board adjusted Kentron's cost proposal upward to provide salaries for the eight professionals equivalent to their Hayes' salaries.

Moreover, a review by NASA in mid-1980--after the contract was awarded--showed that Kentron did not reduce any professional employees salaries during its phase-in and operation of the contract. Thus, Kentron did not wage bust former Hayes professional employees.

NASA officials also told us that, generally, prospective employee salary reviews and increases, including cost-of-living adjustments, are matters the contractors and employees must resolve and are subject to the contractors' policies relating to job performance and other established criteria. We have no reason to dispute NASA's position on the prospective salary reviews and increases. In addition, we found no requirement in NASA's regulations, the Office of Federal Procurement Policy Letter 78-2, or in the Request for Proposal requiring contractors to provide cost-of-living allowances.

Moreover, our review also showed that Kentron's compensation plan stated it had a merit promotion review system as follows:

"Further, Kentron has well defined merit review, promotion review, and employee performance review policies which ensure that every employee is given a performance appraisal annually and based upon performance, the employee's salary reviewed for merit increase. The promotion policy is designed to determine the superior achievers and reward those with demonstrated leadership qualities by

1/Kentron actually hired 34 former Hayes' professionals. See page 9.

promotion to a position of greater responsibilities with a corresponding salary increase."

We contacted Kentron's Industrial Relations Manager at Marshall in August and September 1981, and he told us that under its merit promotion system the firm had reviewed the performance during 1980 of the 34 former Hayes professional employees Kentron hired. The manager told us that, as a result, 27 of the employees received salary increases--ranging from 3 to 10 percent--and another employee received a promotion with a salary increase. Furthermore, the manager told us that, although he left Kentron before the end of 1980, Mr. Sainker also received a 9-percent merit increase on the basis of a May 18, 1980, letter of recommendation from his department manager.

Mr. Sainker's allegation that Kentron did not adjust salaries was not substantiated by our review.

KENTRON'S FRINGE BENEFITS ARE SUBSTANTIALLY
EQUAL TO THOSE PROVIDED BY HAYES

In the June 1, 1980, letter, Mr. Sainker stated that NASA's Board maintained that Hayes and Kentron fringe benefits were substantially equal. The letter said the professional employees find that they must now pay for such items as health and life insurance which formerly were provided by the company at no cost. He said costs are about \$200 to \$500 per year depending on the coverage desired. Mr. Sainker's letter also stated that the professional employees lost all the sick leave they accumulated at Hayes, though Kentron provided an initial allowance of 5 days.

Our analysis

We found that Kentron will provide the former Hayes professional employees fringe benefits which are substantially equal to those provided by Hayes.

As part of their proposals, Kentron and the other offerors had to (1) meet the wage and fringe benefit requirements of Labor's wage determination for the technical, clerical, and other employees covered by SCA and (2) submit a total compensation plan (including salaries and fringe benefits) for professional employees not covered by SCA.

The Request for Proposal contained Labor wage determination No. 73-1614, July 19, 1978. This determination was superseded by a revised wage determination No. 73-1614 dated July 26, 1979, which NASA used in the final contract proposals. The wage determination required contractors to provide covered employees fringe

benefits for health and welfare, such as life; accident and health insurance plans; sick leave; pensions; civic and personal leave; severance pay; savings and thrift plans; and paid holidays and vacations.

However, under SCA, the contractors can pay the fringe benefits by furnishing equivalent combinations of fringe benefits or by making equivalent payments in cash. Labor's wage determination required the contractors to contribute an average of \$0.88 per hour per employee to meet the cash equivalent payment requirement.

In its final evaluation, the Board stated that Kentron and its subcontractors' fringe benefits were reviewed to determine that their proposed benefits satisfied the minimum requirements of the wage determination. This review revealed that Kentron's benefits were not in accordance with those of the wage determination in the medical, life, and major medical areas. As a result, the Board adjusted Kentron's costs proposal upward to meet the minimum rates provided in the wage determination.

NASA headquarters officials also acknowledged that, under Kentron's health and life insurance plan, the employee pays a portion of the cost. NASA pointed out, however, that the benefits are substantially greater than Hayes. For example, the Hayes employees' insurance plan for a major medical expense was limited to \$15,000 per benefit period and \$30,000 lifetime. Under the Kentron plan, the maximum benefit is \$100,000 which is renewable each calendar year. NASA further noted that the Kentron medical insurance includes a dental plan, of which 75 percent is paid by the company and 25 percent by the employee. Hayes did not provide a dental plan. In addition, Kentron's plan provides disability insurance which pays 60 percent of the employee's salary, while the Hayes plan would pay only \$70 per week.

