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**Folder Title:**

Tonya, Inc.-A. J. Cooper

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**30**

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|------------------------------------------------------------------|---------------------|---------|
| Date: 06/28/95                                                   | Time: 2:33 pm       | Charge: |
| To: Amy Billingsly<br>for A.J. Cooper                            |                     |         |
| Firm:                                                            |                     |         |
| Fax Number: 202/456-2983                                         |                     |         |
| From: Debra                                                      | Phone: 202/637-9096 |         |
| Comments: PLEASE DELIVER TO MR. COOPER IMMEDIATELY<br>Thank You! |                     |         |
| Number of Pages Including Cover:                                 |                     |         |
| Sent by: Debra                                                   | (202) 637-9042      |         |

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A.J. Cooper Fax: (202) 637-9193

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## **MEMORANDUM**

**TO:** Harold Ickes  
**FROM:** A.J. Cooper  
**DATE:** June 28, 1995  
**RE:** Tonya, Inc.

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### **BACKGROUND**

Tonya, Inc. has a three year contract with the Federal Highway Administration (FHWA) for \$3 million dollars. The contract's scope of work includes providing Administrative Assistance and Technical Support for several FHWA Technical Working Groups (TWG). These TWG's support new technology programs such as: Heated Bridge Technologies, Thin Bonded Overlay, All Weather Pavement Markings, and the Strategic Highway Research Program established under the Intermodal Surface Transportation Efficiency Act. The Tonya, Inc. staff has been applauded for their excellence in supporting this contract.

The contract performance period is August 15, 1993 through August 15, 1996. The initial contract amount plus additional funds of approximately \$3.4 million has been exhausted. Tonya, Inc. started the contract with six employees and eventually grew to 21 persons in September 1994. Tonya also employed numerous subject-matter experts as consultants. The contract amount was exceeded due to FHWA adding additional needed requirements. Contract funding is available.

In August, 1994 Tonya employees and FHWA staff (Richard McComb) agreed upon the need for a IDIQ 8(a) contract to carry out the existing and expanded function. Tonya, Inc. was to be that firm. Later in November or December 1994, Mr. Joe Toole, Mr. McComb's supervisor, agreed on the need for an IDIQ contract. The FHWA contracts office failed to act on the contract for the period of September 1994 through January 16, 1995. On January 16th, Joe Toole asked Contracts for a memorandum to speed up the process because Tonya's graduation from 8(a) was February 21, 1995.

#### **HIGHLIGHTS**

- Prior to January 16th on many occasions Mr. McComb (FHWA), a Special Assistant assigned to IDIQ and Mr. Toole all agreed on the IDIQ. They sought and received SBA permission to contract with Tonya.
- Shortly after January 16th the Contract Specialist gave procurement a schedule with the contract completion anticipated for March 29, 1995. This date was beyond the Tonya, Inc. February 21, 8(a) graduation date.
- FHWA was advised that preliminary approval was acceptable to SBA and that defined requirements and a comprehensive contract could be completed after the graduation date.

- Many FHWA officials stated shortly after January 16th that "we can modify your contract for both money and time after graduation and therefore you don't need an IDIQ. You already have a contract." Over many meetings and contacts this was emphasized by Mr. Karis, Mr. Rodgers, Mr. McComb, Mr. Toole and Mr. McLaughlin. Messrs. Karis, Rodgers and McLaughlin are all from Contracts. This position was held firm until approximately February 10.
- On January 30, a meeting of FHWA and Tonya included: FHWA Contract Specialist Richard Rodgers, FHWA Special Assistant Richard McComb, FHWA Contracts Officer Derek Karis, Tonya, Inc. President Anthony Jones, Tonya, Inc. Project Director Dan Larson and Tonya, Inc. Consultant Fred Armstrong. We were told unequivocally by all FHWA officials that they could and would modify the contract for both time and money and they did not need an IDIQ to do this, thus stopping the process to get an IDIQ. Again, Mr. Karis reiterated, "we are going to give you more money and we are going to give you more time and we can do both after you graduate from the 8(a) program."
- On or about February 10th, Fred Armstrong and Dan Arson of Tonya, Inc. met with Mr. McComb and were advised that FHWA Contracts indicated they were not going to add money or time to the contract and they were going to find another 8(a) firm for the contract. This was a complete reversal of the previous

position and understanding. At that point there were only 11 days left until our graduation from the 8(a) program.