Our comparison of the Kentron and Hayes fringe benefits verified that Kentron's health and life insurance provided greater coverage. For example, under Kentron's plan, employees under 50 could purchase life insurance up to four times their annual salary, whereas employees under Hayes' life insurance plan were covered only for \$6,000 basic life and \$6,000 optional coverage. Thus, it appears that professional employees received greater health and life insurance coverage under Kentron, although they do have to pay for some of the increased coverage.

Our review also showed that Kentron generally met the other fringe benefit requirements of the wage determination. For example, the determination required that employees receive nine paid holidays (corresponding to the nine Federal holidays). Kentron

provided the nine holidays, plus additional days legally declared and observed at Marshall. Kentron also provided the employees the required 2 weeks of vacation after 1 year, 3 weeks after 10 years, and 4 weeks after 15 years.

Finally, the determination required that employees receive 5 days sick leave after 3 months, 10 days after 6 months, 15 days after 1 year, and an additional 5 days for each year of continuous service. Kentron's sick leave provision provided that employees receive 5 days sick leave after 6 months, 10 days after 1 year, and 5 additional days for each successive year. Moreover, Kentron's sick leave provision was the same as provided by Hayes.

According to Kentron's proposal, employees are eligible to participate in a pension plan and other plans or policies, such as (1) tuition reimbursement, (2) administrative leave (for military duty, jury duty, death in family, or marriage of employee), (3) relocation assistance, and (4) service awards. The latter two policies and military, death or marriage leave were not included in Hayes' compensation plan.

Regarding accrued sick leave, NASA headquarters officials stated that NASA's experience is that the treatment of accumulated sick leave, as part of an overall fringe benefit package, varies from one firm to another depending on the particular corporate policy. They said, for example, some firms pay for all unused sick leave while others do not. In the Marshall contract, the Hayes policy, which had been in existence since 1975, did not pay employees for unused sick leave.

We found no requirement in NASA's regulations, the Office of Federal Procurement Policy Letter 78-2, or the Request for Proposal requiring contractors to pay for unused sick leave for professional employees. It appears to us, therefore, that other than the unused sick leave issue, Kentron fringe benefits are generally equal to or greater than Hayes'.

SOME FORMER HAYES PROFESSIONAL EMPLOYEES
LOST PENSION BENEFITS AND VESTING CREDIT

In the June 1, 1980, letter, Mr. Sainker stated that the professional employees' 8-year service with Hayes has resulted in no vested interest in the pension plan, even though the Government made contributions to the plan. He said an employee's right to a pension is continually jeopardized with contractor changeovers every 3 to 8 years since contractors' pension plans often require the employees to work 10 years to retain their rights and benefits in the plan. He stated, therefore, that the issue of portability

of the pension vesting rights for professionals working on service contracts is his and the engineering group's main concern.

Our analysis

Kentron provides professional employees at Marshall pension benefits under a plan--at no cost to employee--which meets ERISA's minimum participation and vesting requirements. However, some former Hayes professional employees did lose pension vesting rights and benefits because of the contract changeover to Kentron.

The Congress enacted ERISA in 1974 to regulate private pension plans. The act establishes minimum participation and vesting standards that employers must meet if they have, or sponsor, pension plans. These standards are to ensure that employees do not have to work an unreasonable number of years before participating in, and benefiting from, a pension plan.

Generally, ERISA provides that plan sponsors must allow employees to participate in pension plans after they are 25 years old and have completed 1 year of service. To earn 1 year of service, an employee generally has to work 1,000 hours for the plan sponsor within a 12-month period.

The act also provides that participants have a nonforfeitable (vested) right to retirement benefits upon reaching the plan's normal retirement age. It further provides that participants have a full and immediate vested right to accrued benefits resulting from their own contributions to a plan even if they leave their jobs before retiring.

Regarding accrued benefits resulting from employer contributions, ERISA requires that one of the three following minimum vesting standards be met or exceeded.

- An employee is 100 percent vested at 10 years of covered service (commonly referred to as the "10-year cliff" vesting schedule).
- An employee is 25 percent vested at 5 years of covered service, increased by 5 percent for each year of service from years 6 through 10; then increased by 10 percent each year until 100 percent vested.
- An employee is 50 percent vested after at least 5 years of service when age plus covered service equals 45, with specified vesting increments for further increases in age and service. However, an employee must be at least 50 percent

vested after 10 years of service, increased by 10 percent each year until 100 percent vested.

ERISA also provided that employees not covered by employer-sponsored pension plans can establish Individual Retirement Accounts. ^{1/} There are two kinds of accounts--the basic and the rollover. The amount contributed to the basic account is deductible from the employee's gross income, reducing taxable income for the year. The money is taxed when it is withdrawn. Rollover accounts are for employees who leave their jobs or retire and receive a lump-sum profit sharing or pension benefit. Employer contributions in this payment would be normally taxed in the year paid. However, the taxes can be deferred if the money is deposited in an Individual Retirement Account within 60 days.