- Henderson Associates was solicited to be the 8(a) firm for the new contract. They solicited Tonya, Inc. as a subcontractor.
- Tonya, Inc. had been applauded many times for its performance on the contract. FHWA Administrator Rodney Slater nominated Tonya, Inc. for Small Business of the Year.

#### **OBJECTIVE**

Tonya, Inc. wants its contract modified for \$3 million in order to finish their contract performance period through August 1996. FHWA has very recently modified the contract to add \$300,000.00. Thus, it is apparent that the contract can be modified and extended as both FHWA Program Managers and Tonya desires.

This decision has been devastating to Tonya, Inc. It has caused them to layoff employees for the first time ever and lose additional staff to Henderson which depletes their technical and management expertise. This decision will likely have an adverse effect on their future business.

## **CONTACTS**

### **FHWA Program**

**Rodney Slater - Administrator**

**Denney Judycki - Associate Administrator**

**Joe Toole - Director**

**Richard McComb - COTR - Special Assistant to the Director**

### **FHWA Contracts**

**Diana Zeidel - Director**

**Charles McLaughlin - Chief, Technical/Policy Team**

**Derek Karis - Former Spokesperson - Mowery's Boss**

**Richard Rodgers - Contract Specialist**

**Anthony Martoccia - Chief Highway Support Services and Small Purchases Division**

**Frank Waltos - SADB**

**EXHIBIT 1**

**From:** Toole, Joe (JTOOLE)  
**To:** FHWADSD1:DZEIDEL  
**Date:** Monday, January 16, 1995 9:50 am  
**Subject:** ID/IQ Contract with Tonya

I just wanted to give you an heads up.

We have a proposal with you to initiate an ID/IQ contract with Tonya, an 8(a) contractor we have had very good success with in the past. We will likely want to develop a number of other ID/IQ contracts in the future, and felt this was also an opportunity to develop some experience base with this contracting mechanism. I appreciate the help we are getting from your folks in moving this along.

**The issue:** Friday, I met with Tony Jones, President of Tonya. His firm graduates from the 8(a) program in February. The planned schedule we received for the ID/IQ contract from Alan Finfrock calls for award in March. To get us past this hump, Tony suggested that FHWA can, apparently, write some letter of intent that would satisfy SBA's requirement that the action be taken before the graduation date. I was not familiar with the mechanism but know Tony will be trying to reach you.

Obviously, if we can make this work, we would like to see it go as an 8(a). Appreciate any help your folks can provide...

some letter that the agency can issue that pparently, He is pleased I had a met with This work with Tonya will also help support our program in a number while also helping us with some of our o know we need to

**CC:** rgriffith,FHWAHCP:AFINFROCK, ramccomb



**EXHIBIT 2****MEMO FOR RECORD**

**FROM:** Dan Larson *Dan Larson*  
**SUBJECT:** Meeting with FHWA Contracts, 1/30/95

Representatives from Tonya, Inc., met with FHWA personnel on Monday, 1/30/95, to discuss FHWA's position on an IDIQ contract versus modifications to our current contract.

**PRESENT FROM TONYA**

Anthony Jones, CEO  
Fred Armstrong  
Daniel F. Larson

**PRESENT FROM FHWA**

Richard McComb, HTA-2  
Derek W. Karis, HCP-31  
Richard Rodgers, HCP-42

**Background:**

Our understanding from SBA has been that, once Tonya graduates from the 8(a) program on February 21, 1995, FHWA could no longer modify our existing sole-source contract for technical and administrative support. FHWA requirements under the current contract have grown substantially since the beginning of the contract in August of 1993. Neither Dick McComb nor anyone else could forecast what those requirements would be in the future but it seems fairly certain that they would continue to grow.

In order to avoid being limited to the existing funding and time at the time of Tonya's graduation, we suggested and Dick approved an IDIQ procurement to handle future tasking. The IDIQ mechanism would allow us to continue to provide support to FHWA regardless of the growth in requirements.