Pension plans for contractor employees at Marshall

Hayes had two pension plans for its employees at Marshall. Employees who were members of a union bargaining unit participated in a company-administered pension plan established exclusively for them (the "H" plan). Salaried and certain other employees participated in a separate plan (the "E" plan). Since Mr. Sainker and other engineers are professionals, they were covered by the "E" plan. Both plans required 10 years of service for vesting or cliff vesting.

When Hayes lost the contract in December 1979, the "H" plan covered 176 participants, including 163 nonvested employees. Hayes initiated actions to terminate this pension plan. In accordance with termination provisions of ERISA and the Internal Revenue Code, all participants in the "H" plan were to be guaranteed pension benefits. The present value of benefits payable to the 163 nonvested participants of the "H" plan as of December 31, 1979, was \$157,172. The benefits ranged from \$23 for an employee in his early 20s with 4 months of service to \$6,058 for an employee in his early 60s with about 8 years of service. Kentron hired 144 of these unionized workers and at the time of our review was negotiating with their union to provide coverage under a pension plan.

The nonvested participants in the "E" plan were less fortunate. Hayes did not terminate its "E" plan and many of these employees--

^{1/}On August 13, 1981, Public Law 97-34, the "Economic Recovery Tax Act of 1981" was enacted which will permit employees covered by employer-sponsored pension plans to establish Individual Retirement Accounts.

including Mr. Sainker and some of his fellow professional engineers--lost the value of the employer's share of their accrued pension benefits. At the time of our fieldwork, 7 of the 46 employees in the "E" plan with over 5 years of service were vested. However, all 7 were long-time employees of Hayes and 5 of them were expected to continue to work at Hayes.

Twenty-three of the 39 nonvested employees had more than 10 years of service with Hayes and the predecessor contractor. Many transferred to Kentron and became covered by its pension plan for nonunion employees. Kentron's plan is a defined benefit pension plan, that is a plan in which the benefits are definitely determinable based on such factors as years of employment and compensation received. Under the plan, employees over age 25 are eligible and may begin to participate after 1 year of service. The plan also meets ERISA's requirement that a year of service be defined as a minimum of 1,000 hours of service. Kentron pays the total costs for the plan, the employees contribute nothing. The plan, however, has a 10-year cliff vesting requirement schedule.

Since service with Hayes and its predecessor does not count toward vesting and the contract covers only 3 years if all options are exercised by NASA, these Kentron employees have limited prospects of vesting. Moreover, since they were participants in a pension plan, they could not establish Individual Retirement Accounts.

CONCLUSION

Although Mr. Sainker and the other professional employees at Marshall were covered by a pension plan when employed by Hayes, many of these employees will not receive pension benefits they accrued under the plan. These employees, while continuing to work at Marshall for many years, lost pension benefits because the Government changed contractors.

Under the present SCA which requires agencies to re-compete service contracts at least every 5 years, it is inevitable that some contractors will change at the various Federal installations, resulting in employees in incumbent positions working for different employers with different pension plans. In addition, because ERISA permits variances in private pension plans under broad Federal standards, there presently is no requirement that employees receive immediate vesting when their employers change as a result of re-competition of service contracts.

There is no overall Government policy regarding whether, or to what extent, Federal agencies should attempt to protect the pension benefits of contractors' employees working at Government installations. Some agencies have acted to protect the pensions, while others have not.

For example, the Department of Energy's pension arrangements for operating contracts--which are similar to service contracts--have protected the pension rights of long-time contractor employees working at its installations. These arrangements provide for the continuity and portability of accrued pension benefits and vesting credits when contractors are replaced at the Department of Energy facilities.

We believe that the Federal Government should consider establishing a Government-wide policy to assure protection of the pension plans of contractors' employees who work for long time periods at Federal installations. We also believe that the Department of Energy's pension arrangements emphasizing portability of pension rights and benefits provide a good model for a Government-wide policy.

In a July 8, 1981, report, 1/ we pointed out the success of the Department of Energy's pension arrangements. In another report 2/ issued September 3, 1981, we recommended that, if the Congress determines that pension benefits of contractors' employees who work for long time periods at Federal installations should be protected, it direct the Administrator of Federal Procurement Policy to establish a Government-wide policy and implementing regulations to help ensure such protection. We are sending you a copy of these reports.

As requested by your office, we did not obtain comments from NASA or its contractors. We plan no further distribution of this report until 30 days from its issue date, unless you publicly announce its contents earlier. At that time, we will send copies to the Administrator of NASA, NASA contractors, and other interested parties and make copies available to others upon request.

Sincerely yours,


Gregory J. Ahart
Director

1/"Assessment of Pension Benefits for Contractors' Employees in Hanford, Washington" (HRD-81-103).

2/"Pension Losses of Contractor Employees at Federal Installations Can Be Reduced" (HRD-81-102).