HCP's position is that it is possible to "change" an existing 8(a) contract with respect to both time and money, even though the contract holder has graduated from the 8(a) program. Therefore there is no need for an another contract.

A subsequent opinion, secured anonymously from SBA, indicated that, if FHWA extended the completion date of the contract prior to graduation there would not be a problem adding funding to the contract. However our source was certain that a time modification must be in place prior to graduation.

Our purposes in attending this meeting were to clarify FHWA's position and press for at least a time modification before graduation.

**The Meeting:**

Mr. Karis re-stated FHWA's position that there would be no problem changing the funding level or completion date at any time, even after graduation.

Mr. Rodgers cautioned that each change would have to be considered on a case-by-case basis and that approval would be subject to the current policies within HCP.

We discussed whether to notify SBA of modifications. Both Mr. Karis and Mr. Rodgers felt that, while it was always an option, there was no necessity to do so. They felt that the wording in their contract with SBA gives them virtually unlimited authority to deal directly with 8(a) contractors without involving SBA in their decisions.

Despite HCP's assurances, Tony said that we'd feel better if we could get at least a time extension before graduation. Mr. McComb had already indicated that he would like to do that as well. Mr. Karis and Mr. Rodgers agreed that they could do that.

**EXHIBIT 3**

**MEMORANDUM TO FILES:** Meeting with FHWA Personnel on Monday, January 30, 1995, regarding FHWA/Tonya, Inc., contract for technical and administrative support.

Purpose of this meeting was to clarify Tonya's contract position with the Federal Highway Administration subsequent to its graduation from the 8(a) program on February 21, 1995. It is our understanding that the SBA feels that once Tonya graduates, the present contract with FHWA can no longer be modified. With this understanding, Tonya, Inc., requested that an IDIQ type contract be approved. This reasoning was based on additional needs by FHWA, resulting in expanded services by Tonya. The IDIQ contract would allow Tonya to continue its support to FHWA regardless of increased requirements. Richard McComb, agreed with this approach and submitted the request to the Contracts Division.

Both Derek W. Karis and Richard Rogers, representing FHWA, felt that a change to an IDIQ procurement was not necessary. It was their understanding that an existing 8(a) contract could be changed in both time and money, regardless if the contractor had graduated from the 8(a) program. In a related opinion, SBA feels that if the completion date of the contract was extended in time only, funding could be added at any time.

Mr. Karis felt that this did not necessarily hold true, due mainly to their interpretation of the SBA documents in that funding levels, or contract expiration could be changed at any time, where the contractor had graduated or not. It was the opinion of Mr. Rodgers that changes would be subject to approval by current policies within FHWA. They also felt that it was not necessary to notify SBA of contract modifications since the agency had the authority to modify contracts without SBA involvement.

Although Tonya accepted this reassurance, it was the feeling of those members of Tonya attending the meeting that the prudent course of action, in order to insure continuity of service, a time extension should be secured prior to graduation. Both Mr. Karis and Mr. Rodgers agreed that could be accomplished.

Meeting attendees were:

Anthony Jones, CEO, Tonya, Inc.

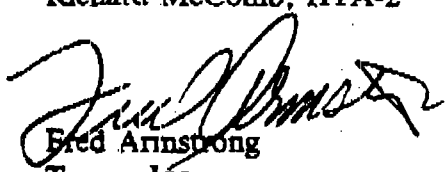
Fred Armstrong, Tonya, Inc.

Daniel Larson, Tonya, Inc.

Derek W. Karis, FHWA Contracts Div (HCP 31)

Richard Rodgers, (HCP-42)

Richard McComb, HTA-2



Fred Armstrong  
Tonya, Inc.

# U.S. Small Business Administration

## *Administrator's Award for Excellence*

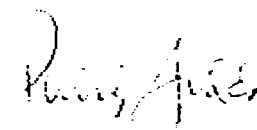
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**TONYA, Inc.**

In recognition of outstanding contribution and service to the nation  
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procurement system.

May 4, 1995

Date



Administrator



